

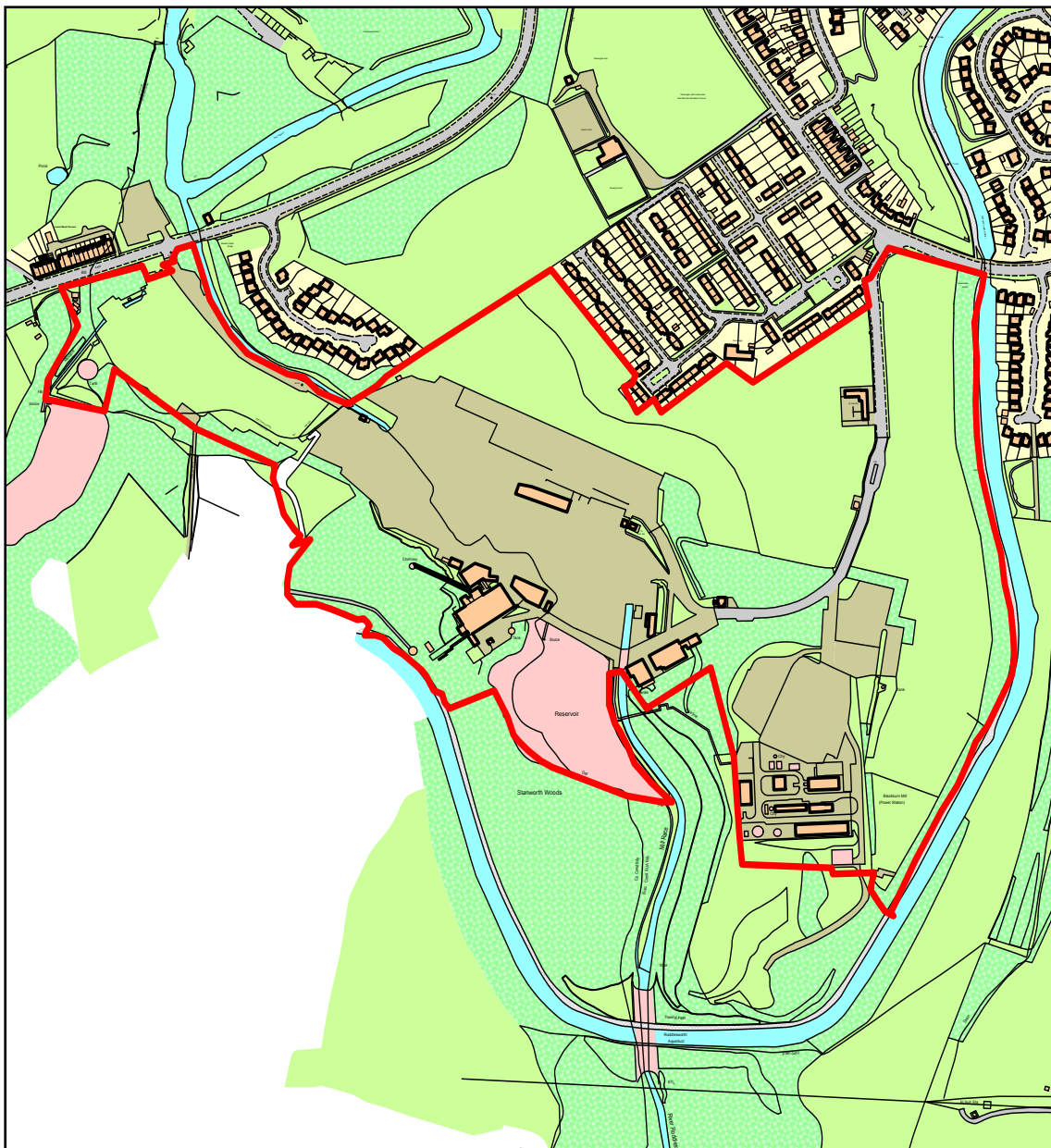
Proposed development: Variation of conditions 2, 6, 14, 15, 16, 18, 19, 22, 29, 32, 33, 36, 37, 38, 40, 41, 43 and 44 pursuant to planning application 10/15/0496 relating to outline planning permission with all matters reserved save for access for a mixed use development of a maximum of the following: 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 DETAILS OF APPLICATION

- 2.1 Members will recall at the meeting in November 2018, approving this application relating to amendments to conditions pursuant to an application that was previously considered and approved at the November 2015 meeting of the Planning & Highways Committee.
- 2.2 Also at the meeting, Members approved the resolution relating to the Deed of Variation relating to the S106 Agreement pursuant to planning application 10/15/0496 (ref: 10/18/0740).
- 2.3 The release of the final decision notice relating to 10/18/0317 cannot occur until the Deed of Variation to the S106 Agreement has been signed, sealed and completed.
- 2.4 The applicants wish for the formal release of the decision notice pursuant to 10/18/0317, prior to the completion of the Deed of Variation application, in order to proceed with the formal Discharge of Condition applications.
- 2.5 A covering letter has been received from the applicant's agent dated 4th December 2018, confirming the agreed process with officers on how this action can proceed. It states:

“It is confirmed that we agree to the following process as the best solution going forward with regards to the formal release of the S73 planning approval prior to the completion of the Deed of Variation application. This solution would be able to take the S106 DoV heads of terms document that has been agreed, and add a planning condition which says:-

No works hereby approved by this permission, shall commence until the S106 Agreement dated 18th November 2015 has been formally varied by way of a Deed of Variation which gives effect to the terms contained in the Heads of Terms document dated 1st November 2018 , and attached to this decision notice.

- 2.6 The proposed recommended resolution to application 10/18/0740 would also include a mechanism to protect the Council:

“Should the Deed of Variation to the S106 Agreement not be completed within 6 months of the date of this resolution (or within an agreed extension of time confirmed in writing by the Head of Service for Planning), the Head of Service for Planning will have delegated powers to refuse the application (10/18/0740).

2.7 Members are advised that this additional condition and the resolution to planning application 10/18/0740 are acceptable.

3.0 RECOMMENDATION

3.1 **APPROVE – Reapplying all conditions imposed upon the extant permission 10/15/0496 (as amended); and including the additional condition referred to in paragraph 2.5 above.**

No works hereby approved by this permission, shall commence until the S106 Agreement dated 18th November 2015, has been formally varied by way of a Deed of Variation which gives effect to the terms contained in the Heads of Terms document dated 1st November 2018 , and attached to this decision notice.

Condition No.2: 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

Condition No.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.

Condition No.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 or any subsequent future reports approved by the Local Authority which supersedes those original documents.

Condition No.15: 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.

Condition No.16: 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.

Condition No.18: 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.

Condition No.19: 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.

Condition No.22: 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.

Condition No.29: 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.

Condition No 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 No 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.

Condition No 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 No 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 No 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.

Condition No 40: 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.

Condition No.41: 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.

Condition No.43: 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.

Condition No.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.