

**PLANNING & HIGHWAYS COMMITTEE**  
**THURSDAY 21<sup>st</sup> JANUARY 2021**  
**UPDATE REPORT.**

The following update content should be read in conjunction with the published Committee Report.

**10/20/0716 Land to the South of Whalley Old Road, Blackburn**

A representation has been received on the 20<sup>th</sup> January 2021 by JWPC Planning Consultants sent on behalf of Blackburn Chemicals who object to the application site to the south. The objection is as follows:



19<sup>th</sup> January 2021

Letter to Cllrs  
Planning Committee  
Blackburn with Darwen Council  
Via e-mail

Dear Cllr,

**PLANNING AND HIGHWAYS COMMITTEE - Thursday 21<sup>st</sup> January 2021**

**Item 4.1 - Planning Application 10/20/0716 - Land to the South of Whalley Old Road**

I write regarding the above planning application for 165 dwellings due to be heard at Planning Committee on Thursday, on behalf of Blackburn Chemicals Ltd whose premises lie immediately adjacent to the application site.

Blackburn Chemicals submitted an objection to this planning application due to severe concerns regarding the potential impact of development on their premises, and the potential impact on new residents from the operation of the business. These considerations are set out in detail in our initial objection letter in section 9 of the Report for the Committee item.

Our objection still stands principally as we do not consider that sufficient evidence has been presented through this outline application to demonstrate that a scheme for 165 dwellings could be developed on this site from a technical point of view without significant impact on the adjacent industrial use. This is due to the proximity of the Blackburn Chemicals premises across most of the southern boundary of the site, with the site levels also creating drainage impacts on the premises, and visual and noise impacts for any future residents.

The recommendation for approval does to some degree consider the potential for mitigation to the technical matters to be included through reserved matters, secured by condition, but our objections would remain in terms of the potential visual impact and noise impacts from locating a residential development immediately adjacent to a busy premises on a prestige employment site that deals with the processing and storage for a range of chemicals. Much of the length of the rear of the premises, closest to the proposed development, consists of well utilised open storage area, which involves manoeuvring forklift trucks and delivery vehicles during operation. The site has no restrictions on its hours of operation in planning or permit terms and is currently operating up to 24 hours a day. The potential for odour and noise impacts must be carefully considered in making a decision on this and any future applications, to ensure the

operation of this business is protected and protecting any future residents from amenity issues due to the operations of the site. Other concerns relating to visual impact and security must also be taken on board in the determination of this and future applications, with any proposed development or mitigation measures having no unreasonable restrictions placed on the existing business, as required by paragraph 182 of the NPPF.

The future development of this site should not impact the future operation or potential future expansion of this existing business premises designated on a prestige employment site in the Local Plan. The company employs more than 75 people on this site and has been in operation there since 1972. A decision to permit potentially incompatible residential development in close proximity to this premises needs very careful consideration in terms of both local planning policy, national planning guidance and the technical matters as outlined above. The Environment Agency share our concern as to the proximity of new dwellings to the existing business, and whilst a buffer area between the two could mitigate some impact, the width that this buffer zone would need to be is undetermined and the potential this has to limit the size of development is one of our concerns with approving planning consent for 165 dwellings at this stage. As the Council is progressing the allocation of the site through the Local Plan, approval of this scheme would seem to be being taken in advance of the necessary information being in place to make a decision on the extent of development that could be accommodated on this site without impacting on the adjacent use.

Blackburn Chemicals principle concern in this matter is to protect its business from potential threats to the future operation of the premises in which they have heavily invested and that supports a significant number of local jobs. They wish to place on record that they have significant concerns in this regard from a decision that would lead to the direct placement of new dwellings close to their operations.

We also consider that determining this planning application would be contrary to Policy 4. The arguments put forward in the Report to Committee with regard to Policy 4 are not sufficient to state that the development is consistent with the Development Plan. We consider this would be a departure from the Local Plan.

Yours sincerely,

The comments raised in this latest representation have been addressed in paragraphs 3.3.31 to 3.3.34 of the main report with regards to the relationship of the application site to Blackburn Chemicals and the comments received from the Environment Agency. With regards to the proposal being contrary to Policy 4 of the adopted Local Plan, this has been addressed in paragraphs 3.3.3 to 3.3.14 of the main report.

With regards to the aforementioned paragraphs relating to the compliance of Policy 4 of the adopted Local Plan, paragraph 3.3.3 of the main report, which lists the relevant policies in the Local Plan Part 2, should also make reference to Policy 4 "Land for Development Beyond the Plan Period". As Policy 4 is clearly referenced throughout the main report, this omission does not affect the assessment of the planning application.

Case officers have been made aware of the declining population of Swift birds. Swift bird numbers have declined across the UK by 53% between

1995 and 2016, and the construction industry are seen as an excellent way to provide Swifts with nesting opportunities either through void in the eaves of the buildings, or with appropriately laid bricks. Given the application site's location, and with the submitted Ecological Impact Assessment, it is considered the proposed development, could be an ideal opportunity for the inclusion of wildlife facilities, such as bat boxes and swift boxes etc. The detailed assessment of the ecological and biodiversity impacts are covered in paragraphs 3.3.21 to 3.3.29 of the main report, and the recommended Condition No.31 in paragraph 4.1 of the main report, requires a Landscape and Habitat Creation and Management Plan to be agreed, which can include the provision of these facilities to safeguard these protected species.

**10/20/0798 Land to the rear of former Meadowcroft Farm, 114 High Street, Chapeltown**

Due to the receipt of a number of late representations since the publication of the main report, the application is to be **WITHDRAWN FROM THE AGENDA**. This is to allow the issues raised to be fully addressed in detail, and following discussions between officers and the applicants/agent, to allow for a further review of the proposed layout. It is anticipated that the application will be presented to the Committee at the next meeting on the 18<sup>th</sup> February.

**10/20/0934 Land to the North and South of Fishmoor Drive and Land to the East of Roman Road, Blackburn**

At paragraph 3.5.40 of the main report insert:

United Utilities offer no objection, subject to submission of a risk assessment and method statement to ensure safeguarding of their assets.

Accordingly, the following **condition** is added at paragraph 4.1:

Prior to the commencement of development on Parcel 3, a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority, detailing the measures to protect all United Utilities assets during:

- any site investigation works;
- the construction and decommissioning of all development phases, including proposed landscaping and parking; and
- the future day to day operation and maintenance of our assets post completion, ensuring United Utilities legal right to 24 hour access is maintained.

This must include proposals for reinforcements of any crossing points to ensure asset protection from heavy loads during and after construction. The approved method statement shall be in line with United Utilities'

document 'Standard Conditions for works adjacent to pipelines' and it shall be adhered to throughout investigation, construction and operational phase of the development

REASON: In the interest of public health and to ensure protection of United Utilities assets, in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan.

**Section 106 Contributions:**

An initial agreement between the applicant and the Council to pay the education contribution of £398,950 (including £3950 monitoring fee) will be secured via Section 111 of the Local Government Act 1972. Subsequently, payment will then be secured via a typical Section 106 Agreement between the two parties, as referenced in paragraph 4.1. (i) of the main report.

**10/20/0996 Hob Lane Barns, Blackburn Road, Turton**

A representation has been received on the 20<sup>th</sup> January 2021, from Ms Ellen Carroll of No.6 Hob Lane. This states:

Dear Mr Wilson, Gavin Prescott,

I would like to draw your attention to certain matters which I consider are in need of clarification re the above plans, & to add further observations which I consider to be of importance.

Re:The additional map plan of the site, submitted on 7 Dec.'20.

With specific reference to "the gate" on the map. This forms part of Mr & Mrs Grimwood's garden wall (- not the large planned electric gate ) or has the developer bought said wall?

Is this an actual gate whereby an exit is made onto the pavement on Blackburn Rd via no 2 property rear yard, or is it to house the machinery of the electric gate that is planned? This is unclear - as are significant details regarding said gates eg

What are the dimensions of said gates?

Are the property owners at no 2 in agreement of the smaller gate?

Secondly, regarding the comments made with regard to the farmyard access in the recommendations.

In my objection I did make clear reference to my solicitor Fiona Gaskell being instructed by myself to secure this right of access by legal process via the Land Registry. It would appear that this has been overlooked in the summary but is of significant legal significance to the cottages & has implications for the "wall" & proposed electric gate.

Briefly, it is evidence based & includes testimony by witnesses, including myself, & is determined by the Land Registry lawyers. This was begun in February 2020. Disruption caused by the pandemic & my solicitor being furloughed has delayed progress, but I can assure you that this matter is well in hand. (Mr Grimwood I believe did give up on this, but I certainly have not.)

Heritage Considerations.

I will have lived in Tinker's Cottage 6 Hob Lane Edgworth for twenty years in June. Properties 6 & 8 were built in 1715, & are also of stone construction.

When I look at this plan I see a large, modern house, attractive in its own way, & can be seen in many locations here & there, but not reflective of the historical & rustic setting of Hob Lane Farm & its environs.

Where is the green oak, its uniqueness, the careful attention to detail, respectful of the very old neighbouring homes ??

I quote- Local Plan Policy Part 2 Policy 11

"Requires development to demonstrate an understanding of the wider context" with Policy 39 requiring development " with the potential to affect any designated or non- designated heritage asset, either directly or indirectly including by reference to their setting" to "sustain or enhance the significance of the asset."

The other Folds in the locality- for example Isherwood Fold- I am able to walk through the courtyard with my dog. There, the very old properties sit side by side a more recent addition, blending in harmony, & pleasing to the eye.

When I look out of my landing window I will be viewing the owners' bins. Downstairs, a modern wall blocking out access to light in my lounge (which I purposely have added to gain extra light.) I am 71 years old- where is the access for my wheelchair? A stretcher? A pushchair? We are being blocked in with this plan. The front of the cottage properties are significantly & increasingly elevated from Hob Lane (approx 20 ft)- access is difficult & time consuming.

Can someone explain to me how this is new wall is an enhancement & for the developers' privacy? It would seem to me that it is an eyesore, a safety hazard for the cottage owners (who, I can assure you, have exercised access for many years until the chains were put on the gates.) However, I await the legal & binding decision of the Land Registry.

Officers sought a response from the applicant's agent with regards to the points raised by Ms Carroll. The response from Sophie Marshall (MacMarshalls Rural Chartered Surveyors & Planning Consultants) is as follows (comments are in bold):

*With specific reference to "the gate" on the map. This forms part of Mr & Mrs Grimwood's garden wall (- not the large planned electric gate ) or has the developer bought said wall? - **The architect confirms the small picket gate is on the owner of the barns land, it is not on the adjoining owners land.***

*Is this an actual gate whereby an exit is made onto the pavement on Blackburn Rd via no 2 property rear yard, or is it to house the machinery of the electric gate that is planned? **I am again informed that the gap between the proposed wall and the rear boundaries is owned by the owners of the barn. A gate is proposed to offer all residents security and to prevent trespassers from walking down the gap easily (minimising health and safety risks from accidents on the owner of the barns land). It will not house the electric gate machinery as the proposed larger courtyard gate is set back from the road (and the existing gate) to improve the highways position. At present vehicles have to stop partly on the road to open the gate and enter the site, which would no longer be the case. Therefore the electric (with quiet motor as specified) gate will be set back from the position of the small gate as shown on the site plan. The position of the wall offers a sense of separation and space to the rear of the cottages that was discussed at length with the Council. At present, the owners of the barn could erect a higher fence on their side of the legal boundary, up to 2m high within the courtyard (not adjoining the road) as well as storing other agricultural items on there. The wall and gap provides a betterment and allows the Council to be in control of the height and the whole courtyard area in the future for the benefit of all residents.***

*What are the dimensions of said gates? **small gate - 1100mm high (consistent with the proposed wall) x 800mm wide, vehicular gate - 1300mm high (consistent with an agricultural gate) x 5000mm wide.***

*Are the property owners at no 2 in agreement of the smaller gate? **Both gates are on land owned by the owner of the barns.***

*In my objection I did make clear reference to my solicitor Fiona Gaskell being instructed by myself to secure this right of access by legal process via the Land Registry. It would appear that this has been overlooked in the summary but is of significant legal significance to the cottages & has implications for the "wall" & proposed electric gate.*

*Briefly, it is evidence based & includes testimony by witnesses, including myself, & is determined by the Land Registry lawyers. This was begun in February 2020. Disruption caused by the pandemic & my solicitor*

*being furloughed has delayed progress, but I can assure you that this matter is well in hand.* - **An alleged right of access has been brought up in previous comments. This is not a planning consideration as it is a legal title matter. However, the applicants have confirmed there are no legal rights of way shown on the barns deeds through the courtyard for the benefit of Hob Lane properties. I am informed by the applicants that the owner of the barns wrote to the residents in or around November 2019 (pre Covid) setting out that there are no legal rights of way. I am again informed that no letters have been received from any of the residents solicitors since then detailing any claims. A letter was received from a resident, which was followed up with a request for evidence. I am informed that no further evidence has been received by the owners of the barns. If the residents believe they have a claim to a right of access, this can go through an application to the land registry, where it can be challenged and assessed accordingly. To the best of the applicant's knowledge, this process has not commenced. Therefore, the planning proposal has been designed on the current situation/legal position and the decision should be made on this basis. Any further action by the residents or applicants should be dealt with by the land registry/ their solicitors.**

So, Members are advised as referenced in paragraphs 3.5.31 to 3.5.32 of the main report, that the rights of access from the rear of Hob Lane Cottages onto the application site is private matter between the respective parties, and is not a material planning consideration, which will be dealt with separately by the Land Registry etc. The proposal has been carefully designed in terms of the proposed courtyard, to allow access and a basis on which the occupants of Hob Lane and the applicants can negotiate use of that space for essential maintenance.

The **heritage considerations** referred to by Ms Carroll in her representation are addressed in detail in paragraphs 3.5.7 to 3.5.19 of the main report. In addition, the Council's Conservation Advisor in their appraisal of the proposed scheme on the 17<sup>th</sup> December 2020, agrees with the findings of the applicant's Conservation Consultant, i.e. *"Does the proposal cause harm to the significance of the historic setting of No's 2 and 4 Hob Lane and if so can the level of harm be balanced by the schemes benefits – NPPF, paragraph 196 assessment. Having previously visited the site and seen the buildings in the context of the wider group, I feel that current application buildings probably relate more to the development of 473/475 Blackburn Road than the older 2 & 4 Hob Lane Cottages. I agree that the barns appear as a typical multi-functional farm building from that late C19 period and have a farm character, which is clearly different to the earlier built cottages.*

*"Whilst I feel the barns form part of the visual setting to the 2 listed cottages and the other non-designated cottages adjoining on Hob Lane, I do not feel the buildings are so integral to the setting to hinder a potential re-use. Indeed, it seems to me that the conversion of the 2*

*barns into a sustainable new use will help secure the historic value of the group setting.*

*I agree that the conversion of the barn, into residential use, will not cause substantial harm to the historic setting of No's 2 & 4 Hob Lane. Whilst the visual appreciation of the group setting will be affected by the conversion I think this would only amount to a low level of harm and the LPA will need to undertake a balancing exercise set against the benefits of the proposal, which includes securing a sustainable new use for the redundant buildings/site.*

*Whilst the proposed conversion scheme alters the appearance of the barns I feel it will nevertheless retain the essential character of the buildings and the secure the wider benefits to the group setting. The biggest changes proposed to the buildings, including rebuilding works, are on the outer faces of the barns away from the shared appreciation of the farm group. In this scenario, I would assess the harm to the setting to be low/slight at worse.*

*The second issue relates to the impact of the conversion, itself, on the significance of the non-designated assets. I am mindful that this is a lower test and that the LPA has to be simply satisfied that they have considered the scale of harm/loss and the significance of the heritage asset in its planning balance.*

*In this respect the two barns have a part to play in the wider group setting and form the northern and western enclosure to the farm yard. The significance of both barns is low and is of a local importance. Some loss or harm has been mitigated by the design of the conversion and as stated above has largely been confined to area away from the more sensitive 'farm-yard' which forms part of a wider appreciation of the group of buildings.*

*I do tend to agree with the comments contained in the Heritage report that any loss would need to put in the context of the benefits of safeguarding the redundant buildings and the obvious long term benefits of securing the wider group setting.*

#### *Conclusion / recommendation*

*As I am required to do so, I have given the duty's imposed by s.66 of the P (LBCA) Act 1990 considerable weight in my comments.*

*As I have indicated above I think to secure the benefit of the retention of the 2 barns the LPA will have to accept some degree of change (and low level harm) to the group setting. The aesthetic changes to the barns whilst not ideal are acceptable and I would regard the benefits of securing a new use for the building to outweigh the harm caused to the appearance.*

*In doing so, I feel the scheme would likely meet the objectives of Chapter 16 of the NPPF and the Local Plan policies relating to safeguarding heritage.*

A further representation has been received from Cathy Henthorne, owner of No.473 Blackburn Road on the 20<sup>th</sup> January 2021: It states:

**Statement to support:**  
**Planning number 10/20/0996**  
**Committee Date 21/01/2021**

I am the owner of 473 Blackburn Road, which is attached to the end of the barn, and have lived here for just over a year.

At the moment the barn looks scruffy and a complete eye sore and when I have visitors over I'm almost embarrassed at its current state. I can also see how if left the barns will deteriorate further and almost become a hazard and feel that to turn these into a beautiful home is a perfect solution

I knew the barns were for sale when we bought 473 Blackburn Road and my thoughts at the time were that it would be converted into a home. However, when the first application was withdrawn I did have some concerns that it could be turned back into a working farm creating lots of noise early in the morning until late at night with farm machinery, farm vehicles being parked and storage of barn machinery in the courtyard.

I have spent some time looking at the plans and I strongly believe it is going to be a lovely home and will be an asset not just to the immediate area but the community. I love the design and how it keeps the character of the area with the cobbled stones and barn like feeling. I can also see from following the progress of these plans and amendments how hard the owners and planning have worked to get this right. And I feel they have!

It will be really good if the counsellors would approve the application and turn these barns into a beautiful home

Carly Henthorne

**Gavin Prescott,**  
**Planning Manager (Development Management)**  
**21<sup>st</sup> January 2021**