

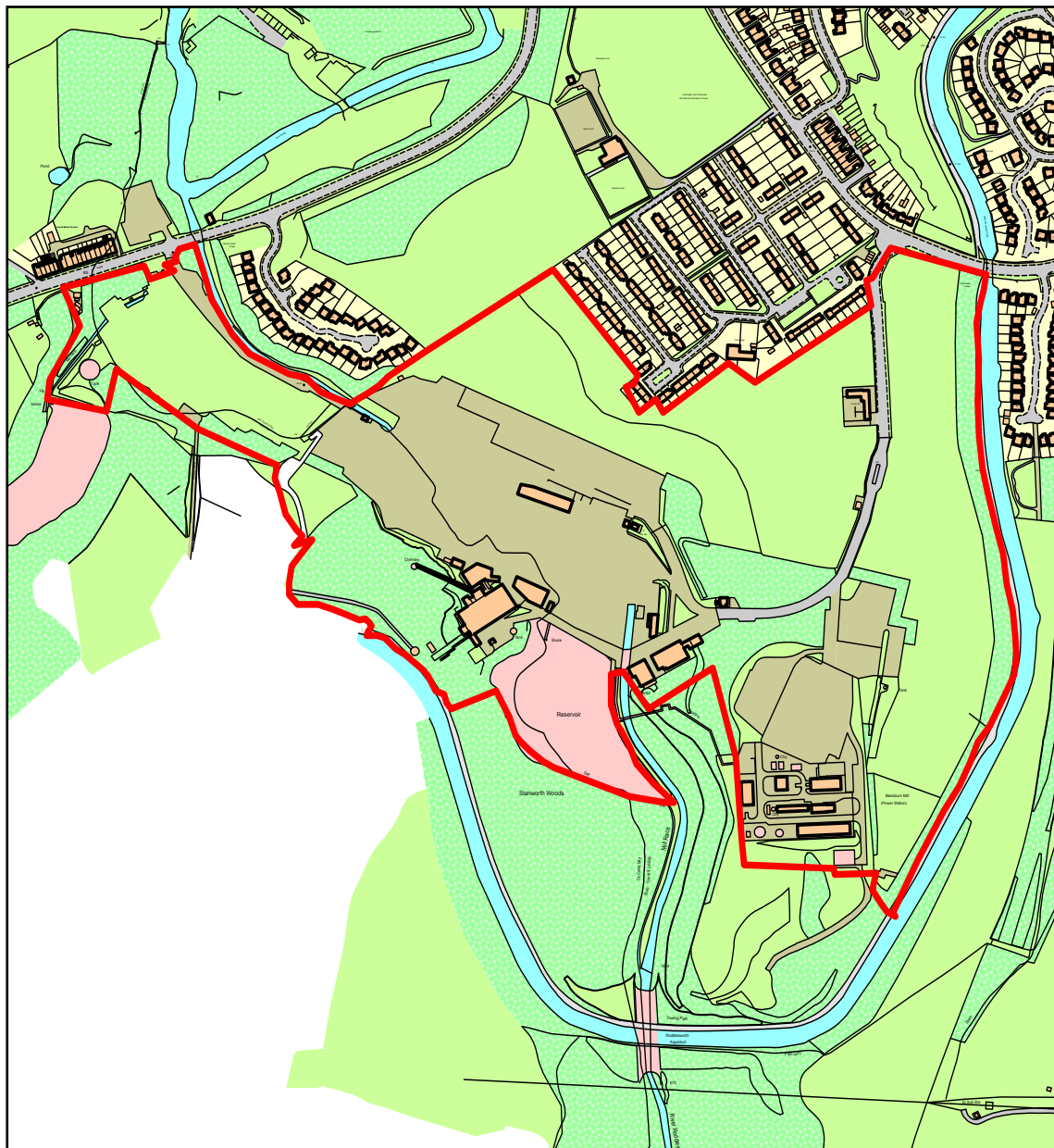
**Proposed development: Variation of Legal Agreement/S106 for Variation to Section 106 Planning Obligation for planning Application 10/15/0496**

**Site address: Sappi Paper Mill, Livesey Branch Road, Feniscowles, BB2 5HX**

**Applicant: Blackburn Waterside Regeneration**

**Ward: Livesey With Pleasington**

**Councillor Derek Hardman  
Councillor John Pearson  
Councillor Paul Marrow**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 It is recommended that Members **agree** to the variation of the existing Section 106 Agreement

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

- 2.1 This application is before Members as it relates to amendments to the Section 106 Agreement (s106) attached to planning permission 10/15/0496, which was previously considered and approved at the November 2015 meeting of the Planning & Highways Committee.

- 2.2 Planning permission 10/15/0496 related to an outline approval, with all matters reserved save for means of access. The approval allowed for a mixed use development of a maximum of the following: 500 dwellings, 3,224m<sup>2</sup> of office employment (use class B1a), 9,192m<sup>2</sup> of light industrial employment (use class B1c), 333m<sup>2</sup> of retail floor space (use class A1) and a 1,110m<sup>2</sup> community building (use class D1) and ancillary works. The approval was subject to a s106 that secured commuted sum payments totalling £423,000 for the following matters;

£350,000 for the off-site provision of affordable housing. The sum being payable in its entirety prior to the commencement of the first dwelling.

£73,000 towards the requirements of travel planning associated with the development.

- 2.3 The current proposal revises the commuted sum payment upwards to total £825,000, whilst also introducing a mechanism to ensure delivery of the spine road required as part of the overall development of the SAPPI site. The amended proposal is considered to ensure for a sustainable form of development that accords with the national and local planning policy requirements.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The proposal relates to land within both Blackburn with Darwen's and Chorley Borough's administrative boundaries. The application site is an irregular shaped parcel of land positioned to the south west of Livesey Branch Road and south east of Moulden Brow and measuring approximately 26.8 hectares. The site is commonly referred to as the 'SAPPI site' given the last occupant of the majority of the site.

- 3.1.2 The site comprises an area that has historically been used for industrial activity but the mill buildings have now been demolished and the site is no longer in active use. The southern portion of the site is largely undeveloped and is comprised of woodland and grassland. The River Roddlesworth runs through the site from south to north and is culverted beneath the former mill

area within the central portion of the site. The north and east sections of the site are zones of previously undeveloped grassland.

- 3.1.3 Access to the site is off Livesey Branch Road to the north and from the west off Moulden Brow, though the latter is currently closed off and not in use. Existing residential areas bound the north of the site on the network of streets including Coronation Avenue and Princess Gardens. Another residential area is located on Tintagell Close, also to the north of the site. A combined heat and power plant is situated to the south east of the site.

## 3.2 Proposed Development

- 3.2.1 The extant approval 10/15/0496 is subject to a s106 securing monies towards the off-site provision of affordable housing and assessment of travel plan documents. Those payments total £423,000; £350,000 towards affordable housing provision (of which 6% is to be directed to Chorley BC) and £73,000 towards travel plan formation and monitoring.

- 3.2.2 The current deed of variation application seeks to revise the commuted sum payment upwards to a total of £825,000. The payment requirements are set out in the following table;

Time	Current	Cricket & Bowls Club	Witton Park Sportsturf	Affordable Housing (Chorley)	Affordable Housing (BwD)
Commencement	£237,750	£137,750	£100,000		
12 months	£355,750	£112,250	£222,500	£21,000	
24 months	£155,000	£100,000	£37,500		£17,500
36 months	£77,000				£77,000
<b>TOTAL</b>	<b>£825,500</b>	<b>£350,000</b>	<b>£360,000</b>	<b>£21,000</b>	<b>£94,500</b>

- 3.2.3 In addition the s106 variation also introduces a clause relating to the Developer being required to construct a spine road linking Livesey Branch Road and Moulden Brow at its own cost. The requirements of the new clause being that;

- 3.2.4 *“The road will be completed by no later than the occupation of the 180th dwelling or 3 years from the date of this agreement whichever is sooner.*

*The Developer will grant to the Council an Option agreement to acquire the Freehold of the land to construct the road and associated infrastructure. The Option can be exercised if the Developer fails to meet the above obligations. In addition the Council may exercise the Option if the Developer has not commenced the construction of the new river channel within 24 months and the Option will be valid for 5 years from the date of this Agreement”.*

### **3.3 Development Plan**

3.3.1 In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal, the following are considered to be the most relevant policies:

#### **3.3.3 Core Strategy**

CS1 – A Targeted Growth Strategy  
CS5 – Locations for New Housing  
CS6 - Housing Targets  
CS7 – Types of Houses  
CS8 – Affordable Housing Requirements

#### **3.3.4 Local Plan Part 2 (LPP2)**

Policy 10: Accessibility and Transport  
Policy 40: Integrating Green Infrastructure & Ecological Networks

### **3.4 Other Material Planning Considerations**

#### **3.4.1 National Planning Policy Framework (The Framework).**

3.4.2 At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. For decision taking, this means approving development proposals that accord with the development plan without delay (paragraph11).

### **3.5 Assessment**

3.5.1 Extensive dialogue between Council officers, the site owners and prospective developers has been ongoing to seek to ensure that the development approved within the 10/15/0496 application will be brought forward; given the benefits of bringing the redundant industrial site in to use and the contribution this would provide towards the Council's housing delivery and growth objectives.

3.5.2 As part of the negotiations linked to reserved matters application 10/18/0290 (which is also before Members as part of the agenda for this month's committee) it was identified that a mechanism for delivery of the entire spine road linking Livesey Branch Road and Moulden Brow was necessary to ensure that if the latter phases of the SAPPI site's development didn't occur there would not be unacceptable impacts on the surrounding highway network.

- 3.5.3 It is submitted to Members that the clause identified in section 3.2.4 of this report, offers an effective backstop option to provide for the spine road and thus insures against partial development of the site and the potentially adverse transport impacts that could create. On that basis the submission is consistent with *Policy 10: Accessibility and Transport* of the Local plan Part 2 and can be supported.
- 3.5.4 The ongoing dialogue also identified shortcomings in the provision of community facilities in the locality, as well as limitations on the provision of on-site equipped play, as was required by condition 43 of the extant permission 10/15/0496. The developer has agreed to provide for a total of £710,000 towards the provision of community facilities in the locality; to be split between the neighbouring Feniscowles Cricket and Bowls Club and Witton Park Sportsturf facility (as detailed in the table within section 3.2.2 of this report). The increased cost to the developer is partially compensated by the fact on-site provision and future management/maintenance is no longer required.
- 3.5.5 Members are advised that the proposed variation still provides for the future needs of the development and its occupants, as well as strengthening provision for the established community. Accordingly the proposed change remains consistent with the requirements of *Policy 40: Green Infrastructure* of the Local Plan Part 2.
- 3.5.6 Although there is a substantial increase in the overall contribution required by the developer - £825,000 total, equating to a £402,000 increase - the variation would result in a drop in the contribution towards off-site provision of affordable housing and removal of the requirement to pay towards travel planning associated with the development. The proposed variation still provides for £115,000 to affordable housing provision, of which £21,000 would be directed towards Chorley BC as the application site straddles the administrative boundary. That level of provision falls below the 20% target set out in Core Strategy Policy *CS9: Affordable Housing Requirements*, though that is also the case within the existing s106 due to viability issues with the site.
- 3.5.7 Members are advised that, on balance, the changes are justified given the overall benefits of delivery of development within the site. Furthermore, the re-direction of the commuted payments will ensure for a sustainable development and strengthen the recreational provision for the established community.

## **4.0 RECOMMENDATION**

- 4.1 **APPROVE** – variation of the s106 Agreement pursuant to planning application 10/15/0496

## **5.0 PLANNING HISTORY**

- 5.1 10/15/0496 – Outline application for a maximum of the following: 500 dwellings, 3,224m<sup>2</sup> of office employment (use class B1a), 9,192m<sup>2</sup> of light industrial employment (use class B1c), 333m<sup>2</sup> of retail floor space (use class

A1) and a 1,110m2 community building (use class D1). (Approved November 2015)

- 5.2 Additionally, a significant number of planning applications relating to the historical use of the site and the demolition of buildings have been identified, but none are considered to be relevant to the determination of the current application.

## **6.0 CONSULTATIONS**

Chorley Borough BC

See update report

**7.0 CONTACT OFFICER: Martin Kenny, Principal Planner**

**8.0 DATE PREPARED: 2<sup>nd</sup> November 2018**