

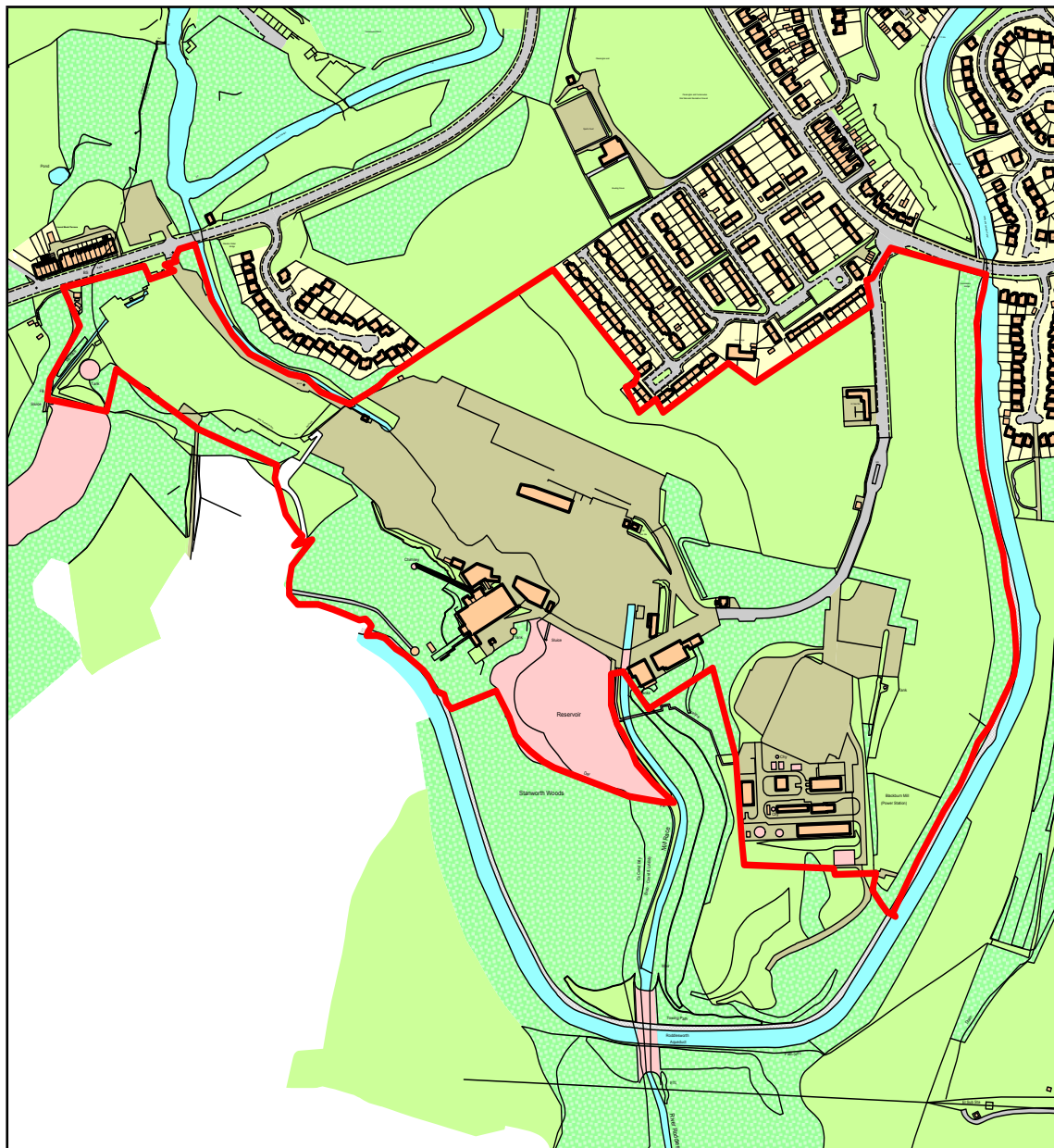
**Proposed development: Variation of Legal Agreement/S106 for Variation to Section 106 Planning Obligation for planning Application 10/15/0496**

**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 DETAILS OF APPLICATION

- 2.1 Members will recall at the meeting on the 15<sup>th</sup> November 2018, approving this application relating to the variation of the S106 Agreement 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 varying the conditions pursuant to planning application 10/15/0496 (ref: 10/18/0317).
- 2.3 The release of the final decision notice relating to application 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 4<sup>th</sup> 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 18<sup>th</sup> 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 1<sup>st</sup> November 2018, and attached to this decision notice. Please see application reference 10/18/0317 on this agenda].*

- 2.6 The proposed recommended resolution 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.

2.8 Members are advised that Chorley Borough Council confirmed in writing on the 7<sup>th</sup> December, that they have no objection to the proposal, subject to obtaining the agreement of Chorley Borough Council as a party to the original S106 Agreement.

### **3.0 RECOMMENDATION**

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

### **4.0 PLANNING HISTORY**

4.1 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 1,110m<sup>2</sup> community building (use class D1). (Approved November 2015)

4.2 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.

### **5.0 CONSULTATIONS**

Chorley Borough BC – 7<sup>th</sup> December 2018:

*“Thank you for inviting the Council’s comments on the above application. I can inform you that it has been decided that the Council make no objection to the proposal, and is satisfied that the assessment of the application is left to the judgement of the case officer subject to satisfying the Community Infrastructure Levy Regulations 2010 and obtaining the agreement of Chorley Council as a party to the original section 106 agreement.”*

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

**7.0 DATE PREPARED: 7<sup>th</sup> December 2018**