

**Proposed development: Full Planning Application for The erection of 2no. Industrial warehouse units for use classes B2/B8/E(g)(iii) with ancillary office spaces with the construction of new access, hard and soft landscaping**

**Site address:**

**Former Darwen Paper Mill Site  
Lower Eccleshill Road  
Darwen  
BB3 0RW**

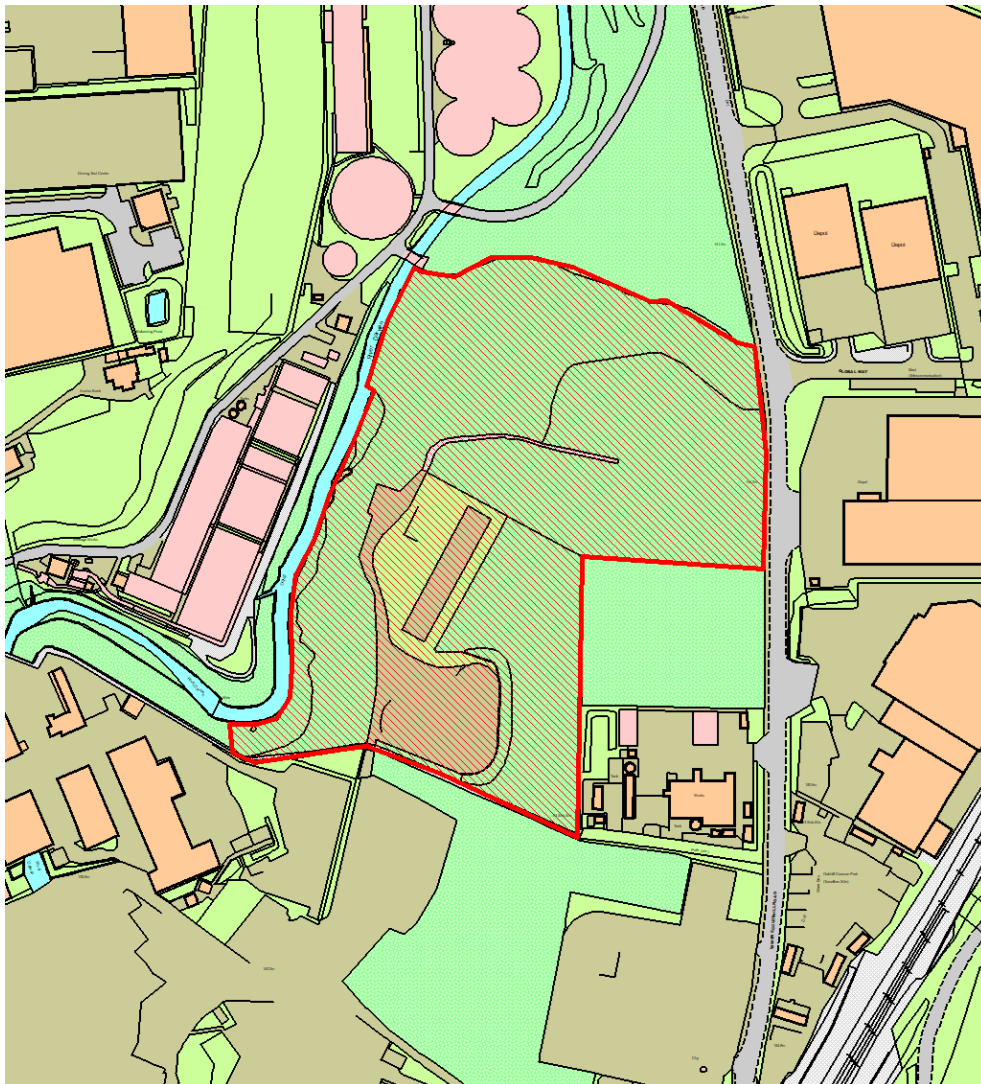
**Applicant: Acornfield Properties Ltd**

**Ward: Darwen East**

**Councillor Paul Browne**

**Councillor Katrina Louise Fielding**

**Councillor Jane Margaret Oates**



## **1 SUMMARY OF RECOMMENDATION**

- 1.1 The proposed development is recommended to be granted planning permission, subject to completion of a S106, and the conditions detailed in Section 5.

## **2 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This application is for the erection of 2no. Industrial warehouse units; a speculative application for Use classes B2/B8/E(g)(iii) with ancillary office spaces, together with the construction of a new access, and hard and soft landscaping. The site is currently vacant; comprising predominantly fields to the north and concrete pads from sewage tanks and filter beds in the south. Historically, the site was the Darwen papermill, and more recently it was used as water treatment works. Given its former use, the land is known to be heavily contaminated, and substantial remediation work is required.
- 2.2 This is a major planning application, comprising 9,867sqm of new internal floorspace on a 35,152sqm site. It is presented to the Planning and Highways Committee due to the objection received from the occupiers of adjoining premises, Crown Paints. A summary of all the responses received is detailed below in Section 6.
- 2.3 The proposed development has been publicised through letters to adjacent occupants. 40 Neighbour letters were issued. A site notice was also displayed outside the site on 1<sup>st</sup> December 2021, and a Press notice was published on 22<sup>nd</sup> December 2021. In addition, a number of reconsultations have taken place with bespoke consultees (in particular the Council's Highways consultee, the Public Protection / Contaminated Land Officer, and the Environment Agency) upon the receipt of amended/updated/additional information provided to address initial concerns.
- 2.4 The Council's development plan supports new commercial developments and associated works within the defined urban boundary and employment areas, provided they constitute sustainable development, and accord with the development plan when taken as a whole. The proposal would deliver two modern industrial buildings, bringing a long standing vacant previously developed site back into active use, and economic, social and environmental benefits.
- 2.5 The scale and appearance of the buildings would be similar to other warehouses within the industrial area. The proposed warehouses would be rectilinear steel frame structures, utilising standard dual pitched roof profiles, roller shutters, dock levellers, personnel doors, and curtain wall glazing. The warehouses would utilise the existing topography of the site to mitigate the visual impact. Installation of retaining walls would allow the buildings to be constructed at a lower level, reducing the appearance by one storey when viewed from the east.

- 2.6 It is proposed to use a variation of grey coloured cladding which would gradually become lighter, allowing the elevation to fade into the skyline. The walls and roofs would be clad with trapezoidal sheet metal cladding, with areas of flat panel cladding to the principal elevations.
- 2.7 Primary vehicular access into the site for all vehicles would be from Lower Eccleshill Road, on the Eastern boundary of the site. Approval has previously been granted for the access road and visibility splays from Lower Eccleshill Road (10/20/1226). The public footpaths around the periphery of the site would be unaffected by the proposals. Appropriate vehicular parking, servicing and manoeuvring would be incorporated within the site, including mobility and cycle/motorcycle parking, and safe pedestrian routes/crossings.
- 2.8 The proposal is considered satisfactory from a technical point of view, with all issues having been addressed through the application process, or capable of being controlled or mitigated through appropriately worded planning conditions.
- 2.9 The key issues to be addressed in determining this application are;
- Principle of development; (including infrastructure / S106 requirements)
  - Design and visual amenity;
  - Residential amenity;
  - Highways issues, parking, servicing;
  - Foul and surface water drainage;
  - Ecology;
  - Contamination;
  - Climate change and air quality;
  - Neighbour objection (Crown Paints).
- 2.10 The following supporting information was submitted with the application:
- Security Needs Assessment
  - Planning Statement
  - Design and access statement
  - Landscape strategy / assessment
  - Tree constraints report / Arb Impact assessment and method statement
  - Preliminary ecological appraisal and otter survey report
  - Construction Environmental Management Plan (CEMP)
  - Noise assessment
  - Remediation strategy, Site investigation report, etc
  - Mineral Resource Assessment
  - Flood risk assessment and Drainage strategy
- 2.11 Various additional / revised documents received during assessment of the application include:
- Revised Remediation Strategy (received 4<sup>th</sup> January 2022).

- Revised Noise assessment (received 11<sup>th</sup> January 2022).
- Additional plan to address EA concerns (info only) (received 13<sup>th</sup> January 2022 and 23<sup>rd</sup> February 2022).
- Formal response to objection from Crown Paints.
- Revised site Plan and addendum to Transport Assessment Report (to address Highways comments), received 18<sup>th</sup> February 2022 and 02<sup>nd</sup> March 2022.
- Revised CEMP (Biodiversity) to address GMEU Ecology comments, received 16<sup>th</sup> February 2022.

### 3 RATIONALE

#### 3.1 Site and Surroundings

3.1.1 The application site is a plot of vacant previously developed land located within the defined urban boundary of Blackburn, within a secondary employment area in Darwen. The site generally slopes downwards from east to west, away from Eccleshill Road, down towards the river. There are some trees and a PROW on the periphery of the site, which would be unaffected by the proposal. The site lies within a Coal Low Risk area, and a Mineral Safeguarding Area, predominantly within a Flood Risk 2 area, but a small section at the outer (western) edge near the river is in Flood Risk 3.



*Figure One – Satellite image of the site*

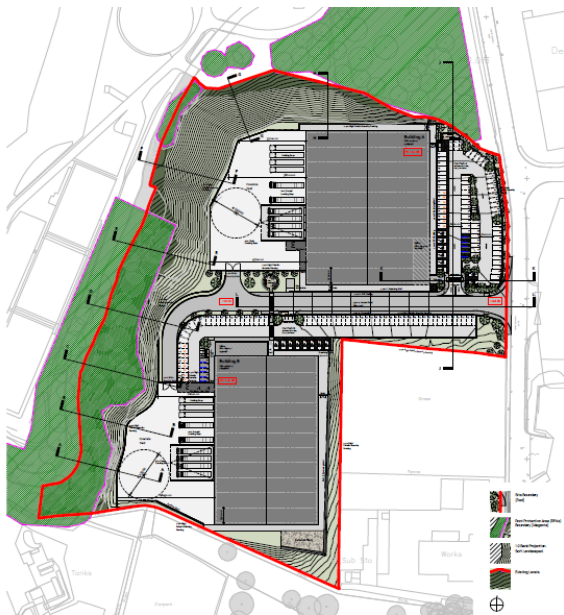
3.1.2 The site covers an area of circa 35,152sqm. Within the proposed two buildings, a total of 9,867sqm of new internal floorspace would be created.



*Figure Two – Location Plan showing the extent of the site*

### 3.2 **Proposed Development**

3.2.1 As detailed above, this application seeks full planning permission for the erection of two industrial buildings, namely Building A (external measurements circa 65m x 75m) and Building B (circa 50m x 85m), creating a combined total of 9,867sqm of new internal floorspace.

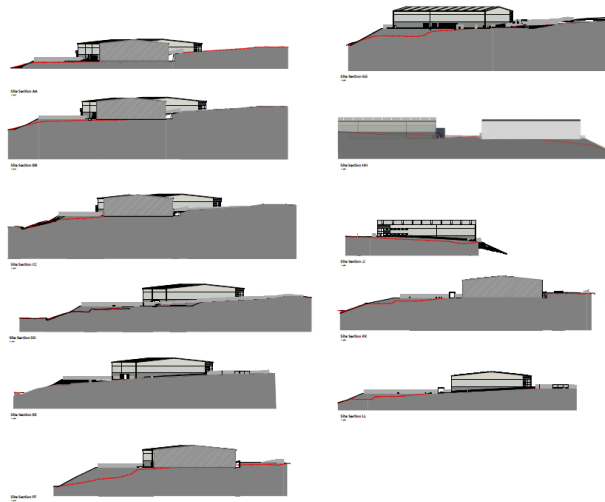


*Figure Three –Proposed Site Plan*

3.2.2 Both buildings would have gable ended central ridged roofs. As shown in the proposed sections below, due to the sloping land, the buildings would appear as split level buildings, with finished floor levels lower than the Eccleshill Road level. When measured from the immediate external finished floor level, the maximum heights of the buildings would be:

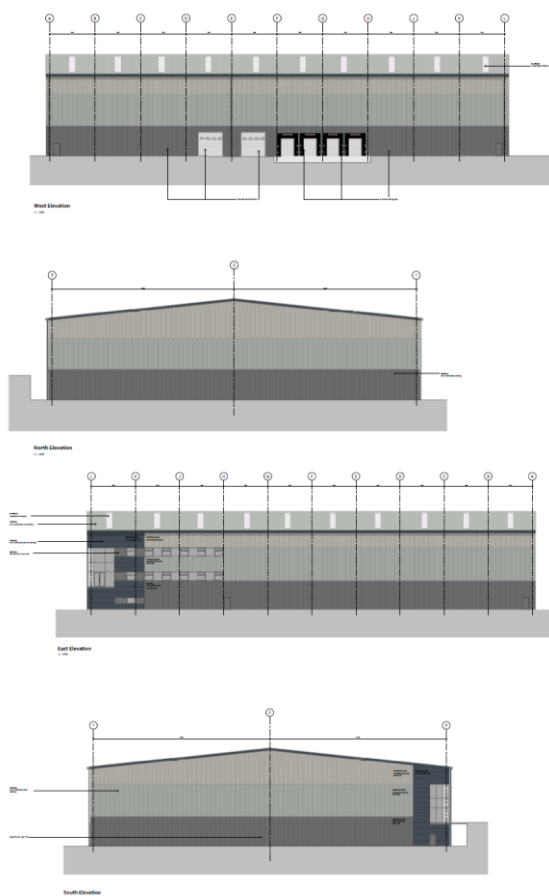
Building A ridge: 16.7m – eaves 14.5m

Building B ridge: 16.1m – eaves 13.3m

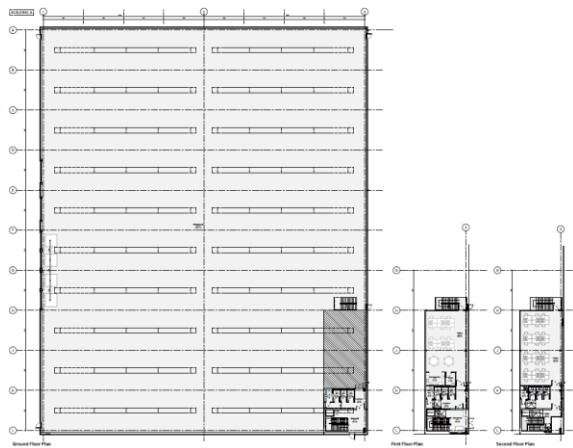


*Figure Four (above) – Proposed sections (Buildings A and B)*

3.2.3 Different shades of grey cladding would be used to give a horizontal layered effect to the external finish of the building, as shown in the proposed elevations, below. This gives the effect of the building fading into the sky.



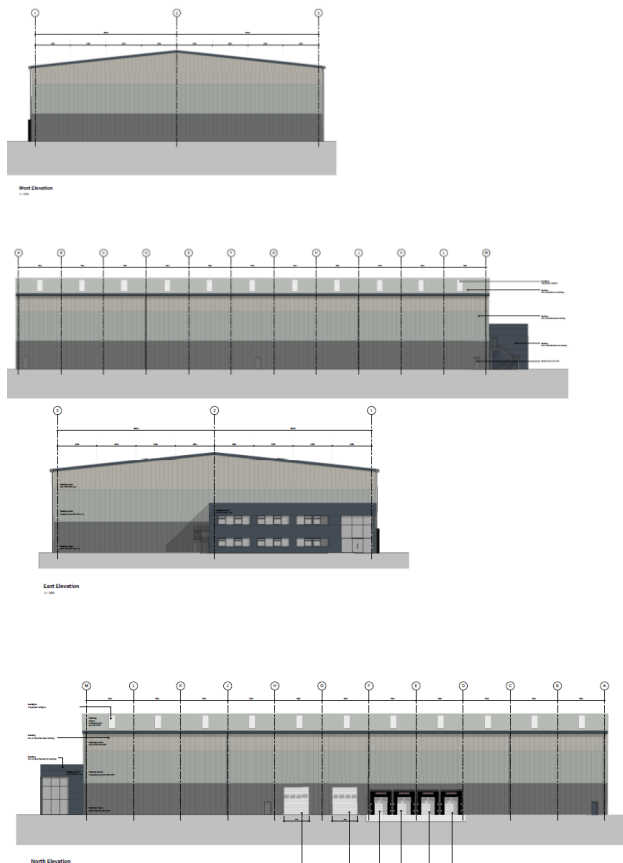
*Figure Five (above) – Proposed Elevation Plans (Building A)*



*Figure Six (above) – Proposed Floor Plan (Building A)*

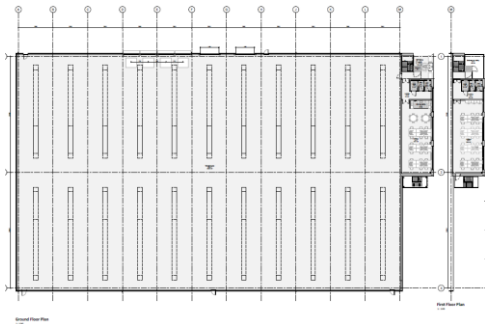
3.2.4 As can be seen in Figures 5 and 6 above, the majority of the building would be industrial floorspace. Building A would include some ancillary integral offices in the corner of the building, at ground, first and second floor levels. The external appearance of the office part of the building would be finished in a deeper grey to distinguish its use from the rest of the building.

3.2.5 Building B would be very similar, but slightly different. Although the ancillary offices would again be in the corner of the building and in a darker grey external finish, the offices would only span two levels (ground and first floor level) and the office area would appear as a flat roof add-on rather than an integral part of the building. This can be seen in Figures 7 and 8 below.





*Figure Seven (above) – Proposed Elevation Plans (Building B)*



*Figure Eight (above) – Proposed Floor Plan (Building B)*

3.2.6 Access to the site would be taken from Eccleshill Road to the east (as per a previous planning approval for access and visibility splays approved under ref 10/20/1226). The new internal access road would be constructed to include separate accesses to each of the 2 buildings and their associated servicing areas, with pedestrian footways, crossing point, and parking (to include mobility parking and cycle storage, etc), as well as some soft landscaping. The proposed site layout including internal access road and parking areas is shown in Figure Nine below:



*Figure Nine (above): Internal access road and parking areas*

3.2.7 Boundary treatment would comprise paladin fencing, which is appropriate for the intended use in this industrial setting.

### 3.3 Site Photos







*Photos taken from Eccleshill Road on 1<sup>st</sup> December 2022*

### 3.4 **Planning history**

3.4.1 Relevant recent planning applications include:

- 10/17/1037 - Erection of 152 no. dwelling houses including access and associated infrastructure – REFUSED 16<sup>th</sup> March 2018
- 10/20/1226 - Proposed drop kerb and formation of a new site access – APPROVED 25th June 2021

### 3.5 **Development Plan**

3.5.1 **Blackburn with Darwen Core Strategy**

3.5.2 **Local Plan Part 2 (adopted 2015):**

- ☐ Policy 1: The Urban Boundary
- ☐ Policy 7: Sustainable and Viable Development
- ☐ Policy 8: Development and People
- ☐ Policy 9: Development and the Environment
- ☐ Policy 10: Accessibility and Transport
- ☐ Policy 11: Design
- ☐ Policy 15: Secondary Employment Areas
- ☐ Policy 36: Climate Change
- ☐ Policy 39: Heritage

#### 3.5.3 **Other material considerations**

3.5.4 **Blackburn with Darwen adopted Parking Standards**

- ☐ B1 (Offices): Business Parks – 1 space per 40sqm of floorspace
- ☐ B2 (General Industry): 1 space per 60 sqm of floorspace
- ☐ B8: (Storage and Distribution) – 1 space per 100sqm of floorspace

3.5.5 **National Planning Policy Framework**

## 4.0 ASSESSMENT

### 4.1 Principle of Development (including Infrastructure / S106 requirements)

4.1.1 Policy 1 identifies the preferred location for all new development to be within the defined Urban Boundary, which the site is situated within. In relation to developments within secondary Employment Areas, Policy 15 details that planning permission will be granted for industrial development with a clear requirement to locate in a commercial area, provided that an appropriate overall balance of uses will continue to be maintained in that Area.

4.1.2 The proposed use is an appropriate use for this site and the proposal is supported in principle. The nature of the proposal would not conflict with the overall function or developability of the Employment Area. The proposed development would therefore be acceptable in principle, and in accordance with Policies 1 and 15.

#### Infrastructure / S106 requirements

4.1.3 The proposal requires an appropriate contribution to infrastructure, which has been subject to negotiation with the applicant, and an agreed figure has been reached.

4.1.4 As advised by the Council's Highways Consultee / Growth Team, a commuted sum of £89,230 is necessary as a proportionate contribution towards the Goosehouse Lane/Hollins Grove signalised junction improvement. Improvements to the Goosehouse Lane/Hollins Grove signalised junction are required to improve capacity, address safety concerns and improve pedestrian and cycle facilities to improve the accessibility of allocated sites nearby. The need has been determined through Transport Assessments submitted in support of nearby developments and other studies undertaken by the council. These studies have identified a preferred solution which has a cost estimate of £550,000. The Local Plan sites which are deemed likely to impact on the junction have been identified and trip generation calculations undertaken using TRICS data consistent with those adopted for the transport assessment of the emerging local plan. The S047 Hollins Mill, Darwen site is one of seven sites identified. The S047 site contribution toward the scheme is £256,211. The proposed development utilises 3.5 hectares of the 10.05 hectare site when considered in its entirety. As such, 35% of the S047 contribution has been allocated to the proposed development at £89,230. This has been agreed with the applicant.

4.1.5 A contribution is also required to meet Biodiversity Net Gain requirements, which cannot be achieved on site. Therefore, as advised by GMEU Ecology, an appropriate commuted sum of £10,000 has been agreed with the applicant.

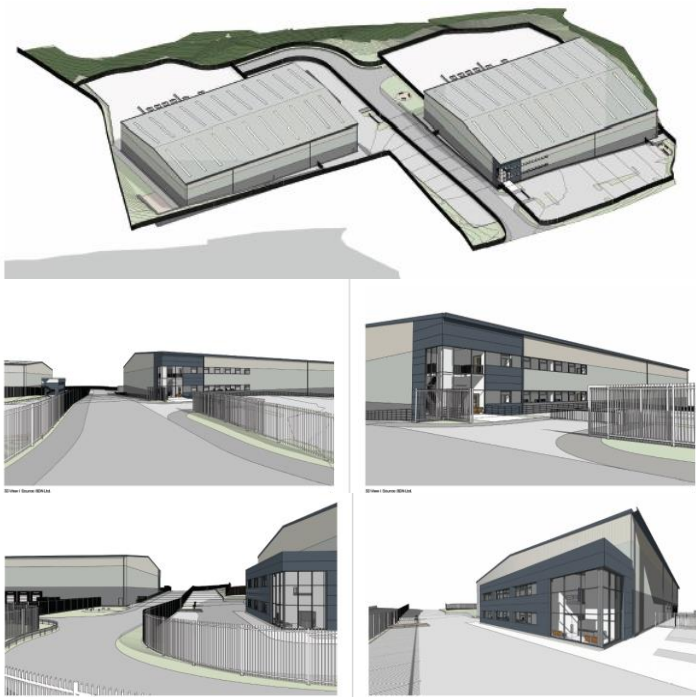
4.1.6 A monitoring fee of 1% would be added to the S106 contributions.

4.1.7 In accordance with the presumption in favour of sustainable development detailed in the Framework, and Policy 7, development proposals should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of the proposal are identified; subject to assessment of the following matters;

#### 4.2 Design and Visual Amenity

4.2.1 In general terms, Policy 11 requires all development proposals to represent a good standard of design through demonstrating an understanding of the sites wider context and making a positive contribution to visual amenity. The site occupies a relatively prominent position adjacent to Eccleshill Road. However, the land slopes down away from the road which lessens the visual impact / massing of the buildings. Notwithstanding this, the surrounding area is industrial in use and character, which is reflected in the history of the application site itself. The surrounding industrial buildings have no uniform appearance, and differ in form, size and scale (particularly the adjacent Crown Paints site) but the proposed buildings would not look out of place with other buildings in the vicinity.

4.2.2 As detailed above, the proposed buildings would be constructed with ridged roofs and modern construction materials, which would provide a contemporary design. The size, scale, height and design of the units is appropriate for their intended use and setting. They would not appear as overly prominent or incongruous additions in the streetscene / local landscape. The applicant has provided 3D drawings / artist impressions of the proposed appearance of the buildings, as shown below in Figure Six.



*Figure Nine – Proposed 3D views / artists impression (taken from the applicant's Design and Access statement)*

4.2.3 The proposed external construction materials would predominantly comprise various shades of grey cladding, arranged in horizontal layers (darker at the bottom, lighter higher up), with glazing and an even darker grey cladding used for the ancillary offices. The proposed materials and modern appearance is considered appropriate for this setting.

4.2.4 A condition can be attached to secure a detailed hard and soft landscaping scheme to further integrate the buildings into their setting. The proposed development would therefore be acceptable in relation to design and visual amenity, in accordance with Policy 11.

#### 4.3 Residential Amenity

4.3.1 Policy 8 states that all development proposals must secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy/overlooking, and the relationship between buildings.

4.3.2 Given the industrial setting, the adjacent industrial uses, and the industrial use proposed, the potential for adverse amenity impacts arising from the proposal amenity would be limited. The use is appropriate for this location, and it is noted that a previous application for residential development was refused (for various reasons). The Council's Public Protection Officer has raised no objections to the proposal, subject to various conditions to be attached. The proposal would not be harmful to the amenities of the immediate neighbours once operational.

4.3.3 A further condition can be attached for a construction management plan, to minimise disruption for neighbours and on local roads during the construction phase. Subject to compliance with these conditions, the proposed development would be acceptable in relation to residential amenity.

4.3.4 Matters pertaining to the "Agent of Change" principle are discussed later in this report, under the header: Crown Paints objection.

#### 4.4 Highways issues, Parking, Servicing

4.4.1 Policy 10 outlines a general requirement for all development proposals to not prejudice road safety, or the safe and convenient movement of all highway users. Parking should also be provided in accordance with the BwD Parking Standards.

4.4.2 Further to initial comments from the Highways consultee, a revised site plan with some minor amendments, and an updated transport statement was provided. This additional detail submitted has adequately addressed these previous concerns.

4.4.3 As amended, the Council's Highways consultee raises no objections to the proposal. The access arrangements into the site are deemed to be

acceptable, together with the sightlines. Given the speculative use of the premises, the parking spaces required under the BwD parking standards vary. The applicant has proposed 80 space for Warehouse 1 and 76 for Warehouse 2. The amount and layout of parking spaces provided is considered acceptable and meets the required standards. A safeguarded pedestrian access route is detailed on the plan, along with cycling and mobility parking, which are considered acceptable.

- 4.4.4 Notwithstanding this, a Grampian condition is required to finalise the design and layout of the new access point. An acceptable footway has been provided into the site from the highway and connected up to the entrance of the building, this is welcomed. This footway however does not give safe access from the highway into the site, as there is no footway along the frontage of the site. The Grampian 278 agreement for offsite highway works would facilitate both this and the construction of the site access.
- 4.4.5 Subject to compliance with the aforementioned conditions, the proposed development is considered acceptable in relation to highways, parking and servicing, in accordance with Policy 10.
- 4.4.6 A commuted sum towards highways infrastructure has also been agreed, as set out in para 4.1.3 of this report under the header: Principle of Development (including infrastructure / S106 requirements).

#### 4.5 Foul and surface water drainage

- 4.5.1 Requirements within Policy 9 state that it must be ensured that all proposals are not subject to an unacceptable risk of flooding, or adversely contribute to the risk of off-site flooding.
- 4.5.2 BwD Drainage have reviewed the proposals and no objections have been raised, subject to conditions. United Utilities (UU) have also raised no objections, subject to an appropriate drainage condition.
- 4.5.3 UU did raise initial concerns regarding the need for a public sewer diversion. However, UU subsequently clarified that this was is not a formal objection, rather a flag to the applicant that there is an asset protection matter that requires resolution. The applicant is aware of the need to divert the public sewer and has made an approach to UU regarding this matter. The applicant intends to enter into a diversion agreement following the planning decision, and the detail and acceptance of a sewer diversion will be progressed by the applicant directly with UU. A planning condition is not required to enforce a sewer diversion.
- 4.5.4 Subject to the drainage conditions, the proposed development would be acceptable, in accordance with Policy 9.

#### 4.6 Ecology

- 4.6.1 Requirements within Policy 9 state that all development proposals must avoid unacceptable impacts on environmental assets or interests, including habitats and species. In response to those requirements, a Construction and Environmental Management Plan (subsequently updated in line with comments received from GMEU Ecology, and found to be acceptable) was submitted. Appropriate ecology conditions, including implementation of the measures outlined in the CEMP and supplementary reports, can be conditioned accordingly.
- 4.6.2 The recommended landscaping condition will also ensure a certain level of replacement habitat is provided, with appropriate native species. Subject to compliance with those conditions, the proposed development would be acceptable in relation to ecological considerations, in accordance with Policy 9.
- 4.6.3 In terms of Biological Net Gain requirements, the ecological benefits of the proposal on site are limited. Therefore a commuted sum for off site Biodiversity Net Gain has been agreed, as set out in para 4.1.3 of this report under the header: Principle of Development (including infrastructure / S106 requirements).

#### 4.7 Contamination

- 4.7.1 Policy 8 contains requirements to ensure development proposals on previously developed land can be remediated to a standard that provides a safe environment for users of the development whilst also ensuring contamination is not displaced.
- 4.7.2 There are extremely high levels of contamination on this site due to its former use as a papermill.
- 4.7.3 Initial Ground Investigation Reports have already been undertaken by the applicant. These have been subject to a detailed review by the Council's Contaminated Land Officer, who has raised concerns about the methodology and remediation measures given the extremely high levels of methane present.
- 4.7.4 Whilst it was hoped that these issues could be adequately resolved prior to determination of the application, this has not been possible due to the complexity detail. Assessment of the additional / revised information is ongoing.
- 4.7.5 The Contaminated Land Officer and the applicant have therefore agreed that in order for this application to be determined within the intended timescale, the standard pre-commencement contamination conditions should be attached to the decision, and can therefore be addressed through the Discharge of Conditions process.



4.7.6 Subject to compliance with those conditions, the proposed development would be acceptable in relation to contamination, in accordance with Policy 8.

4.7.7 The Environment Agency (EA) raised an initial objection to the proposal due to the proximity of the development to the main river. In response to this, additional sectional detail was provided to demonstrate that an 8m access strip would be retained. Whilst the EA have confirmed that this is acceptable and has allayed their concerns, the rest of the updated cross sections will also need to be provide before the objection can be formally lifted. This additional detail has now been provided, and it is expected that the EA will confirm the removal of their initial objection.

4.7.8 The final response from the EA will be reported to Committee in the Update Report.

#### 4.9 Climate Change and Air Quality

4.9.1 Policy 36 requires all development proposals to minimise contributions to carbon emissions and climate change, both directly from the development and indirectly arising. Given the size of this proposal, Public Health has requested an Air Quality Impact Assessment to be submitted prior to commencement of the development. The report shall include a screening assessment which determines whether an Air Quality Assessment (AQA) is necessary. Where an AQA is necessary, the scope of the assessment must be agreed with the LPA in writing. The assessment shall recommend appropriate mitigation if an adverse impact is identified in accordance with the LPA planning advisory note: 'Air Quality'.

4.9.2 Subject to compliance with the above condition, the proposed development would be acceptable in relation to climate change and air quality, in accordance with Policy 36.

#### 4.10 Neighbour objection (Crown Paints)

4.10.1 The occupiers of the adjoining premises, Crown Paints, raised an objection to this proposal. The Council sought to facilitate / encourage the applicant and Crown Paints to work together to reach a mutually acceptable outcome. However, the applicant was clear that the application should be determined as submitted on the planning merits of the application, in line with the development plan for BwD and national policy and guidance, as well as any other material considerations.

4.10.11 The main issue raised by Crown Paints relates to the site access and the potential impact on Crown Paints' access and existing operations, as well as their own aspirations for future expansion. However, at this stage there has been no planning application submitted by Crown Paints and therefore very little if any weight can be afforded to those expansion plans.

4.10.12 The detail of the proposal, and the likely impact on the existing operation of Crown Paints, has been assessed by the Council's Highways consultee and

is found to be acceptable on highways grounds, subject to appropriate conditions.

4.10.13 Another issue raised is the “Agent of Change” principle. This term relates to whether the existing Crown Paints operations would adversely affect the proposed development and whether any mitigation measures for this application are required. This issue was discussed with Public Protection Officers and the Environment Agency (EA). Public Protection were satisfied that any adverse impacts would be appropriately mitigated against, particularly given the proposed industrial use, and not a more sensitive use such as residential.

4.10.14 The EA also commented that the Crown Paints factory is regulated by the EA through an environmental permit, and Crown Paints site is operating in accordance with the conditions of their permit.

#### 4.11 Summary

4.11.1 This application involves the erection of 2 new industrial units and associated access road, parking and servicing etc.

4.11.2 Section 38 of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. Subject to appropriate conditions, the proposal would be acceptable in principle, and in terms of design and visual amenity, residential amenity, highways, parking and servicing, drainage, ecological considerations, contamination, and climate change and air quality.

4.11.3 The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and despite the objection from Crown paints, which has been duly considered in this report, there are no material reasons to object to the application.

## 5 **RECOMMENDATION:**

**Approve subject to;**

**(i) That delegated authority is given to the Strategic Director of Place to approve planning permission subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990, relating to the payment of financial contributions which relate to the following matters:**

- Highways: A commuted sum of £89,230 as a proportionate contribution towards the Goosehouse Lane/Hollins Grove signalised junction improvement, to improve capacity, address safety concerns and improve pedestrian and cycle facilities to improve the accessibility of allocated sites nearby.

- Biodiversity Net Gain: A commuted sum of £10,000 towards appropriate off-site biodiversity net gain.
- Monitoring Fee: A monitoring fee of 1% to be added to the s106 contributions.

Should the s106 agreement not be completed within 6 months of the date of this resolution, the Strategic Director of Place will have delegated powers to refuse the application

**(ii) Conditions relating to the following matters.**

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

- S2854\_3-00\_P01 – Location Plan
- S2854\_3-03\_P06 – Proposed Site Plan
- S2854\_3-04\_P02 - Building A - Plans
- S2854\_3-05\_P04 - Building A – Elevations 01
- S2854\_3-06\_P02 – Building A – Elevations 02
- S2854\_3-07\_P02 - Building A – Roof Plan
- S2854\_3-08\_P03 - Building B - Plans
- S2854\_3-09\_P03 - Building B – Elevations 01
- S2854\_3-10\_P03 – Building B – Elevations 02
- S2854\_3-11\_P02 - Building B – Roof Plan
- S2854\_3-12\_P04 – Proposed Site Sections

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Notwithstanding the submitted details, prior to the commencement of any above ground works on site, details confirming the colours and finishes of all the external materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved materials and details, unless otherwise agreed in writing.

REASON: In order to ensure a satisfactory form of development is achieved, in the interests of visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

4. Before any construction works hereby approved are commenced, a Landscape and environmental management Plan (LEMP) detailing full measures to enhance existing habitats and the creation of new habitat to secure full habitat and species

mitigation shall be submitted to and approved in writing by the Local Planning Authority. Within the LEMP document the following information shall be provided:

- Full details of locally native tree and shrub planting proposals include species, percentage of each species, planting density and target habitat and target condition based on UK Hab and defra metric definitions;
- Full details of any grassland proposals including seed mix, sowing density and target habitat and target condition, based on UK Hab and defra metric definitions;
- Proposed management prescriptions for all habitats created for a period of no less than 25 years;
- Full details of habitat enhancement proposals for retained woodland along the river Darwen and target condition based on UK Hab and defra metric definitions;
- Full details of bird nesting box provision and measures for otter along the River Darwen;
- Timetable of delivery for all habitats and;
- A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition

The development shall be undertaken and thereafter maintained in accordance with the approved LEMP unless otherwise agreed in writing by the LPA.

REASON: In order to minimise harm to local ecological populations, in the interests of local ecology, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

5. Notwithstanding the detail submitted with the application, prior to the commencement of development hereby approved a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Trees and shrubs shall be planted on the site in accordance with the approved landscaping scheme during the first available planting season following completion of the works, and thereafter retained. Trees and shrubs dying or becoming diseased, removed, or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs. The landscaping shall be maintained and retained thereafter to the satisfaction of the local planning authority.

REASON: In order to ensure that the development is adequately landscaped so as to integrate with its surroundings, in the interests of visual amenity and local ecology, and to comply with the requirements of Policy 9 and 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

6. Prior to the commencement of development on site, the tree protection measures as set out in the "Tree Constraints Report and Preliminary Method Statement by e3p, Reference: 80-511-R-2-1, Dated: May 2021, and Arboricultural Impact Assessment and method statement, by e3p, Reference 80-511-R2-3, dated November 2021), shall be erected around the trees to be retained. The protective fencing shall remain in place for the duration of the site preparation and demolition and/or construction period, and no excavation, materials storage, waste disposal or other activities shall

take place within the fenced-off area. The development shall proceed in full accordance with the approved details.

REASON: To secure the protection, throughout the time that the development is being carried out, of trees within or adjacent to the site which are of amenity value to the area, in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

7. The development hereby approved shall be implemented in strict accordance with all of the measures of ecological mitigation detailed within the Construction Environmental Management Plan: Biodiversity by e3p, Reference 80-511-R4-2, dated February 2022.

REASON: In order to minimise harm to local ecological populations during construction works, in the interests of local ecology, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

8. Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval: i) A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM. ii) Findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, including water courses, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site and to prevent unacceptable levels of water pollution, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

9. Prior to the occupation of the development hereby approved, a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated CSM. All the installed remediation must be retained for the duration of the approved use, and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

10. Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the LPA should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and agreed in writing by the LPA. No deviation shall be made from this scheme without the written express agreement of the LPA.

REASON: To protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and to comply with the requirements of Policies 8 and 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

11. The noise rating level arising from the commercial/industrial premises shall not exceed:

- Daytime (07:00 - 23:00 hours) - 49dB(A)
- Night-time (23:00 - 07:00 hours) - 34dB(A)

at any residential premises for the duration of the approved use. Assessment shall be made in accordance with BS4142 'Methods for rating and assessing industrial and commercial sound'.

REASON: To ensure an acceptable standard of amenity in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan.

12. Prior to commencement of the proposed development, a written assessment shall be submitted to the Local Planning Authority (LPA) that determines likely odour amenity impacts upon the proposed use and, where appropriate, identifies mitigating measures to alleviate those impacts. Reference should be made to the National Planning Policy Framework and Noise Policy Statement for England. Written approval of the assessment must be obtained from the LPA and all agreed mitigating measures installed prior to commencement of the approved use and thereafter retained for the duration of this use.

REASON: To ensure an acceptable standard of commercial amenity in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan.

13. Prior to the commencement of the development an air quality impact assessment shall be submitted, in writing, to the Local Planning Authority (LPA). The report shall include a screening assessment which determines whether an Air Quality Assessment (AQA) is necessary. Where an AQA is necessary, the scope of the assessment must be agreed with the LPA in writing. The assessment shall recommend appropriate mitigation if an adverse impact is identified in accordance with the LPA planning advisory note: 'Air Quality'.

REASON: In accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2 and Paragraph 110 of the National Planning Policy Framework 2019, which states that developments should be designed to enable charging plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. This implements the requirements of Council's Air Quality PAN and the Principles of Good Practice in the EPUK & IAQM guidance Planning for Air Quality. These are readily



achievable mitigation measures that reflect current good practice and help to reduce the cumulative impact of current and future developments.

14. During the construction phase, there shall be no site operations on any Sunday or Bank Holiday nor on any other day except between the following times:

Monday to Friday      08:00 – 18:00 hours

Saturday                09:00 - 13:00 hours

Any variation of the above hours restriction must be approved in writing by the Planning Authority.

REASON: In order to minimise disruptions for neighbours during the construction phase, in the interests of residential amenity, and to comply with the requirements of Policy 8 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

15. No development shall commence on site unless and until, a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction phase, and it shall provide for, but not be exclusively limited to;

- a) The parking of vehicles of site operatives and visitors;
- b) The loading and unloading of plant and materials;
- c) The storage of plant and materials used in constructing the development;
- d) Wheel washing facilities;
- e) Measures to control the emission of dust and dirt from construction works, where relevant;
- f) Measures to control noise and vibrations from construction works, where relevant;
- g) A scheme for recycling/disposing of waste resulting from construction works;
- h) Details of the type, position and height of any required external lighting;
- i) Details of working hours;

The development shall thereafter proceed in strict accordance with all of the measures detailed within the submitted Construction Method Statement, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to control the logistics of the construction phase, in the interests of residential amenity and highway safety, and to comply with the requirements of Policies 8 and 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

16. No development shall commence on site unless and until, a scheme for the construction of the site access, together with any required off-site works of highway improvement, has been submitted to and approved in writing by the Local Planning Authority. No development shall commence on site until the approved scheme has been implemented in its entirety, unless otherwise agreed in writing.

REASON: In order to ensure an appropriate access point is constructed, in the interests of highway and pedestrian safety, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

17. Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

18. Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height not greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy 10/11/40 of the Blackburn with Darwen Borough Local Plan Part 2.

19. Prior to the occupation of any of the units hereby approved, details of the proposed arrangements for future management and maintenance of the proposed access road within the development shall be submitted to and approved by the Local Planning Authority. The road shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

20. Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

21. The development hereby approved shall not be brought into use unless and until, the vehicle parking and cycle storage provision as detailed in the approved plans in condition 1 have been provided in their entirety. The provisions installed shall thereafter remain in perpetuity with the development, unless otherwise agreed in writing.

REASON: In order to ensure adequate parking is provided and encourage sustainable modes of transport, in the interests of highway safety, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

22. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

REASON: To promote sustainable development, to manage the risk of flooding and pollution, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

23. Foul and surface water shall be drained on separate systems.

REASON: To promote sustainable development, to manage the risk of flooding and pollution, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

24. No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

REASON: In order to prevent harm to nesting birds during construction works, in the interests of local ecology, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

25. Prior to any earthworks a method statement detailing eradication and/or control and/or avoidance measures for himalayan balsam, japanese knotweed and rhododendron should be supplied to and agreed in writing to the LPA. The agreed method statement shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

**REASON:** To ensure that the invasive weed species Japanese knotweed present on site is prevented from spreading and/or eradicated, in accordance with Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

## **6 CONSULTATIONS**

### **6.1 Growth team**

**No objection in principle, subject to a S106:**

#### Highways

A commuted sum of £89,230 is necessary as a proportionate contribution towards the Goosehouse Lane/Hollins Grove signalised junction improvement.

Improvements to the Goosehouse Lane/Hollins Grove signalised junction are required to improve capacity, address safety concerns and improve pedestrian and cycle facilities to improve the accessibility of allocated sites nearby. The need has been determined through Transport Assessments submitted in support of nearby developments and other studies undertaken by the council. These studies have identified a preferred solution which has a cost estimate of £550,000. The Local Plan sites which are deemed likely to impact on the junction have been identified and trip generation calculations undertaken using TRICS data consistent with those adopted for the transport assessment of the emerging local plan. The S047 Hollins Mill, Darwen site is one of seven sites identified. The S047 site contribution toward the scheme is £256,211. The proposed development utilises 3.5 hectares of the 10.05 hectare site when considered in its entirety. As such, 35% of the S047 contribution has been allocated to the proposed development at £89,230.

#### Biodiversity Net Gain

An assessment of biodiversity impact should be undertaken and submitted with the planning application, demonstrating at least 10% net gain. If this cannot be achieved on site, an appropriate commuted sum contribution towards appropriate off-site biodiversity net gain would be necessary.

#### Monitoring Fee

A monitoring fee of 1% would be added to the s106 contributions.

If the S106 requirements cause concern in terms of development viability, the applicant is encouraged to provide a viability appraisal with the planning application which illustrates why all or part of the requested commuted sums cannot be achieved. The Council would like to work with the applicant to achieve a viable proposal.

The submitted viability appraisal would need to be independently reviewed at a cost of £2,950 for a non-residential scheme (to be funded by the applicant and commissioned by the Council). Following the independent assessment, any further advice required from the Council's appointed Viability Consultant would be charged at a cost of £175 per hour (to be funded by the applicant and commissioned by the Council).

### **6.2 GMEU (Ecology)**

#### **6.2.1 No objection in principle:**

Thank you for consulting the GMEU

#### Summary

Ecological issues include otter, nesting birds, invasive species, proximity to a watercourse and mitigation for loss of a significant area of low ecological value habitat.

#### Otter

The presence of otter in the adjacent watercourse has been confirmed . There appears some confusion with the name of the watercourse as it appear to be the River Darwen according to OS maps but is called Alum House Brook on google earth and by the ecological consultant. Otter are protected under the habitat regulations and the Wildlife and Countryside Act 1981 (as amended). Whilst no direct impacts to the watercourse are proposed, section FF indicates major earthworks adjacent to the river, with landforming proposed. This area was cleared of vegetation prior to the ecological assessment and is now shown as tall ruderal habitat, where previously it was scrub. Any significant disturbance that could have occurred would have happened during vegetation clearance. I am satisfied that the risks during earthworks adjacent to the river can be dealt with under reasonable avoidance measures.

Proposals to protect otter during construction are included within section 4.4.5 and include updated surveys prior to earthworks, an ecological clerk of works, tool box talks to contractors etc. I am satisfied that these are adequate to safeguard the favourable conservation status of this species, the main risk being creation of a holt in the working area prior to work commencing. I recommend that section 4.4.5 is conditioned subject to the numbering remaining unchanged and the CEMP being accepted.

If the details of the CEMP are not accepted prior to determination and conditioned, I recommend a condition along the following lines is applied to any permission. Prior to commencement of earthworks a survey of the river for otter holts will occur and a reasonable avoidance measures method statement for otter provided. The findings and method statement will be agreed in writing by the LPA prior to any works on site and implemented in full. .

#### Badger

No evidence of badger was found on the site. However it was concluded that the site was suitable and that they could move on to the site prior to earthworks commencing. Measures have been provided in the proposed CEMP. If the details of the CEMP are not accepted prior to determination and conditioned, I recommend a condition along the following lines is applied to any permission.

Prior to commencement of earthworks a survey of the site and within 30m where accessible for badger setts will occur and the findings supplied to and agreed in writing by the LPA.

#### Other Protected Species and hedgehog

Impacts on other protected species are unlikely to occur as the habitats are sub-optimal with no evidence of any other such species present, though bats no doubt forage along the river. The CEMP includes measures to protect amphibians and reptiles that may be found on the site as well as external lighting that could impact on the river. No further information or measures are required.

Hedgehog could make use of the dense bramble on site as nesting habitat. Measures are included under section 4.4.4 of the CEMP. If as noted for badger and otter the CEMP is not adopted, I recommend a condition along the following lines is applied to any permission.

Prior to commencement of earthworks or vegetation clearance a reasonable avoidance measures method statement for hedgehog will be provided and agreed in writing by the LPA.

#### Nesting Birds

No further tree removal is proposed. Dense bramble scrub is however still present in places that will be lost and some pruning back of trees may still occur.

Potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. I recommend a condition along the following lines be applied to any permission.

No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

#### Invasive Species

Japanese knotweed, himalayan balsam and rhododendron were recorded on the site. All three are included within schedule 9 part 2 of the Wildlife & Countryside Act 1981, as amended. It is an offence to introduce or cause to grow wild any plant listed under this schedule. It is possible that the rhododendron can be avoided but I recommend a condition along the following lines is applied to any permission.

Prior to any earthworks a method statement detailing eradication and/or control and/or avoidance measures for himalayan balsam, japanese knotweed and rhododendron should be supplied to and agreed in writing to the LPA. The agreed method statement shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

#### Proximity to River Darwen

As noted above there is some confusion on the name of the watercourse and as I am not local, I cannot be definitively sure what the name of the watercourse is, but would assume that the OS and drainage report is correct and that it is the River Darwen. However the name is not critical as the issue, which is that there is the potential to negatively impact on the ecological potential of the river during construction and post development if any surface water or other discharges are directed towards the river.

The main risk appears to be during earthworks along section F-F which appears to be creating a steeper slope above the river. ie there will be a risk of debris falling down the slope in to the river and if heavy rain occurred during construction of sediment run-off.

I would suggest that the fairly standard measure within section 4.1 of the CEMP are not adequate for this area of earthworks. I believe a silt fencing and heavy duty physical fencing to catch debris and run off should be installed prior to the commencement of earthworks along this section of the watercourse. This detail could be provided via condition or they could amend the CEMP to provide full details of the measure along this section of the earthworks.

Post development surface water discharge is shown as being directed towards the River Darwen. I am not qualified to determine whether the attenuation and measures to remove pollutants will be adequate to prevent negative impacts on the ecology of the river, but assume the Environment Agency and local drainage advisors will ensure this is the case.

#### Contributing to and Enhancing the Natural Environment



Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development will result in the loss of over 2ha of what is currently primarily low ecological value grassland but did until relatively recently (2020 based on google earth) include areas of scrub and young woodland medium value habitats. I accept however that these were early successional habitats with aerials from 20 years ago showing the woodland restricted to the river corridor and much of the remainder of the site as grassland or hardstanding. Therefore, whilst the baseline value could be argued as being higher than currently shown in the ecological assessment when development commenced, I will accept the current baseline from May 2021.

There is still however the potential for net loss of biodiversity resulting from this development. The indicative landscape proposals show woodland, scrub and grassland creation along the boundary with the River Darwen, with smaller areas along other boundaries. My feeling is that if a high quality habitat creation and enhancement scheme is carried out, on what will be the regraded land and the retained woodland, an area in excess of 1 ha, that mitigation can be achieved on-site. I would suggest that the defra metric v3 is used to prove that on-site mitigation is possible but it is not essential.

The actual landscape proposal plan however has a number of potential issues these include:

- The wildflower grassland appears to be on a steep slope. This could make maintenance and management difficult. Whilst not opposed to the grassland, which is appropriate given that grassland is the main habitat lost, it may be better to trade up habitats and plant all the slope with native trees and shrubs;
- The tree and shrub planting excluding the ornamental areas, include a number of species that are not native or locally native, including field maple, Norway maple, Italian alder, hornbeam, potential non-native willow and sorbus varieties, dogwood, wayfaring tree and scots pine. If these species are utilised they would likely prevent on-site mitigation being achievable as they would prevent the planting scheme achieving high value or good condition. If on-site mitigation is to be achievable only a very low percentage of species that are not locally native would be permissible and preferably none.

Species mitigation and enhancement should also be provided for nesting birds and I would suggest for otter too, given the pre-development vegetation clearance near to the river.

I therefore recommend that a Landscape and environmental management plan is produced and an amended landscape plan showing only locally native species as well as proposals for nesting birds and otter.

A condition along the following lines would suffice.

Before any construction works hereby approved are commenced, a Landscape and environmental management Plan (LEMP) detailing full measures to enhance existing habitats and the creation of new habitat to secure full habitat and species mitigation shall be submitted to and approved in writing by the Local Planning Authority. Within the LEMP document the following information shall be provided:

- Full details of locally native tree and shrub planting proposals include species, percentage of each species, planting density and target habitat and target condition based on UK Hab and defra metric definitions;
- Full details of any grassland proposals including seed mix, sowing density and target habitat and target condition, based on UK Hab and defra metric definitions;
- Proposed management prescriptions for all habitats created for a period of no less than 25 years;

- Full details of habitat enhancement proposals for retained woodland along the river Darwen and target condition based on UK Hab and defra metric definitions;
  - Full details of bird nesting box provision and measures for otter along the River Darwen;
  - Timetable of delivery for all habitats and;
  - A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition
- The development shall be undertaken and thereafter maintained in accordance with the approved LEMP unless otherwise agreed in writing by the LPA.

You may feel 25 years is premature, though this is the length of time that defra will want to see once net gain becomes mandatory. I have omitted requesting outright a defra metric as I am fairly happy that a good scheme along the Darwen corridor is enough but feel free to add it in.

### **6.2.3 In response to the above comments, the applicant submitted a revised CEMP.**

### **6.2.4 Further to the updated CEMP, GMEU Ecology responded as follows:**

Happy with the amended CEMP with regards the watercourse. No objection to this plan being conditioned.

The CEMP covers my issues regarding otter and hedgehog, so my initial recommendations of the 9th December are superseded if the CEMP is conditioned.

The CEMP does not include a resurvey for badger so this recommended condition still applies.

The CEMP does mention nesting birds, but I recommend a standalone condition is still applied.

Invasive species are not mentioned in the CEMP so a separate condition will be required.

The CEMP does not cover information relating the LEMP so I still recommend that a condition along the lines that I have recommended is applied.

RE BNG:

The government in a recent paper discussing the financial burden net gain would put on the public sector based its costings on £11k per BU. (page 32 of report). They acknowledge that in reality the unit cost will vary dependent on the habitats to be created and or enhanced and note a likely range of £9k - £15k, which is very similar to the suggested range provided to Greater Manchester by the Environment Bank of £9250 to £14,500 per unit. Defra also however noted that having looked at cases that had already occurred they had found cost ranging from £6k per unit to £25k per unit.

In GM £10k appears popular probably because of the maths and towards the bottom end of the range.

Some developers have demanded evidence of a receptor site upfront, but most have been happy to just agree the sum and walk away

Without knowing the exact loss difficult to be 100% sure but given I felt that a high quality scheme could achieve a net gain, it is unlikely to be a major loss and not as yet mandatory so I would be happy to accept £10k for an approximate loss of 1BU

## 6.3 Highways

### 6.3.1 Initial response:

PROW – Please add Highways 11 to this application as the proposed development is close to footpath 252 Darwen

The submission details have been reviewed.

The proposal is for the erection of 2no. Industrial warehouse units for use classes B2/B8/E(g)(iii) with ancillary spaces with the construction of new access, hard and soft landscaping

#### Parking

In accordance with the adopted parking standards based on the uses proposed would equate to the following;

- Warehouse No. 1
  - Warehouse use  $4746\text{sqm}/1 \text{ car space per } 100\text{sqm} = 47.46$
  - Office use  $385\text{sqm}/1 \text{ car space per } 35\text{sqm} = 11$
  - Total = 59
- Warehouse No. 2
  - Warehouse use  $4366\text{sqm}/1 \text{ car space per } 100\text{sqm} = 43.66$
  - Office use  $370\text{sqm}/1 \text{ car space per } 35\text{sqm} = 10.57$
  - Total = 48

This amounts to a total of 113 spaces.

The applicant has indicated a total of 146 spaces on the application form and has provided 80 space for Warehouse 1 and 76 for Warehouse 2.

The number of spaces is far in excess of the numbers I reached in my assessment.

As you will note, I have assessed against a predominant B8 use, as they have referred to the units as warehousing. If indeed the spaces suggested as warehouse was a B2 use, then that would equate to 164 spaces.

Please seek clarification on the parking requirement and assessment.

The arrangement and layout of the car park is also of concern. The car park is located very close to the junction and some bays would hinder movement. Further consideration should be given to the layout, parking should be removed from near the junction.

All bays should conform to the Councils standard parking bays 2.4m x 4.8m with 6m manoeuvrability into and out of the site.

10% provision for disabled bays has been provided, this is welcomed

Cycle's provision has also been included. Details of coverage and shelter should be attached as condition.

However no provision for PTW has been included in the layout, please seek further details.

Access

Vehicular access into the site is to be provided from the already approved access off Lower Eccleshill Road, this is acceptable. A 7.3m wide road with 2 2.0m footways either side of the carriageway is being proposed at a gradient of 1:20. Please seek confirmation that the gradient is to remain the same up to the access out onto Lower Eccleshill Road. Sightlines have been shown on drawings referenced within the Transport Statement, there is concern that the splays are obstructed, please present details on how these would be cleared and maintained.

An acceptable footway has been provided into the site from the highway and connected up to the entrance of the building, this is welcomed. This footway however does not give safe access from the highway into the site, as there is no footway along the frontage of the site. We therefore request that the developer is required to enter into a Grampian 278 agreement for offsite highway works to be undertaken to facilitate both this and the construction of the site access. This should be accompanied by the required/associated lighting and drainage works as necessary. Consideration should also be given to how the pedestrians would cross onto the other side when the footway finishes...a pedestrian refuge island should also be considered.

A request for S106 contributions should be forthcoming from Adam to support this development.

The application provides for a gated development. We request clarification on when these gates would be operational, and how they would be controlled. Please request further details.

#### Servicing

Swept Path and vehicle details are provided within the Technical Addendum. All swept paths provided are acceptable.

No details of frequency of movement are offered, please request this information for completeness

#### Transport Statement

This one is presented as an update to the DTPC work for the site access application we reviewed a while ago. Swept paths also appear to be acceptable. There is a marginal increase in trips as compared to previous applications and a contribution towards the proposed improvement scheme at Goose House Lane / Hollins Grove Street would be warranted if further funding is needed to deliver the scheme.

My only concern is that the visibility splay extends beyond the back of footway so the area would need to be kept clear of vegetation or other obstructions and as such an appropriately worded condition would be needed. I also wonder if there is going to be a pedestrian access to the site from the path to the south. This would be beneficial in terms of site accessibility for employees wanting to walk/cycle to work. Please seek confirmation.

#### OTHER

- All existing street furniture including street lighting should be removed/disconnected at the applicants expense and relocated at locations to be agreed with by the relevant highways officer, (should they be required to do so)
- Construction method statement is to be received this should include wheel washing
- Contact to be made with our Structures Division prior to commencement of any works affecting retaining walls/ structure adjacent to/abutting or within the adopted highway

- Prior to any work commencing that affects the existing adopted highway contact to be made with the Local Highway Authorities office on Tel: 01254 273838 to undertake a condition survey.
- Any old entrances that are no longer required should be closed and reinstated back to full footway, at the developers expense
- Condition survey to be undertaken prior to commencement on site, to record the status to support any claims of damage that may be caused as a consequence of construction vehicles to and from the site

To conclude – in principle we would support the scheme, subject to the above matters being addressed satisfactorily.

### **6.3.2 Further to the above comments, the applicant submitted a revised site plan and an addendum to the transport assessment report.**

### **6.3.3 Further response from Highways:**

Additional details received 21st February 2022

The information received has been assessed.

The matters outstanding have in the majority been addressed satisfactorily. There is one matter outstanding, which is:

Parking: the request to remove parking close to the main entrance was to avoid conflict of those moving into the site and parking that would occur in close proximity to the main junction. Acknowledgement of this was made on the notes in red, citing a plan would follow with the amendment. The subsequent report offered by SK transport dismisses, as they are not clear which bays I refer to. In response, bays nos. 70-76 should be removed and resited (away from the junction), within the site, to support safe manoeuvring into and the curtilage.

Location of the PTW's are now provided. As cited previously, please attach a condition for details to be provided for coverage and security with regards to cycle and PTW modes of transport.

Aside from the above, no further objections to offer,

Please could you attach all conditions previously mentioned and also under other/Standards conditions/Informatives

### **6.3.4 Further to the above response, the Highways consultee clarified that the one matter referred to in the above response as being outstanding has in fact been addressed, and that no objections are raised.**

## **6.4 Lancs Constabulary (ALO)**

### **6.4.1 No objections. General comments only.**

We would advocate that the installation be designed and constructed using the security principles and security rated products as stated in the attached SBD 'Commercial Developments 2015' Design Guide. Further details about Secured By Design, including application forms and security specifications can be found at [www.securedbydesign.com](http://www.securedbydesign.com) .

I would be grateful if you could forward the attached document and below recommendations to the applicant for reference.

In order to keep people safe and feeling safe and to prevent crime and disorder, the following security measures should be incorporated into the design: -

- A secure boundary limits trespassers and will channel visitors into the site through the appropriate main entrance. A secure boundary will also frustrate the intruder intent on breaking into the building and limit the quantity or type of goods that can be stolen. Therefore, a minimum 1.8m high boundary treatment should be installed along the site perimeter. Lockable gates of similar height the boundary treatment should be installed and used when the site is unoccupied.
- Footpaths should not run to the rear of, or provide access to industrial units, rear yards, or neighbouring buildings as these have been proven to generate crime and provide hiding places for criminals out of plain sight of legitimate users. Private footpaths that serve as emergency exit routes at the rear or sides of industrial premises should be secured with gates with locking systems that restrict access but still facilitate emergency egress if required.
- External downpipes can be used as informal climbing aids to access low roofs and upper floor windows and should be contained within a wall cavity to reduce this risk. If this is not possible, they should be either square or rectangular in section, flush fitted against the wall or housed within secure 2.4m high anti-climb metal shrouding. Bends in pipes and horizontal runs should be minimized as they can also create climbing platforms. Accessible pipework should be of a fire-resistant material. In addition, careful consideration should be given to the location of waste bins, handrails, low walls, and the proposed external extraction flue or other external furniture, which may facilitate easy access to upper floors and roofs.
- Industrial units in areas where activity at night and over the weekends is reduced, can become prone to criminal attack such as burglary and criminal damage etc through the walls and roofs. Therefore, the walls and roofs should be designed to withstand such attacks and materials resistant to manual attack or damage should be used to ensure the initial provision of security. However, where lightweight construction is being considered, for example the use of insulated sheet cladding, a reinforced lining such as welded steel mesh can enhance the security of the building fabric and should be considered to mitigate the risk to crime.
- As a minimum, all external door sets and those high-risk internal doors e.g. storerooms housing valuable items, CCTV equipment or cash etc. should be certified to LPS 1175 issue 8, SR2: PAS 24/2016; STS 201 or STS 202: Issue 3, BR2 or other equivalent/higher security standard. Commercial properties across Lancashire have been previously targeted for burglary and criminal damage with glazing being damaged during the commission of such offences, therefore glazing must include at least one pane of laminated glass that is securely fixed in accordance with the manufacturer's instructions and certified to BS EN 356 2000 rating P1A.
- Emergency exit doors can be vulnerable to intruder attack, anti-social behaviour, and criminal damage. Emergency door exit release devices, such as door panic latches and 'pad-bars' on doors that provide an important aid to egress in the event of an emergency should be free from external hardware, kept clear at all times and be illuminated to promote natural surveillance.
- Ground floor and other easily accessible windows should meet the requirements of LPS 1175 Issue 7/8, PAS 24:2016 (or equivalent/higher security standard), incorporate P1A standard laminated glazing and be fitted with 'restrictors' to prevent 'sneak-in' type offences.
- Roller Shutters should be fitted to external doors and windows and should be tested and certified to LPS 1175: Issue 7/8 security standards and linked to the intruder alarm system. Roller Shutters assist in frustrating and preventing easy access to premises by offenders and should be fully secured when the business is not in use. Commercial Premises

in Lancashire are at an increased risk of being targeted for burglary and damage offences where roller shutters are not fitted.

- Anti-ram bollards certified to PAS68 and installed to PAS69 standards or IWA14 should be installed to protect vulnerable areas e.g. main entrance doors, roller shutters, pedestrian walkways etc to protect against vehicle borne attack.
- Access control arrangements should be in place on 'private' entrance doors and on internal door sets to prevent unauthorised access into parts of the building deemed as private e.g. Offices, staff rooms, etc. The associated doors must incorporate an electronic access control system, with an electronic lock release or keypad 'Digi-locks' (pin codes should be changed on a regular basis). This is crucial in areas where high value items such as CCTV recording equipment, IT/computers and cash may be stored. This reduces the risk of opportunist crime when the building is open and slows down offender movement within areas of the buildings when closed, so the opportunity for theft is reduced.
- Early detection and warning of unauthorised entry into each unit is imperative i.e. before the building envelope is breached. The buildings should have a bespoke wireless or hardwired and monitored Intruder Alarm system installed to EN50131 (Grade 1-4) and comply with the National Police Chiefs Council Policy 'Guidelines on Police Requirements and Response to Security Systems'. The alarm installation company should be certified by the National Security Inspectorate (NSI) or Security Systems Alarm Inspection Board (SSAIB), as both organisations promote high standards of service within the security community. A risk assessment should identify whether the design of the alarm system incorporates a combination of internal passive infrared detectors, magnetic door and window contacts, break glass acoustic or vibration detectors, wall or ceiling sensor cable and personal attack facilities.
- CCTV - For the purposes of the prevention and detection of crime, the installation of a comprehensive day/night capable CCTV system is recommended for all units here. The systems should be a recorded HD digital colour CCTV, installed to BS EN 62676 series. All external elevations of the buildings should be covered and the internal entrance as a minimum. The images must be clearly marked with the time, date and location to aid detection should an offence occur. Cameras must not be located where they can be easily disabled or tampered with.
- CCTV recording equipment must be stored securely and only accessed by authorised trained staff in system use and image retrieval. Recorded data should be stored for a 30-day period, before deletion and where not required for evidential purposes. Adequate clear signage should inform users of the site that CCTV is present and in operation. The CCTV system should also comply with the General Data Protection Regulation 2018 and be registered with the Information Commissioner's Office.
- Parking facilities should be designed to the National Safer Parking 'Park Mark' specifications. The specific security measures and standards recommended within this Scheme can help to reduce crime, anti-social behaviour, and the fear of crime, to ensure the safety of people and vehicles. Further information about the Scheme, security measures, standards and security rated products can be found at [www.parkmark.co.uk](http://www.parkmark.co.uk).
- The external lighting scheme should be sufficient to cater for lawful activities after dark and comply with BS 5489-1:2020. The lighting scheme should support both formal and informal surveillance by evenly distributing light i.e. not create dark shadows, provide good colour rendition and not cause glare or light pollution.
- Façades that contain doors, roller shutters or windows should be illuminated in hours of darkness using dedicated vandal resistant dusk till dawn LED light fitments.
- Bin Storage Area – Recycling areas and bins, particularly those with wheels, can be used for climbing and the contents used to start fires. Therefore, consideration should be given to using waste containers with lockable lids. Any boundary treatments to the bin store

area should allow some natural surveillance to reduce the risk of the area being targeted for burglary, damage and nuisance. The areas should be well illuminated and covered by CCTV.

- If this unit is open to the public, any planned internal Service Counters should be of a high and wide design with restricted access for staff to reduce instances of customers reaching over the counter to intimidate or assault staff or steal items. Service and payment areas should be covered by CCTV.
- To minimise the type or quantity of goods that could be stolen, keys to doors, windows and vehicles should be kept within insurance and security rated safe/key safes e.g. LPS 1175 Issue 7/8 which has been robustly fixed to the fabric of the building, in accordance with the manufacturer's instructions, within alarmed rooms or stored in a secure off-site location.
- Cash should be 'banked' on a regular basis and ideally not stored overnight on-site; however, if stored on-site for short periods, it should be kept within an insurance and security rated safe attached to the fabric of the building in an alarmed room. Ideally, cash should be collected by a cash handling company or by at least two trained members of staff (vary route, times, and days), using a dedicated cash carrying bag and personal attack alarm.
- Mail Delivery should ideally be made to an externally mounted steel mailbox.
- Construction site security -The site should be secured throughout the construction phase with security measures including a monitored alarm system (with a response provision) for site Security Systems & Alarm inspection Board (SSAIB) approval. Any onsite CCTV recording equipment must be stored securely and located within an alarmed building/cabin. The above measures are necessary in accordance with :-
- Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006)

Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and (b) the misuse of drugs, alcohol and other substances in its area and reoffending in its area.

Crime prevention advice is given without the intention of creating a contract. Neither the Home Office nor the Police Service accepts legal responsibility for the advice given. Fire Prevention advice, Fire Safety Certificates conditions, Health & Safety Regulations and Safe Working Practices always take precedence over any Crime Prevention issue.

Recommendations included in this report have been considered for a specific site and take into account information available to the Police.

Should you require anything further on this proposal then please do not hesitate to contact me.

## **6.5 Tree Officer**

### **6.5.1 No objections**

I have no objections to the proposals. All the required Tree Constraints, Survey and Arb Method Statement have been submitted and are suitable for approval.

## **6.6 Canal & River Trust**

### **6.6.1 No comments.**



The Canal & River Trust is a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015. The current notified area applicable to consultations with us, in our capacity as a Statutory Consultee was issued to Local Planning Authorities in 2011 under the organisations former name, British Waterways. The 2011 issue introduced a notified area for household and minor scale development and a notified area for EIA and major scale development.

This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee.

We are happy to comment on particular applications that fall outside the notified areas if you would like the Canal & River Trust's comments in specific cases, but this would be outside the statutory consultation regime and must be made clear to us in any notification letter you send.

Should you have a query in relation to consultation or notification of the Canal & River Trust on planning applications, please email us at [planning@canalrivertrust.org.uk](mailto:planning@canalrivertrust.org.uk)

## **6.7 Fire Service**

### **6.7.1 Standard comments/advice only – an Informative can be added.**

The proposed Planning Application has been noted and the Fire Authority gives its advice in respect of access for fire appliances and water supplies for firefighting purposes to the site.

## **6.8 Darwen Town Council**

### **6.8.1 No comments received.**

## **6.9 Drainage**

### **6.9.1 No objections**

Lead Local Flood Authority Position

We have no objections to the proposals but require the following conditions

Condition:

Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, the development hereby approved shall be carried out in full accordance with the surface water drainage strategy submitted with the application . The measures contained within the Drainage Strategy which are designed to ensure that the post-development rate of surface water runoff from the site does not exceed the pre-development (greenfield) rate.

Reason:

To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of surface water in accordance with the requirements of Policy 9 -

Blackburn with Darwen Borough Local Plan Part 2 (2015), and the National Planning Policy Framework.

Condition 2

There is a public sewer crossing the site. The applicant is required to consult United utilities and comply with their requirements

Condition 3

The applicant is required to consult the Environment Agency regarding the outfall to the river and also apply for consent to discharge under the Land Drainage Act

**6.10 Cleansing**

**6.10.1 No issues.**

**6.11 Environmental Services – Public Protection**

**6.11.1 No objections, subject to conditions:**

With reference to the above application, I recommend that the following condition(s), informative(s) and/or comment(s) be included if planning permission is granted:

**CONTAMINATED LAND**

Contaminated land report(s) has been submitted with this application and will be peer reviewed by the Environmental Protection Service - recommendations will be provided as soon as possible.

**Condition - Industrial/Commercial Noise Control (Day & Night Uses)**

The noise rating level arising from the commercial/industrial premises shall not exceed:

- Daytime (07:00 - 23:00 hours) - 49dB(A)
- Night-time (23:00 - 07:00 hours) - 34dB(A)

at any residential premises for the duration of the approved use. Assessment shall be made in accordance with BS4142 'Methods for rating and assessing industrial and commercial sound'

Reason: To ensure an acceptable standard of residential amenity.

**Air Quality:**

**Condition - Large Commercial Development**

Prior to the commencement of the development an air quality impact assessment shall be submitted, in writing, to the Local Planning Authority (LPA). The report shall include a screening assessment which determines whether an Air Quality Assessment (AQA) is necessary. Where an AQA is necessary, the scope of the assessment must be agreed with the LPA in writing. The assessment shall recommend appropriate mitigation if an adverse impact is identified in accordance with the LPA planning advisory note: 'Air Quality'.

REASON: In accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2 and Paragraph 110 of the National Planning Policy Framework 2019, which states that developments should be designed to enable charging plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. This implements the requirements of Council's Air Quality PAN and the Principles of Good Practice in the EPUK & IAQM guidance Planning for Air Quality. These are readily achievable mitigation measures that reflect current good practice and help to reduce the cumulative impact of current and future developments.

**Floodlighting**

Should the proposed development include outdoor lighting I would recommend the following condition:

Condition – Floodlighting (as appropriate)

An outdoor floodlighting scheme shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The floodlights shall be installed in accordance with the agreed scheme and retained for the duration of the approved use.

Reason

To minimise potential loss of amenity due to intrusive light pollution affecting residents living in the vicinity.

Construction Phase Control Conditions

Condition – Hours of Site Works

There shall be no site operations on any Sunday or Bank Holiday nor on any other day except between the following times:

Monday to Friday 08:00 – 18:00 hours

Saturday 09:00 - 13:00 hours

Any variation of the above hours restriction must be approved in writing by the Planning Authority.

Reason

To ensure appropriate hours of site work to minimise noise during the construction phase.

Condition – Dust Control

The commencement of the development shall not take place until there has been submitted to and approved in writing by the Planning Authority a scheme employing the best practicable means for the suppression of dust during the period of demolition/construction. The approved measures in the scheme shall be employed throughout this period of development unless any variation has been approved in writing by the Planning Authority.

Reason

To ensure that satisfactory measures are in place to alleviate any dust & dirt impact at adjacent residential premises.

Noise & Vibration Control

The following condition is recommended if pile driving works are required on site.

Condition

The commencement of the development shall not take place until there has been submitted to and approved in writing by the Planning Authority a programme for the monitoring of noise & vibration generated during demolition & construction works. The programme shall specify the measurement locations and maximum permissible noise & vibration levels at each location. At each location, noise & vibration levels shall not exceed the specified levels in the approved programme unless otherwise approved in writing by the Planning Authority or in an emergency.

Reason

To minimise noise/vibration disturbance at adjacent residential premises.

Floodlighting Control (Construction Phase)

The following condition is recommended if security floodlighting is required on site.

Condition

A floodlighting scheme shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The floodlights shall be installed in accordance with the agreed scheme and retained for the duration of the works.

Reason

To minimise potential loss of amenity due to intrusive light pollution affecting residents living in the vicinity.

## **6.12 Contaminated Land Officer**

### **6.12.1 Initial holding objection received:**

Do you know if the applicants on this site have specifically requested no pre-commencement condition with this application?

The contaminated land consultants they have used have not followed our guidance in submitting a phase 1 first, allowing us to review it, then moving forward to a phase 2 and final remediation strategy. Instead they have gone ahead and completed and then submitted a large Phase 1, Phase 2 and Remediation Strategy all at once after completion. Although the sensitivity of the end use is low (commercial) the contaminative site history is complex and potentially highly contaminated. As such it is likely I will have lots of questions regarding these reports and they will require thorough review.

Given the time already elapsed and that Andy was chasing me on this one, if the applicants do not mind a pre-commencement condition then I would recommend both our standard contaminated land conditions are attached to any resulting Decision Notice. However, if they do not want a pre-commencement contaminated land condition then they will have to wait for my full review and answer any queries that I'm almost certain I will have regarding the three large reports submitted with the application, which will take more time to get satisfactory answers.

Regardless, as they are proposing some remediation, it will require the Prior to occupation standard validation condition either way.

**6.12.2 Various further discussions and additional information was submitted during the course of the application. Due to the likelihood that the contamination issue could not be satisfactorily addressed prior to committee, it was agreed that the standard pre-commencement contamination conditions could be attached.**

### **6.12.3 Contaminated Land Officer - latest comments (25/02/2022):**

They are now proposing additional gas monitoring due to the presence of paper pulp and very high methane measured on site to date. Since your deadline is a week today, it is not possible for them to complete this and analyse the results before then. As such, were the application successful, I would recommend both of Blackburn's standard contaminated land conditions are attached to any resulting decision notice. It will require the Pre-commencement condition on any Decision Notice to regulate this additional gas monitoring and the standard prior to occupation condition to regulate any agreed remediation which will certainly be required on this site. I have included two copies of our typical contaminated land conditions below.

Please note these will be in addition to whatever the EA end up recommending. Since the EA are currently objecting to the application, a significant and unusual step, but it makes sense on such a contaminated site next to a river, I will not waste more time arguing with their consultant for even more gas monitoring etc at this time as the application may be rejected.

If the applicants are able to satisfy the EA before your decision deadline then they will ,likely recommend their own Controlled Waters contaminated land conditions. Please note these would be attached in addition to our human health contaminated land conditions and would be satisfied and regulated not by me but the EA in relation to controlled waters (here the river).

Our standard pre-commencement contaminated land condition:

7. Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval: i) A comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM. ii) Findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, including water courses, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site and to prevent unacceptable levels of water pollution, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

Standard prior to occupation, validation condition:

8. Prior to the occupation of the development hereby approved, a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated CSM. All the installed remediation must be retained for the duration of the approved use, and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

#### **6.12.4 The applicant has agreed to the standard pre-commencement conditions being attached.**

### **6.13 United Utilities (UU)**

#### **6.13.1 Initial response:**

With regards to the above-mentioned planning application, United Utilities is aware of the scheme and is currently reviewing the submission documents in more detail to understand the potential impact of the proposal on our infrastructure. A detailed letter setting out our formal response will be sent to you as soon as possible and we will try to work within your deadlines.

We therefore request that the scheme is not determined until our formal response has been issued.

I would be grateful if you could acknowledge receipt of this by way of a reply email.

#### **REQUEST FOR FURTHER INFO**

With regards to the above development proposal, United Utilities Water Limited ('United Utilities') wishes to provide the following comments.

#### **United Utilities' Property, Assets and Infrastructure – REQUEST FOR FURTHER INFORMATION PRIOR TO DETERMINATION**

The applicant should be aware of water mains in the vicinity of the proposed development site. Whilst this infrastructure is located outside the applicant's proposed red line boundary, the applicant must comply with our 'Standard Conditions for Works Adjacent to Pipelines'. We provide this information to support the applicant in identifying the potential impacts from all construction activities on United Utilities infrastructure and to identify mitigation measures to protect and prevent any damage to this infrastructure both during and after construction. This includes advice regarding landscaping in the vicinity of pipelines.

A public sewer crosses this site and we may not permit building over it. We will require an access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of Part H of the Building Regulations, for maintenance or replacement. Therefore a modification of the site layout, or a diversion of the affected public sewer may be necessary. All costs associated with sewer diversions must be borne by the applicant.

To establish if a sewer diversion is feasible, the applicant must discuss this at an early stage with our Developer Engineer at [wastewaterdeveloperservices@uuplc.co.uk](mailto:wastewaterdeveloperservices@uuplc.co.uk) as a lengthy lead in period may be required if a sewer diversion proves to be acceptable.

Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.

For advice regarding protection of United Utilities assets, the applicant should contact the teams as follows:

Water assets – [DeveloperServicesWater@uuplc.co.uk](mailto:DeveloperServicesWater@uuplc.co.uk)

Wastewater assets – [WastewaterDeveloperServices@uuplc.co.uk](mailto:WastewaterDeveloperServices@uuplc.co.uk)

It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service including United Utilities. To find out how to purchase a sewer and water plan from United Utilities, please visit the Property Searches website; <https://www.unitedutilities.com/property-searches/>

You can also view the plans for free. To make an appointment to view our sewer records at your local authority please contact them direct, alternatively if you wish to view the water and the sewer records at our Lingley Mere offices based in Warrington please ring 0370 751 0101 to book an appointment.

Due to the public sewer transfer in 2011, not all sewers are currently shown on the statutory sewer records and we do not always show private pipes on our plans. If a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.

#### Darwen Wastewater Treatment Works

There is an existing United Utilities wastewater treatment works in close proximity. Please be aware that these operational sites can be a source of noise, odour and/or flies.

It is important that the existing belt of trees and scrubland situated between the proposed development and the existing Wastewater Treatment Works is retained as intended.

#### Drainage

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

We request the following drainage conditions are attached to any subsequent approval to reflect the above approach:

#### Condition 1 – Surface water

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

#### Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

If this proposal results in a trade effluent discharge to a public sewer, the applicant will need Trade Effluent Consent to discharge to the Public Sewer. The applicant must discuss this with the retailer of their wastewater services.

The applicant can discuss any of the above with Developer Engineer, Robert Brenton, by email at [wastewaterdeveloperservices@uuplc.co.uk](mailto:wastewaterdeveloperservices@uuplc.co.uk).

Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as a main river).

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

#### Management and Maintenance of Sustainable Drainage Systems

Without effective management and maintenance, sustainable drainage systems can fail or become ineffective. As a provider of wastewater services, we believe we have a duty to advise the Local Planning Authority of this potential risk to ensure the longevity of the surface water drainage system and the service it provides to people. We also wish to minimise the risk of a sustainable drainage system having a detrimental impact on the public sewer network should the two systems interact. We therefore recommend the Local Planning Authority include a condition in their Decision Notice regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development.

For schemes of 10 or more units and other major development, we recommend the Local Planning Authority consults with the Lead Local Flood Authority regarding the exact wording of any condition. You may find the below a useful example:

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

Please note United Utilities cannot provide comment on the management and maintenance of an asset that is owned by a third party management and maintenance company. We would not be involved in the discharge of the management and maintenance condition in these circumstances.



### 6.13.1 Final response from UU received on 23/02/2022:

### 6.13.2 No objections, subject to conditions.

Just to confirm that Gemma's previous response dated 23rd December is not a formal objection, rather a flag to the applicant that there is an asset protection matter that requires resolution.

Having reviewed the recent information it is clear that the applicant is aware of the need to divert the public sewer and has made an approach to UU regarding this matter. We note Rodrigo's email to you yesterday stating that they intend to enter into a diversion agreement following the planning decision. The detail and acceptance of a sewer diversion should be progressed by the applicant directly with UU.

To confirm, we have no objection to the proposal in principle, subject to the requested planning condition regarding drainage (detailed in Gemma's earlier response). We do not require a planning condition to enforce a sewer diversion.

### 6.14 Environment Agency (EA)

#### 6.14.1 Initial comments:

It is unclear whether the development as proposed provides the statutory requirement of a clear and unobstructed 8 metre access strip for maintenance adjacent to the Main River Darwen. We therefore object to this planning application and recommend that planning permission is refused.

#### Reasons

Under the Environmental Permitting Regulations 2016, an Environmental Permit is required for any flood risk activities within 8 metres of a main river. The proposed development is in close proximity to the River Darwen, which is designated a main river.

Based on the information submitted, the distance between the development and the top of the bank is unclear. We require that an 8 metre wide stretch of unobstructed land is left between the top of bank and the development to ensure that flood flows are not obstructed, the stability of the bank is not compromised and the natural bank habitat is undisturbed.

#### Overcoming our objection

To overcome these objections, the applicant should provide a series of cross section drawings based on topographical data, that clearly identifies the extent of the proposed development and its proximity to the top of bank.

A minimum of 8 metres must be left between the top of the bank and the development. The revised drawings must identify the top of bank in relation to the channel width and water line and demonstrate no development, including any proposed boundary fencing, retaining walls etc. within 8metres.

#### Environmental permit - advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence

- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

#### **6.14.2 Further comments from EA received January 2022:**

As you know we have currently objected to this application on the grounds that the proximity of the development to the Main River is unclear.

My groundwater/contaminated land consultee did however flag that the wrong paperwork has been submitted and the Remediation strategy and borehole logs are missing from the application. Assuming that the applicant is able to overcome our Main River objection, then the absence of these documents will be a factor and submission of them would be conditioned at the next pass if they overcome the Main River issues. I just thought it was worth flagging, as we will need to see them if it comes back again.

#### **6.14.3 Further information received from the applicant on 13<sup>th</sup> January 2022:**

Please find attached drawing showing in a blue hatch the 8m strip from the bank as requested.

I trust this demonstrates that the referred statutory requirement is being complied with. Should you require further information in respect of this matter please let me know.

#### **6.14.4 Further response received from the EA on 14<sup>th</sup> January 2022:**

I will get this logged as an amended plan and reconsult the flood risk team.

I can see that they have marked on the FZ3 extent and the 8metre access strip. I have looked again at the cross sections with the application and there does appear to be quite a bit of cut and fill going on. It might be helpful if they can clearly indicate on this new plan, the current top of the bank of the River Darwen, as that is what we need to see before work to create the building platform starts.

I will log this and pass it across to the team, but it may help our understanding to remove the objection if they can clearly mark this on the plan and resubmit it to yourselves

#### **6.14.5 Further response received from EA on 23/02/2022 (re contamination concerns)**

We maintained our objection on 01 February on the basis that we had reviewed the updated proposed site plan, titled S2854\_3.03 and proximity to the river still has not been sufficiently addressed. The top of the river bank was not marked on the plan and therefore it was still unclear if a full unobstructed 8metres had been left between the top of the bank and the development.

If they had managed to overcome that, we would still have requested that our 4 part contaminated land condition would be included. I have just spoken with my colleague in contaminated land and he did take a look at the bore hole logs that you had sent through via email that the applicant hadn't submitted at the time we first looked at this. He was satisfied with the detail and has said that what we have seen through so far would satisfy parts 1 and 2 of our condition, but that there is no interpretation of what the results show to indicate what the risks to controlled waters would be. They now need to come up with a remediation strategy for the site, because the presence of methane and the other results would indicate that there are contaminants in the site that could be mobilised to pollute the river.

So in a nutshell, still an objection from us as the proximity to the river is unclear and if they manage to overcome that there would need to be a pre-commencement condition imposed to address the remediation of the site, particularly given the risk to controlled waters.

#### **6.14.6 Further response from EA received 28/02/2022**

Hi Tom, our problem with this one is not contaminated land, we are happy that this can be covered by using our standard 4 part CL condition. It is our 8m maintenance strip from the river objection that they haven't satisfactorily overcome, because it is not clear where the top of the bank is on their plans, so we don't know where they are measuring our 8m access strip from.

We are still waiting to see a dimensioned drawing that says, "this line indicates the top of the river bank" which then clearly shows that they are leaving 8 metres from the top of the bank, with no built development or anything that would stop machinery accessing the strip. If we can get that, we can remove our objection and just request a CL condition.

#### **6.14.7 A further plan (for the EA for information only) was provided by the applicant on 28/02/2022, and a further response from the EA were received on 03/03/2022.**

Hi Tom, it isn't contamination, it is the 8m access to the river that we are objecting on.

I have asked my flood consultant to give me his thoughts on whether that can be overcome based on the cross section they have provided. He has promised to get back to me tomorrow morning. If they can, then we will just remove the objection and ask for our usual 4 part contaminated land condition to be added.

As soon as he lets me know if the objection can be lifted or not I will email you.

#### **6.14.8 Further comments received from the EA on 04/03/2022.**

Hi Tom, my flood risk colleague has just got back to me.

Based on the latest cross section we would be looking to maintain our 8m access strip objection on this one for now. They need to demonstrate where the top of the bank is currently, before they start cutting and filling. We can then assess whether the cut and fill operations would be acceptable and we would issue a permit for them. We could then assess if our 8m access strip for maintenance is being respected.

Could you get the applicant to submit something that gives that clarity with levels on a dimensioned drawing?

This one is showing as responded to on our system, do you want me to take the last cross section as a formal reconsult and provide the above comments in a formal response? Happy to do that and provide a reply maintaining our objection at this stage if it helps, just let me know.

Hi Tom, sadly it is not really something we could condition, because we need to be clear about what they are planning within 8m of the existing top of bank. There is a very real chance we wouldn't issue a permit for the works adjacent to the river if we are not happy, so the planning consent would be unimplementable I imagine if they cannot do the cut and fill in the way that they are proposing.

I think that they just need to give us a bit more clarity and we can reassess if what they are proposing adjacent to the main river is acceptable.

#### **6.14.9 Further response from the EA on 07/03/2022.**

Hi Tom, apologies for the delay. I am not sure we can get/give the assurance the applicant is hoping for before the committee meeting on Monday.

Below are the comments from my flood risk colleague.

- The first attachment shows approximately where we would consider the top of bank to currently be and an amended cross section will be required from the applicant to agree to this.
- The second attachment shows the profile tool with the edge of the watercourse and top of the bank annotated.
- We are happy with the proposal that the fence will be 8m away from the current top of bank. However, once section FF is reprofiled the NEW top of bank will only be 2m away.
- We are waiting for AP internal confirmation that they are happy with the 2m easement that will be left between the NEW top of bank and the fence once the land re-profiling has been complete.
- Ultimately, if approved at planning, this land re-profiling will need to subject to a Flood Risk Activity Permit

After using the profiling tool that we have, he has concluded that the current top of the bank is closer to the yellow highlighted area on the attached Profile Tool detail document. Whilst we are happy that the proposed fence line will be over 8m away, once the bank is reprofiled it leaves just two metres from the new top of the bank, see attached "EA Amendment to top of bank section". This may be acceptable to our assets team but we haven't been able to check this with them today. The ground reprofiling will require a Flood Risk Activity Permit and we wouldn't grant a permit for anything that the assets team would be unhappy with, as it is they that determine required access for maintenance.

I think there will be a compromise that can be achieved but maybe not in time for Monday's committee. If I hear anything back from the Assets team on Monday I will let you know as soon as possible.

#### **6.14.10 A new cross section plan was provided by the applicant on 07/03/2022 and the EA was reconsulted. A further response was received from the EA on 07/03/2022.**

Hi Tom, we have taken a look at the cross section FF from the applicant which you sent across, attached above.

We are satisfied that the current top of the river bank has been indicated at the point we feel is presently the top of the bank, and the reprofiling proposed would allow a clear 8metres from the proposed fence line to the new bank top post-development.

We would however like to see the rest of the cross sections up dated accordingly before we remove our objection, these will also be required for the application of an environmental permit if any reprofiling of the river bank is required within 8metres of the Main River Darwen. Once we have reviewed the revised sections I will remove the objection and request that our standard 4 part contaminated land condition be included on the decision notice to cover any outstanding information regarding the investigation and remediation of the site.

I hope that this is the information that you require to produce your report for the committee and we look forward to receiving the revised cross sections from the applicant. I will provide a formal planning response once we have received and reviewed the new cross sections and any other documents that form part of the submission have been updated to reflect the new cut and fill arrangement adjacent to the river.

**6.14.11 The final response from the EA, confirming no objections, is now awaited. This will be reported in the Committee Update report.**

**6.14.12 Additional EA comments (regarding the “Agent of change principle” only):**

The Crown paints factory is regulated by us through an environmental permit and whilst we don't object on behalf of industries that we regulate, we expect them to raise concerns about nearby development if they think that the amenity of the new development will be impacted by their operations.

We take the position that the Crown Paints site is already operating in accordance with the conditions of their permit and as long as they continue to operate within the scope of their permit, any new development must have regard to the proximity of the facility. They should also be aware that we would not seek to alter the conditions of an existing permit in response to complaints from a new sensitive receptor located nearby. We would be of the view that if the new development considers that they may be impacted by the factory's operations, then it is up to the new development to incorporate features within the design to mitigate any amenity impact on the users of it during its construction.

## **7 Publicity**

**7.2.1** 40 Neighbouring properties were consulted during the consultation process, and site notices were posted on 1st December 2021. A press notice was also issued on 28<sup>th</sup> September 2021. One representation was received, from Jerry Spencer Associates, acting on behalf of Crown Paints, who adjoin the site (and who have expansion plans of their own, but have not been the subject of a planning application to date).

**7.2.2** The two main points of the objection relate to:

- i) The impact of Crown Paints' own operations on the application site (the Agent of change principle) and
- ii) The impact on Crown Paints' own expansion plans, which include a new access close to where the application site access is.

7.2.3 The objection letter is published in its entirety in Section 10, together with the response from the applicant.

**8.0 CONTACT OFFICER: Tom Wiggans – Planning Officer**

**9.0 DATE PREPARED: 8th March 2022**

## 10.0 SUMMARY OF REPRESENTATIONS

### **Objection: - Jerry Spencer Associates for Crown Paints Limited, received 15<sup>th</sup> December 2021:**

I represent Crown Paints, whose polymer plant occupies the site immediately to the south of the current application site. My client is not objecting to the principle of the type of development which is proposed, but is concerned that the layout of the development might harm or even prevent the upgrading of their site, including installation of measures to bring it up to current industry safety standards.

Crown also wish to appraise the Planning Authority that the current operation at the polymer plant causes noise and smell over a 24- hour operation, and that they would not be willing to curtail operations in the event of complaints made by future occupiers, as this could jeopardise production across the Darwen operation. In this regard, a mixed industrial and warehouse development is preferable to a housing development, but we ask you to take the known environmental impacts of the current Crown operation into consideration in assessing the suitability of the proposals on the adjacent application site. Crown would be willing to provide measurements of noise and smell as currently experienced.

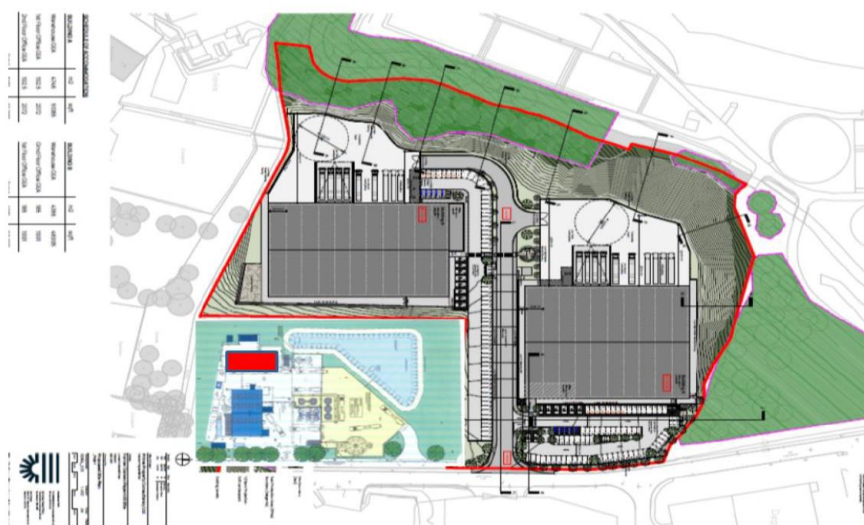
In extreme circumstances, the polymer plant could potentially experience an exogenic heat reaction resulting in very high temperatures. It is for this reason the Crown wish to upgrade the safety standards of the plant by installing control measures which include excavation of a lagoon to hold water used as a retardant in the event of such a reaction. The company has advanced plans to install these measures as shown on the attached plan. The plan involves provision of a new egress from the site, to allow for one way traffic in and out, as the present access is considered to be dangerous. The estimated number of vehicle movements into the Crown site is up to 9 bulk delivery tanker loads per day in peak periods. The level of lorry movements would be considerably higher than this during the construction phase of the proposed lagoon and additional plant.

The plan shows how close the proposed Crown access point would need to be to the access proposed under the current application, and my client is concerned that the Highway Authority might not allow two access points so close together. We note that an access has been approved for the current application site already (10/20/1226) but it appears that Crown were not notified of this and so did not comment at the time.

One possible solution to the issue, were the Highway Authority to object to two access points, would be for the two sites to share an access, and Crown would be willing to enter into discussions about this. However, as the current application seeks permission to create two security-fenced compounds incorporating the areas on either side of the access road, it seems that the option to share the access with Crown is not likely to be available as an amendment to this proposal.

We are unaware of whether a second separate access from Crown's site would be allowed if the current application were to be approved. We must therefore object to it on the grounds that it potentially prevents Crown from delivering appropriate safety measures, including the new access to the adjacent polymer Plant.

Below: Crown proposals superimposed onto the plan for application number 10/21/1294



**In response to the objection from Crown Paints, the applicant provided a full written response on the 14<sup>th</sup> January 2022, which is shown in full, below:**

I write on behalf of the applicants (Acornfield Properties Ltd) for the above application. This letter responds to a third party letter received from the adjacent occupier. The comments made by Crown Paints (hereon referred to as Crown) expressly state that they do not object to the principle of development. They acknowledge that their current operations at the polymer plant causes noise and smell over a 24- hour operation, and that they would not be willing to curtail operations in the event of complaints made by future occupiers. The Crown comments relate mainly to access matters and set out a concern that the proposal 'might harm or even prevent the upgrading of their site, including installation of measures to bring it up to current industry safety standards'. They refer to the potential proximity of access junctions for a new access they may need and concerns about their construction traffic. A plan is provided showing a high level masterplan of how the Crown site might be redeveloped in the future. The redevelopment is suggested to relate to the need to incorporate a lagoon as part of safety measures. The letter acknowledges that the Crown proposals have no formal status, no consent and have not been submitted for any planning approval. In response, the applicant is firmly of the view that, in material planning consideration terms, no weight can be placed on the concerns raised by Crown and they do not form a reason to resist or amend the submitted scheme.

Consent ought to be granted. The reasons are:

1. With regards the noise/odour matter, resolution of an existing problem caused by a third party is not reasonable or relevant to the proposed development, and as it is not a commercial use proposed adjacent to the Crown use, matters of amenity are not a material consideration. If there are any existing breaches of other legislation with regards to noise/odour, they should be addressed under relevant legislation.

2. Alleged prejudice to a future access cannot be afforded any weight. The Crown proposals have no planning status. There is no committed development benefiting from consent for the works and therefore no obligation for the Transport Assessment to consider them. Indeed, the proposals are presented as a future ambition (no timescales provided) which have yet to be fully developed. The plan shown is thus indicative and subject to design change. The expansion land in question lies adjacent to the operational Crown site and holds a long frontage to Lower Eccleshill Road. This affords the site the opportunity of designing its layout in such a manner as to allow for an access to be set



away from the boundary with the application site. On this basis, it would be unreasonable to restrict development on the application site to 'protect' the flexibility for Crown to design their site, if they ever wished to redevelop it. There is ample space and opportunity for the neighbour to use its site for its purposes, and thus there is no prejudice to the use of that land.

3. In determining the application, the Planning Authority must take account of material considerations and place weight accordingly. Material considerations must also relate to the use of land not the private interests of any occupier. There is no committed development in this case that could be affected and any safety concerns Crown have to resolve are a matter for its business. Future, as yet uncertain plans, cannot be afforded any weight or constitute a reason to amend or resist the application.

4. Concern around impact on construction traffic for the Crown scheme cannot be afforded any weight as in the absence of a scheme and an understanding of its construction, they are simply unknown. Further, it would be for CEMP for that site to address such matters.

5. The application site has an extant and established fallback position of an access approved under application Ref: 10/20/1226 approved 25 June 2021. This establishes an access to the application site close to the boundary with the land controlled by Crown. That access is very similar to the access now sought in design and specification. That access point as shown in the figures below is approved in a position 5m closer to the boundary with the Crown site. The current application thus offers a small improvement (if one were required) to set the access a little further away (5m north). In any event, given the approved access (to which Crown did not object) is extant and is capable of implementation, it provides a robust fallback which is of very significant weight.

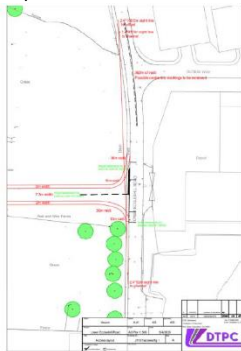


Figure 1 – Extant approved access



Figure 2 – Proposed access

6. The submitted Transport Assessment for the current application prepared by SK Transport in 2021 confirms that the access and traffic generated by the proposed development is appropriate and can be accommodated in the highway network. The road is a 30mph road and the access point can achieve sight lines to meet standards.

The TA at paragraph 2.15 confirms that:

"The consented access layout is attached as Appendix B. This shows a simple priority arrangement with a 7.3m wide access road, 2m footways and compound radii of 10m and 36m. The identified visibility requirements based on observed speeds on Lower Eccleshill Road were identified as 2.4m x 87m to the north and 2.4m x 52m to the south, each substantially in excess of the normal 30mph requirement".

It confirms at paragraph 2.16 that with regards the consented junction:

"The assessment showed that the junction would operate comfortably with substantial spare capacity in both the AM and PM peak".

The TA then sets out an assessment of the proposed junction and confirms at paragraph 4.12 that: "The site access is predicted to operate within capacity in all of the scenarios tested".

The TA concludes that the proposal and access fully accord with NPPF (Para 111) and Policy 10 of the Local Plan Part 2.

On this basis there is no highways reason why consent ought not be granted. The local highways authority did not object to the previous access granted. Indeed, the council's reason for approval No.1 stated "The proposal is of appropriate design and appearance and would not compromise highway safety in accordance with Policies 10 and 11 of the Blackburnwith Darwen Local Plan Part 2 (December 2015)". As the current proposal proposes the same access in an almost identical position, and as the TA concludes that is also acceptable, there can be no highways objections to this application either.

7. In the absence of a highway objection and as the proposed commercial use is in accord with the Local Plan, NPPF and will deliver significant social and economic benefits to the local area, through job creation (during construction and operation), training opportunities and GDP, there are a number of significant considerations which in the planning balance weigh in favour of the proposals.

We trust the contents of this letter will be given full weight in the consideration of this application, and the application be approved to deliver investment, jobs and economic value to the area.

**An additional response from the applicant to the Crown paints objection was received on 14/01/22 (shown below):**

Following on our conversation earlier today, I have received the attached feedback from the Transport Consultant.

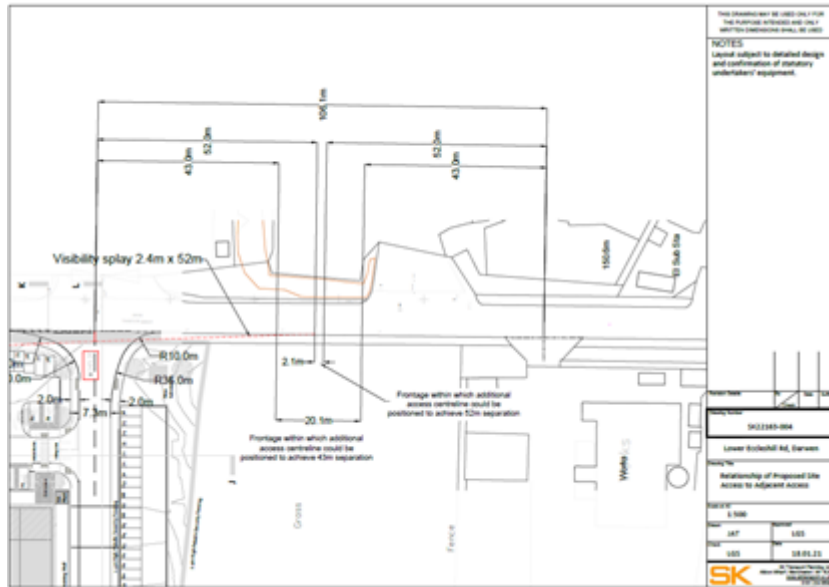
I trust his assessment satisfactorily addresses the concerns regarding the proposed additional access at Crown Paints. The odour and noise issues have been addressed by the letter provided. Should you have any queries or require further information please let me know.

We have reviewed the objection received from the adjacent operator (Crown) and considered options that may be possible to accommodate their requirements.

Firstly, we attempted to review on the basis of the masterplan provided for the adjacent site within the objection letter but this image is distorted. The distortion can be seen in the ovoid appearance of the turning circles within the proposed development layout which unfortunately means we are unable to use this.

As an alternative, we have considered the potential for creation of a new access within the section of currently undeveloped frontage to the south of the proposal site. The normal minimum separation distance for junctions on the same side of a 30mph road is 43m (centreline to centreline), this is based on visibility requirements. The visibility splay distance is typically 43m on a 30mph road but the actual visibility requirement on the south side of the consented access was slightly higher at 52m, based on observed vehicle speeds.

I have therefore marked up in the attached plan the separation that is achieved between the proposed site access and the existing Crown access (106m) and the separation distances that would be expected to position a possible additional access between the two, based on the typical 30mph requirement of 43m and the slightly higher 52m requirement based on observed speeds in the vicinity of the proposed access.



The objection letter suggests that future access as indicated in the masterplan would be one-way in/out, presumably using the existing access to enter and the new access to exit the site, in which case separation between the 'in' and 'out' would not necessarily be relevant, but I have nonetheless indicated the equivalent separation distances to the existing Crown site access, as an indicator of full access formation potential. You can see that with a 43m separation distance there would be considerable scope to position an additional access and that, even with the 52m separation distance, an additional access could be located within that section of frontage.

I would also suggest that a further option for any redevelopment of the Crown site that takes in the parcel of currently undeveloped land could be accessed via a single new entrance. This is potentially more appropriate/desirable given the safety concerns noted in the objection letter regarding the existing Crown site access.

In either case, I do not believe that the proposed access precludes access being created within the section of frontage to the south.