

EXECUTIVE BOARD

THURSDAY 12th NOVEMBER 2020

QUESTIONS TO BE ASKED BY MEMBERS OF THE PUBLIC

Name of Executive Member & Portfolio	Name and Question	Suggested Answer
Councillor Vicky McGurk, Executive Member for Finance and Governance	<p>1. Jon Baldwin</p> <p>According to a Freedom of Information response, the Council spent a 6 figure sum on the Newfield ASD project in Q1 of this Financial Year. However, this spending does not appear in either the Q1 or Q2 capital budget reports. The last spending reported on the project is the overspend of £568k reported in Q4 of the last financial year. You previously explained that this overspend was a technical correction due to it originally being included under the wrong cost code. Please can you explain the spending on Newfield ASD in Q1 and why it has not been reported?</p>	<p>The Capital Monitoring Report Qtr 4 2019/20 was produced on an accruals basis, following accounting principles and guidelines, i.e. the report reflects the cost of all goods and services received and work completed (or an estimate thereof) as at 31st March 2020, irrespective of whether or not an invoice(s) had been received, and whether or not such an invoice(s) had been paid at that date.</p> <p>The FOI response detailed the actual payment of the invoice(s) on or after 1st April 2020.</p>
Councillor Phil Riley, Executive Member for	<p>2. Imtiaz Badat – Yew Tree Drive Petition</p> <p>One of our residents, x who lives at x Yew Tree Drive, is elderly and requires a walking stick. When</p>	<p>The Council's controls to prevent trips on the footway are through regular inspections undertaken</p>

<p>Growth and Development</p>	<p>she goes out for her walk she now has to avoid the pavement which as she puts it 'is dangerous and lumpy and can easily trip over'. We would like to know what safeguards can be put in place so people like Pat would be protected against any trips or falls which can be quite fatal for elderly people.</p> <p>As mentioned in the petition, the opposite layby of Yew Tree Drive was resurfaced a couple of years ago and our layby was missed. We would like to know the reasoning for this.</p> <p>Lastly, I have spoken to Councillor Fazal who mentioned to me that there is a Yew Tree Drive regeneration project in the pipework which would address the increased traffic, footfall and speed of the junction due to the new build properties. Would this resurfacing of the layby of Yew Tree Drive 105-119 be put through on its own and if for some reason works cannot be undertaken urgently, would it be included under the umbrella or the Yew Tree Drive regeneration project?</p> <p>3. Mr Jones</p> <p>My question is in reference to Planning Application 10/20/0389 and the objection to a hastily erected 50 foot 5G microwave mast and associated cabinet by Internexus at the very foot of the small drive way of 147 Sandy Lane, Darwen, without any proper prior warning or notification to residents. A construction</p>	<p>by our highways inspectors, in accordance with the Council's Safety Inspection Procedure for Highways. This location is inspected annually and any defects which exceed the intervention levels are repaired, and our most recent inspection determined there were no defects in the footway or carriageway.</p> <p>In relation to funding and the omission of this area from recent resurfacing projects, unfortunately due to present funding levels, both revenue and capital, we have to restrict works to the Borough's major classified roads for the foreseeable future. The authority will, however, continue to inspect footways to ensure that any safety defects are identified and repaired. It is also fair to say that if additional funding becomes available from the planned housing developments, this will likely be ring-fenced to speed reduction, road safety, public transport and walking and cycling improvements and not to structural improvements.</p> <p>In the three instances that have been quoted, despite the Council best efforts, we have not been able to get IX to change their plans and that is why we are consulting again re: Sandy Lane. IX claim not to be able to place the pole in the specified</p>
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	<p>that is totally over powering and out of character with the current surroundings.</p> <p>Note, a similar site within the same application is Newfield Drive, Blackburn where it was quoted by the provider "IX Wireless" in the Approval Document that "<u>moving a mast towards No 44 Newfield Drive would position it directly in front of residential properties and is therefore against siting guidelines</u>".</p> <p>Also three other previous planning applications within the Blackburn area were refused prior approval by the Local Planning Authority on the grounds of close proximity to dwellings. Apparently they <u>all failed to comply with the "National Planning Policy Framework" (NPPF) and Blackburn Councils's own "Development Management Policies" (LPP2) on quite a few related matters.</u></p> <p>Question: Therefore taking into account all the above mentioned circumstances and unless the National Planning Policies and Local Council's Regulations have since been radically altered within the last few months, how has the Sandy Lane development managed to to pass these <u>same planning regulations</u>, given this mast's very close and potentially dangerous proximity to residential dwellings, which partly obstructs the view from their front windows?</p>	<p>place because of underground conditions that threaten the stability of the pole.</p> <p>The Council acts in a consistent manner with all pole applications and challenges operators wherever it is right to do so. However, national planning guidance and communication operator codes presume in favour of the needs of the operator, as in the instances referenced by Mr Jones. Government has prioritised the expansion of broadband connectivity, however, as a consequence local planning authorities have very little power to intervene with regard to matters like those raised by Mr Jones.</p>
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	<p>4. David Foster</p> <p>Why has the pedestrian crossing on Bolton Rd in Darwen, near to its junction with Cyprus St and Devon St been out of action approximately 9 months?</p> <p>5. Mr and Mrs Hill – Arkwright Fold Petition</p> <p>My husband and I have been residents of Tiverton Drive for the past 20 years. In the past we have experienced both anti-social and criminal activity when the footpath was freely accessible .There was an incident one evening as we were sitting in our conservatory , a young man climbed over our 6ft fence and came into our back garden, my husband challenged him and he made off through our garden gate onto the road at the front of our house. My husband went to check the fence and found a kitchen knife on the grass that the young man had dropped. This incident was very frightening and deeply upsetting and made us feel very vulnerable in our own home. This is just one of numerous incidents we have experienced.</p> <p>Since the footpath hasn't been freely accessible these problems have subsided.</p>	<p>The pedestrian crossing has been closed until a replacement zebra scheme could be designed and delivered and, not surprisingly, this work has been delayed by the covid pandemic. I'm pleased to report that works to reinstate the crossing will start on 30 November.</p> <p>Can I begin by saying that the Council has sympathy with the petitioners and, in truth, has far more to do in these difficult times than opening up a footpath that has been closed for many years. But, this is a Public Right of Way and the Council has a statutory duty to maintain public rights of way and to reopen them where they have been closed. The Council's attention has been drawn to this path by a local member of a national walking association and that has triggered this situation which is further complicated by the fact that some of the obstructions are man-made buildings introduced by householders extending their private gardens onto public land. The situation, I'm afraid, is very simple – this is a Public Right of Way and, once it has been drawn to the Council's attention, there is a legal obligation on the Council to reopen it and that includes removing obstacles in the way of the path. In the event of the Council not carrying out its lawful</p>
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	<p>We are very concerned that the of the geography of the path, which backs on to both estates, will provide a very dark and secluded area behind our homes and will offer ample opportunity for access to homes and gardens putting ourselves at risk and also the theft and damage of our property and belongings .</p> <p>If the council do decide to re-open the footpath are they going to assume responsibility for policing costs and making our properties secure i.e. Lighting and deterrents to would be criminals. On a personal level, would council members like to live with this constant anxiety either when at home or on holiday.</p> <p>We would also like you to consider the impact of the destruction of a now well established and diverse wildlife habitat. There are a wide variety of birds, including sparrowhawks, owls, robins, finches, tits, jays, magpies and sparrows. There is also a healthy population of bats. I am sure that the council is aware of the legislation regarding disturbing established roosts. The undergrowth supports a rare and precious community of hedgehogs. It is worthy of note that hedgehogs are mentioned in several Acts of Parliament:</p> <ol style="list-style-type: none"> 1) Schedule 6: Wildlife and Countryside Act 1981 2) Hedgehogs are listed under the Wild Mammals Protection Act 1996 	<p>duties, there is the possibility that the Council will face prosecution and that is not a situation that we are prepared to see happen.</p> <p>After discussion with the Ward councillors, Maureen Bateson and Jim Casey, and the officers, we have decided to wait to see if any further complaints are made before starting the process of clearing the path including dismantling outbuildings on the route of the path. In the meantime, we will also review other possibilities such as applying for a closure of the path or seeking a diversion. Both these possibilities have been explored before and with no success – a path closure will bring a number of challenges including a consultation with walking groups and there is no obvious diversion that will fulfil the legal requirements of being a reasonable replacement for the existing path but we will explore these options and keep the residents involved in the process. .</p> <p>The submitted questions have raised a number of ancillary issues – such as cost and the presence of wildlife - none of which impact upon the primary issue that I have outlined above.</p>
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3) Hedgehogs are also recognised as a “species of principle importance” in the NERC Act which is intended to confer a “duty of responsibility to public bodies”.

The undergrowth also affords vital opportunities for pollinating insects to flourish.

At a time when environmental issues are at the forefront of political debate, BwD Borough Council has the opportunity to demonstrate sensitivity to the needs of the flora and fauna of the local area as well as it's human residents.

Historically this footpath was positioned on open ground but over the years the local authority has given planning permission for numerous housing developments thus enclosing the footpath and creating the issues outlined within our objections included above. **We respectfully ask if any comparison has been made with historical crime figures and more recent data for the area? We also ask if the local police force has been consulted regarding the potential criminal consequences of creating such an environment in a residential area?**

We also question the wisdom of committing to the substantial costs of reopening footpath 106 and what is the projected usage of the footpath?
Given the current financial situation and additional complexities and demands on resources

	<p>surrounding the pandemic, surely there are greater priorities that could be addressed within the Borough using this budget? It is difficult to understand why the council would choose to create such issues in an area that is relatively problem free. The extensive works essential to fulfil the requirements of the Highways Act 1980 to provide a well-lit and resurfaced pathway and then the additional costs of on-going maintenance will be disruptive and costly.</p> <p>Finally, we believe that provision is available for footpaths to be diverted if reasonable cause is found to do so.</p> <p>Highways Act 1980 section 119 states “that a diverted footpath must not introduce conditions e.g. darkness, narrowness, poor visibility, high places etc likely to encourage anti-social or criminal behaviour against users., nor should it create a perception that this may be the cause”. Although this section applies to a diverted footpath our point is that by re-opening footpath 106 you are essentially establishing the very conditions that this Act seeks to avoid.</p> <p>We hope you will consider the impact that reopening footpath 106 will have on the quality of life of the local residents, both human and otherwise.</p>	
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6. Stephen Lomax

My name is Stephen Lomax and I am writing this statement on behalf of myself and my family.

This is my statement in regards to the clearing the right of way that leads from the top of Arkwright fold down to Rewe Close.

We live at the end of the pathway on Rewe close (were the pathway is now fenced off).

We received a letter earlier in the year as did my neighbours who rang the council to complain about it. The council informed my neighbour it wouldn't be going ahead due to the amount of people ringing in to complain and the cost associated with it. I am therefore quite shocked to see it has now got this far.

We have lived here since 2009 and the pathway became very overgrown to the point of the weeds/bushes that were growing / had grown through our fences and caused considerable damage. It wasn't accessible neither way and hasn't been used by walkers in many a year before this point as a result of the poor state of maintenance.

Teenagers would gather behind our garage(at the end of the pathway) drinking/smoking taking drugs and even having sex! And was becoming a regular occurrence. We would have to clear them away

	<p>from the area to protect our own children & our home / property. Even if this put our own life at risk from the unknown of what these teenagers may be capable of.</p> <p>We where often targeted for car crimes, and on numerous occasions both mine and my wife's car were broken in too. Thousands of pounds worth of fishing tackle where taken to odd bits of things left in the cars such as change, CD's, tools etc.</p> <p>In 2011 we were broken in too from the back of our property, the entry and exit to our property was through the overgrown path where criminals could enter and exit without being noticed. At this point we decided enough was enough and put a fence up at the back of our garden blocking the pathway off. All these incidents have been reported to the police so should be all on file should anyone need to see it.</p> <p>There where many attempts of criminals trying to enter my garage through the back door. The footpath being the entry and exit point. If they succeeded my tools to do my job are in the garage. If they gained entry it would put me and my family into financial burden. Opening up this path gives criminals the opportunity to ruin my families livelihood.</p> <p>After many years of this footpath being allowed to overgrow lots of wildlife living have made this there habitat / home these include species such as</p>	
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	<p>hedgehogs, birds, and bats which are a protected species by UK Law. To my knowledge no survey has been carried out by a wildlife professional.</p> <p>As a HM forces veteran, I served with the Queens Lancashire Regiment. I suffer from PTSD & knowing that my family, and my property are being put into jeopardy with highly likely Criminal activity as a result of this decision is really making me suffer with mental illness.</p> <p>Me and my family are totally against this and feel that it brings un- necessary risk to my property, my family, the habitats, the cost involved to do the work, and the continuous up-keep of the footpath when there are bigger issues in the Borough to tackle. It's opening up a can of worms for criminality for the area. I honestly can't think of 1 positive reason why to open this back up!</p> <p>These are the questions I wish to submit before the exec board as a concerned resident.</p> <p>1) Can the path way not be re-routed? There are public highways through the woodland at Ewood that are more scenic?</p> <p>2) Has there been a wildlife survey completed and if so please can I see the report?</p> <p>3) If the work was to go ahead and the pathway cleared. Will the pathway be maintained regular and</p>	
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	<p>budgeted for properly by the council to prevent damages to my property line?</p> <p>4) If the work was to go ahead. Can extra security / deterrent be added to the area of Rewe close such extra street lighting as there is only 1 street light for the whole of Rewe close?</p> <p>5) if the work was to go ahead. Can we have a structured plan as the old one is out of date?</p> <p>7. Leslie Duckett</p> <p>I am writing to object to the clearing of the area behind Brotherston Drive and Bailey Close, Blackburn.</p> <p>The area is now something of a wildlife sanctuary, where birds, bats and various small mammals reside in some safety. There are many mature trees, which I presume would be chopped down to allow the urban wildlife to take its place. i.e. the burglars the drug addicts and the unlicensed motor cyclist.</p> <p>I would like to ask; has an environmental and social impact assessment been undertaken on this ludicrous project.</p> <p>Yours, extremely anxious and worried.</p>	
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8. Amanda Hodgkinson

Footpath 106

There is more than one alternative route from Heys Lane to Fernhurst Street – this is a much more enjoyable walk than a narrow path between two housing estates fenced off at either side. In the 19 years that we have lived here walkers have never benefitted from the R-O-W as it has been unpassable, nor to my knowledge has more than one member of the public (and also a walking group) wanted to use it and thus complained or objected to its closure (on two occasions – this being one of them). Youths taking part in anti-social behaviour have ventured partway down the path, as have drug users. I understand that security issues or misuse of a path are not sufficient to have a R-O-W closed but we feel that the security issues are important additional considerations. We have tidied the area behind our fence throughout the 19 years that we have lived here. We have removed various types of litter and debris, discovering used needles on several occasions. We are also concerned about future issues for anyone using the path (muggings for example). There will also be significant financial implications for many residents as additional security measures will most certainly be needed.

	<p>We feel that the purpose of this R-O-W no longer exists. It is not used nor has it been for the 19 years that we have lived here and much longer than that from reports from other neighbours who have lived on Arkwright Fold since the estate was first built. The alternative route I refer to is more spacious, is no less convenient and I would argue is much more enjoyable. I take this route often as it is a pleasant walk through woodland.</p> <p>Wildlife – the path has been a wildlife corridor for many years – foxes, bats, squirrels, hedgehogs (we have made our garden accessible to hedgehogs as has our neighbour and we have regular visits from at least seven), field mice, sparrows, starlings, collared doves, wood pigeons, blue tits, great tits, coal tits, long-tailed tits, chaffinches, dunnocks, wrens, blackbirds, robins, thrushes, sparrowhawks, buzzards, magpies and a pair of jays. There are many nests in the trees.</p> <p>We feel that the sensible, responsible and moral course of action is to divert or extinguish Footpath 106 as it is unnecessary, has not been used in decades and there is a more pleasant and equally convenient route to get from A to B that will not cause additional security issues for residents or destroy the habitat and safe corridor for a plethora of wildlife.</p> <p>‘Once a right of way always a right of way’ – Society changes, the environment changes...we expect ideologies and religions to adapt according to</p>	
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	<p>society's needs so why is it that ONE objection from a member of a walking organisation can potentially cause so much expense and disruption just because they can? The only occasions that an objection has been proposed have been when this footpath has been brought to the attention of a walking organisation and not because a member of the public has tried to use it.</p> <p>The local authority's current financial position is perilous. With the added cost of clearance and ongoing maintenance (and policing), it's suggested that the money could be used much more effectively and for the benefit of many more citizens, particularly I these extremely challenging times that we find ourselves in at present.</p> <p>What is the projected cost and the estimated timescale of the proposed action?</p> <p>9. Andrew Turner</p> <p>Who will benefit from clearing and reopening footpath 106?</p> <p>Residents? No, absolutely not. It would undoubtedly result in a return to security issues for the properties adjacent to the footpath and there will certainly be an opportunity for crime that doesn't now exist. There is a real danger of a rise in anti-social behaviour – discarded needles and drugs-related problems already exist along the ginnel</p>	
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	<p>between Arkwright Fold and Brotherston Drive (the Police can confirm this). There will most likely be a return to fly-tipping that existed previously. Furthermore, residents are already very distressed at the prospect of the footpath being reopened, at a time when stress is at a heightened state.</p> <p>Wildlife? No, absolutely not. This is a narrow band of natural growth and the only strip that remains in the neighbourhood. The wanton destruction of it caused by clearing the path of undergrowth, shrubbery etc will destroy the habitat of wildlife. There is little wildlife remaining on these housing estates but it is flourishing along this narrow, overgrown area - hedgehogs (already on the 'critical' list nationally) abound in this oasis, bats roost in the trees, there has been sighting of a fox, there is a plethora of birds etc. All would be lost.</p> <p>Council? No, absolutely not. How much will it cost the Council to clear the entire path and keep it maintained? Particularly at a time when funds are scarce – kids go hungry at half-term, the elderly have insufficient funds for proper care, deprived areas will be further deprived of resources, etc.</p> <p>Walkers? No, absolutely not. The path is overgrown because it hasn't been used for 20+ years. It is not in an area of countryside, woodland or open fields that are a pleasure to walk through but is in effect a narrow, dark, damp back alley between housing estates.</p>	
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When the path was originally opened, probably 100 years ago or more, it would have been a necessary route from Heys Lane to Ewood. That connection still exists today from and to the same points via a very minor deviation. Nobody is inconvenienced or prevented from making that journey.

Nobody benefits but almost everyone is devastated.

So, can the Council advise us who it thinks would benefit from clearing footpath 106?

10. Janet Duxbury

I am feeling extremely concerned about the clearing of the foot path at the rear of my property on Arkwright fold.

Firstly I am concerned that we will become vulnerable to burglars and also as has previously happened teenagers taking drugs etc.

I also would like to say that we have a lot of wild life around the back which nobody appears to have considered surely this should be taken into consideration.

This path has been like this for many years.

11. James Mattinson –

Can I ask if the council will have any discussion with the Ramblers Association prior to making a start on clearing the footpath?

To me, it would seem that the reasonable person would view the damage done to local wildlife habitat that the footpath currently provides, is completely disproportionate to the so called gains of opening up this footpath, which could be easily diverted.

If the Ramblers Association were to be consulted and made aware of the concerns of local residents they may reach the same conclusion?

12. Alison Turner

I find this statement very difficult to put together ..and be succinct for only 5 minutes.

As someone who has lived in Arkwright Fold for over 30 years and has always 'done the right thing' I find the plan to 'remove vegetation, trees and levelling the surface' of the land behind our home totally reprehensible.

In January we and 56 other homeowners received a letter from Lorraine Mellodey. This letter stated that the Council would be clearing the footpath from Heys Lane to Fernhurst Street. This work was to be done in phases...with Phase 1 from Heys Lane to 77/79 Arkwright Fold and that it would be difficult to

	<p>see the extent of the obstructions on the footpath until it was cleared. She went on to say 'the remaining sections will be dealt with, dependent on the extent of obstructions and the funding available'.</p> <p>We, the residents of Arkwright Fold were shocked that once more...the footpath was being discussed. We had tried to have it closed in the year 2000 and problems arose again causing the Council to clear the shocking amount of flytipping in 2007. In 2000, we were exhausted by the burglaries, thefts from gardens, motor bikes using it as a shortcut and general anti social behaviour...vodka bottles tossed over our fence most weekends...along with a fine section of needles. One objection raised in 2000 prevented it from being closed and I have since learned that the objection sent in in 2020 was by the Ramblers Association ..a group of people hell bent on wanton destruction.</p> <p>So my first question is ...how do you open half a footpath? And for the princely sum of £4,500 +VAT. Does the Council honestly have that kind of money to waste on ruining the habitat of so much wildlife? The Council is keen to fulfil their statutory duty by clearing it in Phase 1...but did not notify any of the properties adjoining the path on Bailey Close and Wagstaff Close...none of whom had any idea about this yet homes on Tiverton...only across the path did receive a letter. This random approach of notifying some residents and not others is not only unprofessional but also prevents them from being</p>	
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	<p>part of this protest from the very beginning and thus denying them their democratic right.</p> <p>Neighbours in Rewe Close were told that no work would be carried out on their part of the footpath as there was no money. Rewe is where the path is blocked off by a metal gate...to ensure security to their properties, prevent flytipping and discourage any anti social behavior...all of which were major issues when the footpath was open.</p> <p>Secondly ..when asking the Ramblers Association for their stance on opening footpaths I was told</p> <p>The Ramblers is a charity which promotes walking for leisure, health and as active travel. We advocate for the "provision and protection of foot paths and other ways over which the public have a right of way or access on foot, including the prevention of obstruction of public rights of way."</p> <p>We do not ask for or provide "evidence" when passing on reports of obstructed paths to the highway authority.</p> <p>This does not mean we advocate for the destruction of wildlife, but it does mean that all public footpaths in England and Wales should be kept clear for the public to use. Landowners should not allow vegetation to grow in such a way to obstruct public paths</p>	
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Democracy at its finest..an environmental group that forces councils to destroy the habitat of wild life...BwD Council have the power to divert this footpath...you should be working for us and with us and helping to finding a way to keep us secure and prevent wildlife from being destroyed.

The pressure that we, as residents, have been under has been phenomenal. Our mental health has been threatened over several years. As responsible citizens we have asked the Council for guidance several times regarding Footpath 106..infact for over 20 years. We were told that this footpath was 'way down the list' and it would stay there as there were so many other 'dangerous' paths that would take priority...then suddenly we had made it to the top! Today ..due to some trees being removed recently at the top of Arkwright Fold (near 81) we are already seeing groups of youths congregating...open Footpath 106 and we will have a 'rat run' down to Macdonalds adding litter being tossed over our fences just like the vodka bottles and the motorbikes from 20 years ago, If you honestly think that this footpath will only be used to ramble down...I really do wash my hands of this council and democracy as a whole.

13. Lewis Marginson –

Why the ramblers would want this to be a path again when for the last 30 years plus it has never

	been used by them and at the present time does not go anywhere?	
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