

**PLANNING & HIGHWAYS COMMITTEE**  
**THURSDAY 17<sup>th</sup> NOVEMBER 2022**  
**UPDATE REPORT**

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

**10/22/0446 Units 3 and 6 Unity Trading Estate (Euro Grocers), Pearson Street, Blackburn**

The wording to **Condition No.4** in Section 4.1 of the main report shall be amended to the following:

*“Within 2 months of the date of this permission, the car park shall be laid out and covered cycle stands provided and available for use, in accordance with the details received via email and set out on drawing EGSMUBS05.PLN3\_revision C, received 2nd November 2022. The approved car park markings and cycle stands shall thereafter be retained.*

*REASON: To provide for access to the site by sustainable modes of travel, in accordance with the requirements of Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.”*

**10/22/0591 Former Roe Lee Mill, Whalley New Road, Blackburn**

Sections 4.2 and 4.6 of the Committee Report make reference to the need to impose a landscaping condition. Such a requirement has been queried by the Applicant following production of the report.

Whilst the implementation of a supplementary landscaping scheme would provide some visual design and ecological benefits, there are some obvious costs associated with such works and the temporary nature of the permission ultimately negates such a requirement in the interests of reasonableness.

It is therefore recommended that condition 5.4 be omitted from the approval.

**10/22/0722 Land to the south of Whalley Old Road, Blackburn**

Notwithstanding the conditions set out in section 4 of the main report, an **amendment to the wording of Condition 3** is proposed to read as;

*No development shall occur, excluding remediation works and site set-up, until a scheme detailing the provision of an acoustic bund/barrier along the southern part of the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with an agreed timetable and thereafter maintained and retained.*

*REASON: To safeguard amenity standards for future occupants, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.*

The following **additional condition** is also considered to be necessary to provide for appropriate residential amenity standards for future occupants;

*The development hereby approved shall be carried out in accordance with the acoustic mitigation measures identified within the Addendum Report prepared by Professional Consult Ref 22.039.3.L2 dated 1st November 2022. The acoustic mitigation shall be implemented prior to first occupation of each relevant dwelling and thereafter retained.*

*REASON: To ensure for appropriate residential amenity standards, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.*

The following additional objection has been submitted by the Sunny Bower Residents Group on the 16<sup>th</sup> November 2022.

*We have a couple of points we would like to be discussed and addressed.*

- 1. We would like the opportunity to once again voice our objections to the location of the access points and road narrowing on Whalley Old Road in this planning application.*

*Whilst details presented in support of the Outline Planning Permission 10/20/0716 were indicative only, they were at least reasonable in supporting a development that was not detrimental to current residents and wider users of Whalley Old Road. The indicative details prepared and presented by the council's own highways department now appear to not matter at all.*

*The indicative details proposed 2 access points whilst the planning application proposes 3 access points.*

*The western most access point has moved significantly closer to the junction at Sunnybower Road which whilst acceptable on paper and within the guidelines, in reality will cause problems for all road users using Whalley Old Road and those trying to enter and exit Sunnybower Road.*

*The mid access point on the planning application is approximately 3 house widths in distance from the existing turning into Stonehill Nurseries garden centre and the bus turnaround on Whalley Old Road on the opposite side of the road. Again, whilst acceptable on paper and within guidelines it is an accident waiting to happen.*

*The third access point is via a new roundabout.*

*Is there a timeline on when this roundabout is to be completed by? If it forms part of Phase 2 of the proposed development, and presumably is dependent on the new local plan gaining approval for the North East Blackburn Strategic Housing Site then it doesn't seem to be part of the initial traffic calming measures that are required.*

*The indicative details proposed a reduction in width of part of Whalley Old Road by using hatching markings, not actually reducing the overall width. The planning application proposes to reduce the width of Whalley Old Road by laying a new footpath along the front of the site. This, coupled with the 2<sup>nd</sup> access point across the road from 2 other access points, residents' cars parked on the road outside their homes, again in reality is going to cause problems in the flow of the traffic along Whalley Old Road.*

*In his Strategic Directors Report point 6.3, Martin Kenny states only 2 access points are proposed on the plan, but there are clearly 3.*

*He also says that at the outline stage, widening of the carriageway along the site frontage was required so why permit a development that actually reduces the carriageway?*

*This is a road that has been identified by the council as an important access point into Blackburn from surrounding areas. So important in fact that they have proposed a huge housing build of 2,000 houses or so, to be accessed from that road in in the new local plan.*

*Surely some thought has gone into allowing it to continue to be an important access road for all users and residents?*

*We would like assurances that the flow of traffic up and down Whalley Old Road along with entry and exit from the existing Sunnybower estate via Sunnybower Road and Bank Hey Lane South Road will not be adversely affected should you permit this planning application in its current form.*

*We firmly believe that the current layout of the proposed development along with the proposed access points and road narrowing should be revised.*

*We are not being difficult; we are being practical and realistic.*

## *2. Noise Levels for the new housing development*

*The Addendum report submitted by Professional Consult Limited dated 01.11.2022 Ref: 22.039.3.12 highlights the updated noise model and noise impact assessment.*

*Noise barriers in the form of 2.5m high fences around gardens are required. Normal fences are only permitted to be 2m high without planning permission. That's a lot of high fences in a lot of the gardens. Quite a view, I'm sure.*

*A massive 3m high noise barrier is required to run along the whole of the bottom of the proposed development, rising to 5m then 6m at the bottom left corner. Again, quite the view.*

*Even with these noise barriers over 80% of the proposed houses will need alternative ventilation, some mechanical in certain plots, due to noise levels being exceeded with open bedroom windows.*

*We would hope that:*

- a. Vistry would not simply allocate the worst affected plots as the affordable housing requirement. People who require affordable housing should not be disadvantaged because of their status.*
- b. Prospective buyers are made fully aware of the noise levels per property and the reasons for the noise.*

### Response:

The reference to two access points reported at section 6.3 of the main report is provided by the highway officer. It would be more accurate to identify the two points discussed as those serving the whole development. As the objection states, there are

three access points within the current scheme, as discussed at sections 3.2.5 and 3.4.11 to 3.4.15 of the main report.

The reference within the objection to the road narrowing is erroneous. The proposal, including provision of pedestrian footway, is contained within the application site and will not require a reduction in the width of Whalley Old Road.

Points of objection related to traffic congestion and impacts upon the highway network were considered fully at the outline stage, within application 10/20/0716. Subsequent issues relating to crossing facilities and pedestrian footways are controlled via condition 17 of that permission and are not matters under consideration in relation to this reserved matters application.

Assessment of the noise impacts of the development are discussed within section 3.4.44 to 3.4.53 of the main report. To summarise, subject to the mitigation measures detailed within the main report, and the additional measure set out above, the development is considered to provide for appropriate amenity standards in accordance with Policy 8 of the Local Plan Part 2.

Further comments have been received from JWPC Planning Consultants on behalf of Blackburn Chemicals on the 9<sup>th</sup> November 2022. These are:

*“The plan at Appendix 1 of the acoustic update shows mitigation barriers of 2.5m, 3m, 5m and 6.5m in height to help reduce the noise impacts on the development from the neighbouring industrial uses. However, these barriers are not shown on the updated general arrangement plan and we understand will instead be conditioned to provide further details following approval of the application.*

***We note however that the position of the barriers shown in the acoustic report appears to run through the attenuation ponds and across the cycle/footpaths in places. They may therefore impact of the layout of the proposals and the drainage strategy. To provide certainty that the proposed mitigation barriers will be put in place and be effective, we would request that the location of all the acoustic barriers are included on the plans and details provided as part of the planning application as to their size, materials and construction of each barrier. As these factors can impact on other elements of the scheme, such as the drainage strategy if large earth mounds are required or high fencing requires foundations or steel supports, this should be clear prior to determination, rather than conditioned. We consider that insufficient information has been provided thus far on the required mitigation to allow a decision to be made on this important element of the scheme and its future compatibility with neighbouring uses, which was a key consideration of the outline approval of residential development on this site.***

***Even with this mitigation in place, plots 91 and 92 are still a concern based on the information in the addendum report. We would propose a condition that these plots are also provided with specialist ventilation systems that keeps noise to acceptable levels.***

***Fundamentally, the addendum report accepts that the original assessment of the Blackburn Chemicals site was insufficient, but uses the same methodology for the Smurfit Kappa site. This still provides an underlying concern about background noise levels used across the assessment, and whilst the inclusion of the mitigation to Blackburn Chemicals site is welcomed, the potential still exists for significant impact on the adjacent uses if incorrectly assessed.***

*The Council must be certain that no future noise complaints will result from making this decision which causes issues for future residents and that lead to issues for the operational businesses adjacent the site, which is a key consideration in national planning policy.”*

Response:

Public Protection have reviewed the additional comments from JWPC. It is acknowledged that there are features arising from the proposed barrier that it will impact upon. These can be addressed through the formal Discharge of Condition application process, and if the proposed details of the barrier are not acceptable following consultation with Public Protection and the Environment Agency, then they will not be agreed to, and changes will have to be made until everyone is happy with the scheme to ensure it achieves the attenuation and protection the proposed mitigation measures in the addendum noise report allude to. In respect of the conditioning for ventilation this is already in place on the outline permission (10/20/0716) with a suitable condition (No.13) and needs to be progressed with a suitable scheme which is already mostly written. The scheme will just need an update to the main acoustic report i.e. amalgamating the main acoustic reports with the addendum ones and setting out the final mitigation across the site.

Public Protection do not have the same concerns about noise from the Smurfit Kappa site as it is further away from the development than the Blackburn Chemicals site, and sound levels are lower. Officers from Public Protection have visited the site on a few occasions, and the noise from Blackburn Chemicals is the dominant noise source day and night. The noise from other sources on the estate (from Public Protection officer's experience) is very much part of the background noise.

In respect of the last point from JWPC, it is important to note that nobody can guarantee that future occupiers of the development will not complain about the noise from the industrial estate. Human tolerance to sound varies and the acoustic standards worked to at the design stage do not achieve inaudibility, but seek a compromise that allows reasonable acoustic standards that would be acceptable to most people. It certainly achieves a position that could be defended and demonstrates that certain standards will be met but it does not guarantee that people will not complain. There are other factors that need to come into play around managing the expectation of prospective purchasers of the properties etc.

The Environment Agency (EA) has also provided comments on the application:

*“The noise impact assessment reference 22.039.1.R2 dated 30 June 2022, provided in support of this application acknowledges concerns about the potential impact on the development from the neighbouring industrial estate and provides details of a range of noise mitigation measures. These measures include “alternative ventilation for certain dwellings”, and a statement that “acoustic fences have been specified for the gardens of certain plots”. However, these fences are limited to 2.5 meters due to the visual impact.*

*We have concerns that these measures will not provide adequate noise attenuation and a reliance on alternative means of ventilation so that windows remain closed is unrealistic. For acoustic barriers to be effective, the design and location are*

*important. In this report the noise from Blackburn Chemicals has been treated as a single point source. This assumption is incorrect and has significant implications for the attenuation afforded by the proposed acoustic barriers. There are also concerns that the topography of the site means that the proposed development is elevated relative to the industrial sites, again this has implications for the level of attenuation that can be provided by the acoustic fences.*

*In our previous consultation response, we indicated the proximity to neighbouring industrial premises and highlighted the risk that noise would adversely affect the residential properties. These concerns are unchanged by the information supplied in this latest application and we do not believe that the noise impact assessment, which has been provided as part of this application, has adequately addressed these issues.”*

Members are advised that the comments from the EA relate to the initial submitted noise assessment. The EA's concerns are due to the concerns raised by a site they regulate. The local planning authority has directly engaged with Blackburn Chemicals via their agent so lines of communication have been open with the EA.

The EA did raise concerns on a few grounds and largely these have been taken on board with changes to the mitigation proposed to make it more robust and better data into the noise model.

Given the EA has raised concerns and not an objection then they could only be less concerned given the current arrangement and more robust mitigation. It is confirmed that the EA will be formally consulted in relation to the Discharge of Condition application associated with the revised condition No.3 referenced above.

#### **10/22/0740 Former Hoddlesden Mill, Johnson New Road, Hoddlesden**

The proposed removal of the two conditions will reorder the original condition numbers. Existing condition 42 states:

*Prior to the construction of any of the streets referred to in condition 41, full engineering, drainage, street lighting and construction 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.*

As a consequence of re-ordering, condition 41, as referenced, becomes condition 39.

#### **10/22/0897 Witton Country Park Pavilion, Witton Country Park, Preston Old Road, Blackburn**

The Council's highway section has appraised the applicant's submitted construction methods statement and consider the proposal acceptable, subject to the **addition of the following condition;**

*The development hereby approved shall be undertaken in accordance with the measures and working practices detailed within the 'Construction Management Plan', received 27th October 2022*

*REASON: To safeguard highway safety interests, in accordance with the requirements of Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.*

**10/22/0912/0913 New Victoria Centre, Blackburn College, Blakey Moor, Blackburn, BB2 1LH**

(2.1) No public comments have been received following production of the committee report and there are none to add as part of the Update Report.

**10/22/0921 Blackburn College, Blakey Moor, Blackburn, BB2 1LH**

(2.1) No public comments have been received following production of the Committee Report and there are none to add as part of the Update Report.

(4.3.2) No written comments have been provided by the BwD Heritage Advisor and they have advised that this is not an application comments would typically be provided for. Moreover, they have raised no concerns verbally on heritage grounds given that it would be a temporary development, and located outside of the Northgate Conservation Area.

(4.6.4) A response to the queries raised with United Utilities has not been provided. The Agent has agreed in writing that they are happy for the conditions detailed within the Committee Report to be imposed. Any outstanding matters can be adequately resolved as part of subsequent conditions discharge applications.

**10/22/0956 Land at Brokenstone Road, Blackburn**

Livesey Parish Council on the 13<sup>th</sup> November 2022, confirmed at their November meeting they are objecting to the application, and that a representative from the Parish Council will be attending and speaking at the Committee meeting.

The following representation was received:

Mr Martin Reid, 88 Gib Lane, Blackburn: received 14<sup>th</sup> November 2022:

*Dear Sir,*

*Please see below my objection Incorrect to the usage of the Stockclough Lane Commuted S106 sum.*

*I object to the removal of highways commuted sum of £26,000, Stockclough Lane will continue to be used by the local residence and other pedestrians to access the surrounding countryside, therefore the £26,000 must be used to provide the necessary highways improvements and provide a safe and pleasant environment for all walkers, cyclist etc.*

*For example a footpath on Brokenstone Road linking Gib Lane to Heys Lane. Due to the number of new housing developments in the surrounding area Brokenstone Road has seen a significant increase in the number of pedestrians using this road to access the surrounding countryside and there are number children which have to walk from the Gib Lane housing developments to Heys Lane in order to catch their school bus without a safe footpath and vehicle passing them at high speed (sometimes in the dark without any street lighting).*

*I also object to the entirety of the Green Infrastructure commuted sum being spent on the renewal of play equipment at Witton Park. The required Witton Park play area upkeep / repairs should have been forecasted and budgeted into the annual amenities Dept. running costs and not reliant on new Housing Developers S106 contributions.*

*The whole purpose of the S106 commuted sum is to provide improvements to the highways and access improvements to the areas close to the new housing developments, not to be used as a council slush fund to be used wherever the council wishes.*

*M Reid  
88 Gib Lane  
Blackburn  
BB2 5BP*

**Response:**

Members are advised that the payments associated with the S106 Agreement are being provided by the developer to cover all the works deemed necessary for the development, and with regards to the highways contribution this was via the submitted Transport Assessment (TA) associated with the approved planning application 10/18/1116. Now that vehicular access is not going to be created off Stockclough Lane, the £26,000 cannot be sought, and spent elsewhere. It would be unreasonable and also not meet the tests set out in national planning guidance "Planning Obligation" (2019), relating to the agreed financial contributions to reallocate the funds to alternative highway works, which have not been previously sought or agreed as part of the TA.

**10/22/0972 Star Paper Mill (former Sappi Site), Livesey Branch Road, Blackburn**

Livesey Parish Council on the 13<sup>th</sup> November 2022, submitted their objection to the application. It states:

*"Livesey Parish Council wishes to raise an objection to the amendment.*

*The application by the developer clearly states that they wish for an extension to the condition simply because the time limit is getting close. We find this an insufficient reason to support any extension, it is merely an admission of failure to comply with the planning conditions. Furthermore, their reference to Covid restrictions DO NOT apply as no closure was placed on the construction industry at any time.*

*Furthermore, a planning condition of this development was that the developer would secure planning permission for the link road by 13<sup>th</sup> December 2022, as far as we are aware, no application has been made. Therefore Livesey Parish Council suggests that BwDBC cannot be reasonably confident that the developer has any intention of satisfying the conditions of the development in the future.*

*There is considerable development being undertaken in the area at this time, and I would draw the committee's attention to the planning notice for the Pleasington Lakes development, where the traffic assessment relies on this link road being completed.*

*Residents of the Parish of Livesey are already subject to rising volumes of traffic on Livesey Branch Road, especially at peak times. At our last meeting on the 11th of November, the issue of poor driving outside the schools in the area by Construction Traffic was raised with the neighbourhood policing team. We feel that children's lives are being put at risk by this increased traffic volume, and the reckless driving of some of the heavy construction traffic. The completion of this link road is essential to relieve both.*

*We would also point out that the option allowing the council to purchase the land for the road will expire not long after the road would be due to be completed if this amendment is accepted, putting the link road at risk of not being built at all should the developers again fail to meet the planning conditions.*

*Livesey Parish Council request that Blackburn with Darwen Borough council reject the amendment to this s106 agreement and insist that the developer meets their obligations as outlined in the original agreement forthwith.*

*Best Regards*

*Cllr Rick Moore  
Livesey Parish Council”*

**Response:**

Under Clause 1.4.2 of the S106 Agreement, this agrees and acknowledges that the periods relating to the spine road commencement and completion in Clause 1.3.1 and 1.3.2 can be extended as the reserved matters applications have been submitted and not yet determined beyond the statutory determination period. The reserved matters application relating to the construction of the spine road under 10/18/1191 is currently under consideration with discussions ongoing between the applicant and the local planning authority. In addition, the local planning authority have the power under S106A of the 1990 Town & Country Planning Act to vary S106 Agreements by mutual agreement with the parties in the agreement.

The applicants have constructed part of the spine road from Livesey Branch Road, and have undertaken the utilities surveys for the remaining part of the road. The applicants have confirmed they are looking to formally submit their full planning application to Chorley Borough Council relating to the new junction on Moulden Brow in the first part of 2023, together with revising the current reserved matters applications with BwDBC (Phases 2, 4A and 4B), and are looking to commence the road construction towards the end of the summer 2023. Members are advised this is a very challenging site to develop. Major issues that need to be addressed are:

- (i) Junction design at Moulden Brow;
- (ii) De commissioning of the reservoir and final channel route
- (iii) Finalising the new river design (this has to tie in for bridge crossing)
- (iv) Finalising levels across Phase 4A and 4B.
- (v) Ecological/technical/utility issues.

It would be unreasonable in the light of the issues and complexity of developing the site, taking into account the global matters, and supply chain issues that arose since 2019 (when the S106 Agreement was previously signed), to refuse the application, to

allow the applicant/developer the opportunity to construct the link road as per the revised requirements.

A formal response was received by Chorley Borough Council on the 14<sup>th</sup> November 2022, confirming they have no objection to the application.

**Gavin Prescott,**  
**Planning Manager (Development Management)**  
**17<sup>th</sup> November 2022**