

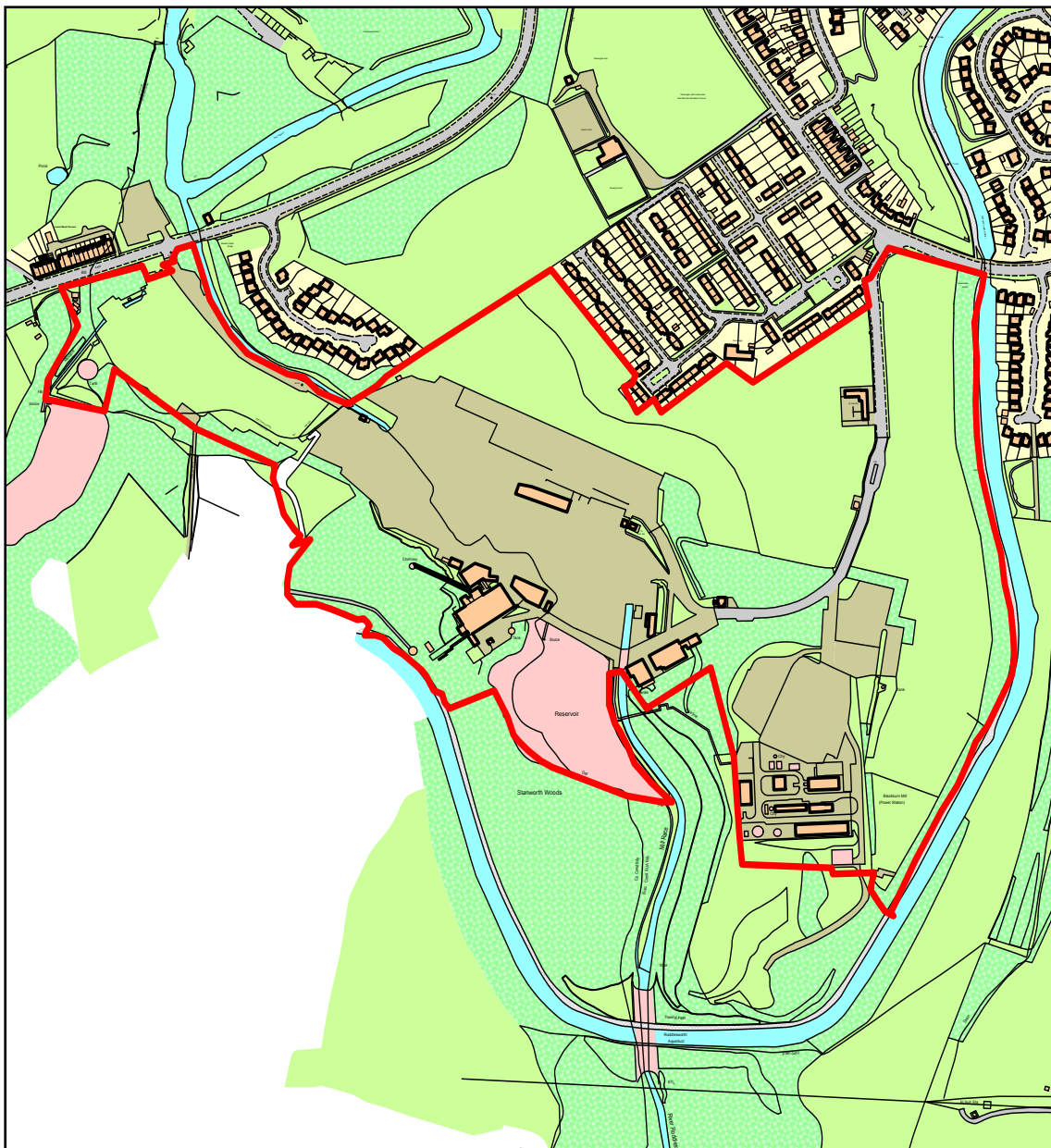
Proposed development: Variation of conditions 2, 6, 14, 15, 16, 18, 19, 22, 29, 32, 33, 36, 37, 38, 40, 41, 43 and 44 pursuant to planning application 10/15/0496 relating to outline planning permission with all matters reserved save for access for a mixed use development of a maximum of the following: 500 dwellings, 3,224m² of B1a employment use, 9,192m² of B1c employment use, 333m² of A1 commercial use, 1,110m² community building, structural planting and landscaping, informal open space and associated ancillary works, to facilitate a phased development

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

Applicant: Blackburn Waterside Regeneration Ltd

Ward: Livesey With Pleasington

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



1.0 SUMMARY OF RECOMMENDATION

- 1.1 **APPROVE** – amending conditions attached to planning permission 10/15/0496

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This application is before Members as it relates to amendments to an application that 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, 3,224m² of office employment (use class B1a), 9,192m² of light industrial employment (use class B1c), 333m² of retail floor space (use class A1) and a 1,110m² community building (use class D1). The proposal also relates to associated ancillary works.
- 2.3 The current proposal seeks to modify 18 conditions within the extant planning approval. The amendments are principally to allow a phased approach to the discharge of the planning conditions and, ultimately, delivery of the development throughout the site. The proposed changes are identified as being agreeable and without detriment to the technical assessments they address.

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 proposal seeks to amend the wording of conditions 2, 6, 14, 15, 16, 18, 19, 22, 29, 32, 33, 36, 37, 38, 40, 41, 43 and 44 of the extant permission, 10/15/0496. The subject of the conditions are outlined below, and discussed in greater detail within section of 3.5 of this report

Condition 2: Identifies the reserved matters

Condition 6: Off-site highway works at Finnington lane/Moulden Brow

Condition 14: Foul and surface water drainage on separate systems

Condition 15: Foul drainage details

Condition 16: Surface water drainage details

Condition 18: Development tied to submitted Flood Risk Assessment

Condition 19: Water management within Star Reservoir

Condition 22: Air quality mitigation

Condition 29: Contaminated land validation

Condition 32: Arboricultural method statement

Condition 33: Tree protective fencing

Condition 36: Habitat management

Condition 37: Recreational access

Condition 38: Further bat surveys

Condition 40: Badger survey

Condition 41: Ecological assessment relating to trees being removed

Condition 43: Public open space provision

Condition 44: Management and maintenance of public open space

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
CS15 – Protection and Enhancement of Ecological Assets

3.3.4 Local Plan Part 2 (LPP2)

Policy 8: Development and People
Policy 9: Development and the Environment
Policy 12: Developer Contributions
Policy 28: Development Opportunities
Policy 36: Climate Change
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 The prospective developer for the site has identified limitations to the future development of the site due to the wording of conditions imposed on the 10/15/0496 planning approval. The developer has indicated that a phased approach to the development of the site will occur and has therefore suggested amendments to 17 conditions. Additionally, due to negotiations to the current s106 planning agreement attached to the 2015 approval it is also suggested that a further condition can be removed.

3.5.2 The applicant's submission for each affected condition is set out below in italics, followed by an officer assessment of the appropriateness of the proposed change .

3.5.3 Condition 2

This condition refers to the submission of all Reserved Matters applications in advance of development commencing however there is a clear intention to develop the site in a phased manner. It is therefore sought that the wording of this condition be altered to read as follows:

Details of the following matters (subsequently referred to as the reserved matters) for each phase of development (as defined under condition 9) shall

be submitted to and be approved in writing by the Local Planning Authority before the commencement of any works:-

- a) Appearance.*
- b) Landscaping.*
- c) Layout*
- d) Scale*

➤ The suggested change is reasonable and can be accepted

3.5.4 Condition 6

This condition advises that no development (excluding site preparation and ground work) shall occur until a scheme detailing the following works to the Finnington Lane/Moulden Brow traffic signal junction has been submitted to and approved in writing. However subsequent to this request additional discussions and agreements have taken place which omits this requirement completely. It is therefore proposed that this condition be removed from the approval.

➤ The off-site works are identified as being delivered through other development(s) in the area, and thus removal of this condition would be without detriment to highway interests.

3.5.5 Condition 14

This condition states that for the avoidance of doubt, surface water shall drain separately from the foul. Unless otherwise agreed in writing, no surface water shall discharge directly or indirectly into the public foul, combined or existing surface water sewerage systems in accordance with the Foul and Surface Water Drainage Strategy submitted and approved pursuant to conditions 10/11/12/13 and with the details contained in the submitted application form, flood risk assessment prepared by Edenvale Young dated 7 May 2015, and the Drainage Report prepared by Bright Young Consulting ref: 1872/DR001 Rev 1 dated 14 May 2015.

As you are aware, we are in the process of updating the Flood Risk Assessment and this will be submitted to the Local Authority shortly. It is therefore requested that subject to agreement, the condition be amended in order to include for the updated report and would therefore include for this as follows:

This condition states that for the avoidance of doubt, surface water shall drain separately from the foul. Unless otherwise agreed in writing, no surface water shall discharge directly or indirectly into the public foul, combined or existing surface water sewerage systems in accordance with the Foul and Surface Water Drainage strategy submitted and approved pursuant to conditions 10/11/12/13 and with the details contained in the submitted application form, flood risk assessment prepared by Edenvale Young dated 7 May 2015, and the Drainage Report prepared by Bright Young Consulting ref: 1872/DR001 Rev 1 dated 14 May 2015 or any subsequent future reports approved by the Local Authority which supersedes those original documents.

- The proposed change is supported by the Lead Local Flood Authority; allowing for flexibility should an amended FRA be agreed. On that basis the amendment still satisfies Policy 9 and can be accepted.

3.5.6 Condition 15

The wording of this condition requires alteration as it implies that we are required to complete all drainage works within the phase. This is a huge upfront cost for the development. It is preferred that this condition be altered to allow the completed houses to connect to the approved foul and surface water system in line with a wider drainage strategy. May we therefore suggest that the condition be reworded to state: -

Prior to commencement of any phase or part of any phase of the development hereby permitted, full details of the foul drainage scheme for that phase including full details of any connections to the foul sewer network and any necessary infrastructure shall be submitted to and approved in writing by the local planning authority (in consultation with United Utilities Limited). The details for each part or phase must be consistent with the Foul and Surface Water Drainage Strategy submitted and approved pursuant to the above conditions 10/11/12/13. No housing or other development shall be occupied until the approved foul drainage scheme for that phase connecting to the house has been completed in accordance with the approved details and written notice of this fact has been sent to the Local Planning Authority.

- The phased approach is again supported by the Lead Local Flood Authority and remains consistent with Policy 9. On that basis the change can be accepted.

3.5.7 Condition 16

Similar to Condition 14, it is requested that the condition be altered to allow for the development to be developed in line with an updated Flood Risk and Drainage report. The amended condition would therefore read as follows: -

Prior to the commencement of each phase or part of the development hereby permitted, full details for a surface water regulation system and means of disposal for that phase or part phase, based wholly on sustainable drainage principles and evidence of an assessment of the hydrological and hydrogeological context of the development for that phase shall be submitted to and approved by the local planning authority (in consultation with United Utilities Limited) in writing. The drainage scheme shall demonstrate that the surface water run off generated up to and including the 1 in 100 year critical storm including 30% climate change allowance will not exceed the run-off from the existing undeveloped site and following the corresponding rainfall event. The details for each phase must be consistent with the Foul and Surface Water Drainage Strategy submitted and approved pursuant to the above conditions 10/11/12/13 and with the principles established in the submitted application form, flood risk assessment prepared by Edenvale Young dated 7 May 2015, and the Drainage Report prepared by Bright Young Consulting ref: 1872/DR001 Rev 1 dated 14 May 2015 or any subsequent

future reports approved by the Local Authority which supersedes those original documents.

- The proposed change is supported by the Lead Local Flood Authority; allowing for flexibility should an amended FRA be agreed, whilst remaining consistent with Policy 9. On that basis the amendment can be accepted

3.5.8 Condition 18

The wording of this condition does identify the phasing of the scheme, however the works relate primarily to Phase 4 of the development. It is therefore requested that this condition be varied to refer to the submitted report and related to Phase 4 of the development. Suggested re-wording is as follows:

The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment and the following mitigation measures detailed within the FRA or any subsequent future reports approved by the Local Authority which supersedes those original documents:
- Confirmation of the opening up of the existing culvert across the site, demonstrating that the 1 in 100 year return period capacity can be accommodated within the open channel. The mitigation measures shall be fully implemented prior to occupation of Phase 4 or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- Due to the site topography the threat of flooding relates to Phase 4. The proposed change is supported by the Lead Local Flood Authority and the Environment Agency, whilst remaining consistent with Policy 9, thus the proposed amendment can be supported.

3.5.9 Condition 19

The area in which this refers relates primarily to the Phase 4 development parcel and in this regard, it is proposed that the wording of this condition be altered to reflect this. Suggested re-wording is as follows:

No development on Phase 4 shall occur until a scheme detailing the design for the inlet/outlet arrangements in order to provide water level management within the Star Reservoir has been submitted to and approved in writing by the Local planning Authority. The approved scheme shall be implemented prior to construction within Phase 4 of the residential development and thereafter retained.

- Again due to the site topography the threat of flooding relates to Phase 4. The proposed change is supported by the Lead Local Flood Authority and the Environment Agency, whilst remaining consistent with Policy 9, thus the proposed amendment can be supported.

3.5.10 Condition 22

The wording of this condition requires alteration as it implies that the development will be completed holistically and not in a phased manner. The suggested re-wording below looks to address this:

Prior to the commencement of any phase of the development a scheme to mitigate adverse air quality impacts associated with that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate, but not be limited to, proposals outlined in the Air Quality Assessment Update Note (ref:620001856-002) received 2nd September 2015. The development shall be undertaken in accordance with the approved details.

- The proposed introduction of the phasing element is without detriment to the wider intentions of the condition. No objections have been raised by the Public Protection team and the proposal remains consistent with Policy 36, thus the change can be supported.

3.5.11 Condition 29

At present Condition 29 is a single pre-occupation condition and can't be discharged until all the buildings have been constructed and hence due to the very nature of a phased housing development would not be practicable to follow. The wording of this condition is also of concern as the agreed Remediation Scheme for each plot can only be signed off when the top soil is laid. The usual practice for the applicant is to do this last when all building works are finished. The clause set out in the condition does not give the applicant enough time to obtain approval prior to the sale and if this is undertaken, there would be the submission 500 individual Validation Reports. It is therefore suggested that this be amended to allow the submission of retrospective Validation Reports for a phase but the engineer is checking each plot prior to completion. A phasing plan is submitted for your approval.

It is therefore suggested that the wording of Condition 29 be split into each development Phase and for each, separated again to read as follows: -

29a Earthworks Remediation Verification (Pre-Commencement)

All groundwork activities including capping and delineation and removal of hotspots as required under condition 28 of this permission including any reporting and treatment of unexpected contamination should be submitted within a Earthworks Validation Report to demonstrate effective remediation of the ground.

29b Development Remediation Verification (Post-Occupation)

At the end of each phase, submit two copies of the Closure Report which provides verification that the additional remedial works required during construction of each dwelling (ie gas protection measures, top soil capping within gardens) as approved under condition 28 of this permission have been

carried out, shall be submitted to and approved in writing by the Local Planning Authority.

- The proposed changes still ensure that the development provides for a safe environment for occupants and users and prevents the spread of contamination. No objections have been raised by the Public Protection team and the proposal is considered to remain consistent with Policy 9, thus the change can be supported.

3.5.12 Condition 32 and 33

These conditions relate to the wider site however it does not explicitly reference the phasing of the development. In this regard, in order to delay development on site, it is suggested that the wording of those conditions be revised as follows to allow for a phased approach: -

Condition 32: Prior to any on site works for each phase of development, an arboricultural method statement and tree protection plan for that phase shall be submitted to and agreed in writing by the Local Planning Authority. The method statement shall clearly state how the tree(s) to be retained on site and overhanging the site will be protected during demolition and/or construction works. The agreed method statement shall be implemented in full prior to the undertaking of any on site works

Condition 33: Protective fencing shall be installed around all trees being retained within each phase the application site, in accordance with British Standard 5837: Guide for trees in relation to construction. This fencing should be installed prior to the commencement of any building works, ground works, demolition works or storage of any machinery, equipment or materials on site on that particular phase. This fencing should remain intact and in place until all works are completed on the relevant phase of the site. This fencing should be considered sacrosanct and no soil levels should be altered within the perimeter of this fence and no building materials or waste products should be stored inside the fence line.

- No objection to the suggested approach has been raised by the Council's Arboricultural Manager. The changes still protect trees within the site, consistent with Policy 9, but allow for a phased approach; the amendment(s) can therefore be supported.

3.5.13 Conditions 36, 37 and 38

The conditions relates to the wider site however it does not explicitly reference the phasing of the development. In this regard, in order to delay development on site, it is suggested that the wording of those conditions be revised as follows to allow for a phased approach: -

Condition 36: Prior to the commencement of development of any phase a habitat management report and plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The report shall include all measures of habitat conservation and enhancement necessary to mitigate

the impact of the development. The development shall be undertaken in accordance with the approved details

Condition 37: Prior to the commencement of any relevant phase of development (as defined under condition 9) an assessment of recreational access, including the formation of new woodland walkways, to the existing habitats and Biological Heritage Sites within the site shall be undertaken and submitted to and approved in writing by the Local Planning Authority. The report should provide sufficient information to assess whether the development is likely to impact on the integrity of these sites and identify mitigation measures, where appropriate. The development shall be undertaken in accordance with the agreed details

Condition 38: Should the development of any phase commence more than two active seasons from the date of the initial bat surveys, as detailed in the Bowland Ecology: Ecological Appraisal: April 2015, further bat surveys for that phase will be required to provide current information on the location of bat roosts and species and numbers of bats associated with individual roosts. The assessment shall include, but not be limited to, the survey of any buildings or structures with potential to support bat roosts that are to be demolished or have previously been identified as mitigation for the loss of existing roosts. The development thereafter shall be carried out in accordance with any necessary mitigation measures identified.

- Again the justification for the change is to allow a phased approach to delivery. Capita Ecology has indicated that whilst the ecological requirements could be phased, there is still a requirement for this approach to be co-ordinated to avoid fragmentation and habitat loss. On balance the proposal remains consistent with Policy 9 and can be supported.

3.5.14 Condition 40

Again, it is proposed that this condition be amended in order to take into account the phasing approach to the site. In this regard, it is proposed that the condition be re-worded as follows:

A badger survey relevant to that phase must be undertaken no more than 6 months prior to the commencement of works on any phase of the development and be submitted to and approved in writing by the Local Planning Authority. The survey shall identify whether there are any active badger setts present on site and as appropriate how impacts to badgers will be avoided, managed and mitigated. The development thereafter shall be carried out in accordance with the agreed measures.

- Notwithstanding the comments set out within section 3.5.13, no further concerns are raised by Capita Ecology. The revised wording still requires for pre-commencement survey work and is considered to remain consistent with Policy 9 and can be supported

3.5.15 Condition 41

Again, this condition refers to the site as a single development rather than taking a phased approach. It is therefore suggested that this condition be re-worded to read as follows:

Notwithstanding the details hereby approved, in accordance with the findings of the Bowland Ecology: Ecological Appraisal: April 2015 and the Bowland Ecology: Ecological Appraisal Addendum: September 2015, where trees are identified for removal on any specific phase of development they shall be inspected to identify features with roosting potential, including the presence of bat activity or bats themselves, prior to works commencing on that phase. This survey should be undertaken and the results submitted to the local planning authority for written approval.

- Notwithstanding the comments set out within section 3.5.13, no further concerns are raised by Capita Ecology. The revised wording still requires for pre-commencement survey work and is considered to remain consistent with Policy 9 and can be supported

3.5.16 Condition 43

This condition requires the submission of a scheme for the provision of public open space and equipped play areas shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of all play and other equipment to be provided. The development thereafter shall be carried out in accordance with the approved details prior to the practical completion of 100 dwellings.

As part of the reserved matters application for the relevant phase (as defined under condition 9) a scheme for the provision of public open space shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of all play and other equipment to be provided. The development thereafter shall be carried out in accordance with the approved details in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

You will note that based on the agreement for a financial contribution to the Cricket and Bowls, the equipped areas of play notations have been omitted completely from the suggested new wording of the condition.

- Members should note that the s106 deed of variation application (10/18/0740) that is also on the November committee agenda details the payment of commuted sums for off-site provision of recreational facilities at the Feniscowles Sports and Recreation Club and at Witton Park, in lieu of on-site provision. It is therefore submitted that the recreational needs of the development will still be met. On that basis the proposed change can be supported.

3.5.17 Condition 44

Prior to the commencement of each phase of the development details of the proposed arrangements for future management and maintenance of all of the open space of that phase, within the site shall be submitted to and approved by the local planning authority. The open space shall thereafter be managed and maintained in accordance with the approved management and maintenance details

You will note that based on the agreement for a financial contribution to the Cricket and Bowls, the equipped areas of play notations have been omitted completely from the suggested new wording of the condition.

- In line with the justification provided in section 3.5.16, it is reasonable to amend the wording, as suggested. The amended wording still requires the developer to provide details of the maintenance and management of the open space within the development. Accordingly the provisions of Policy 40 are still met

4.0 RECOMMENDATION

- 4.1 **APPROVE** – Reapplying all conditions imposed upon the extant permission 10/15/0496; amending the conditions in line with the details set out in section 3.5 of this report

5.0 PLANNING HISTORY

- 5.1 10/12/0048 – Prior Approval for complete demolition of former Sappi Paper Mill including all outbuildings, tanks and enclosures down to the slab level of each structure (Approved March 2012)

10/13/1011 – Environmental Impact Assessment screening request; mixed use development comprising residential and employment uses (EIA not required, November 2013)

10/15/0496 – Outline application for a maximum of the following: 500 dwellings, 3,224m² of office employment (use class B1a), 9,192m² of light industrial employment (use class B1c), 333m² 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 have been identified, but none are considered to be relevant to the determination of the current application.

6.0 CONSULTATIONS

Public Protection:

No objections

Lead Local Flood Authority:

No objections to the conditions relating to drainage being varied

United Utilities:

No comments.

Capita Ecology:

Whilst some of the ecological requirements could be phased, we recommend that the ecology surveys are coordinated. The impact of phasing the surveys would result in a large amount of change to ecological features which would affect protected species within other parts of the site. Habitat loss and fragmentation in one area would undoubtedly change the flight pattern and foraging behaviour of bats which could lead to inaccurate findings for the subsequent surveys and unsatisfactory mitigation measures.

Please ensure that prior to the commencement of any phase a habitat management report and plan is submitted by the applicant including the information of new woodland walkways to the existing habitats and Biological Heritage Sites.

Additional comments relating to the scope of subsequent reports are also set out, but not considered to be relevant to the assessment of this application.

Environment Agency:

No objection to varying of conditions to allow variation to flood risk assessment and timing of culvert opening

Chorley Borough Council:

No comments

Arboricultural Manager

No objections

7.0 CONTACT OFFICER: Martin Kenny, Principal Planner

8.0 DATE PREPARED: 2nd November 2018

