



BURNLEY BOROUGH COUNCIL FULL COUNCIL

COUNCIL CHAMBER, BURNLEY TOWN HALL

Wednesday, 17th April, 2024

PRESENT

MEMBERS

His Worshipful The Mayor (Councillor Arif Khan) in the Chair;

Councillors S Hussain (Vice-Chair), A Anwar, L Ashworth, H Baker, G Barton, G Birtwistle, H Bridges, C Briggs, J Broughton, S Chaudhary, S Cunliffe, S Graham, Hall, J Harbour, B Horrocks, A Hosker, B Hughes, M Hurt, J Inckle, M Ishtiaq, M Johnstone, N Kazmi, S Kazmi, A Kelly, L Khan, J Launer, A Lewis, G Lishman, M Lishman, S Lone, N Mottershead, A Raja, P Reynolds, C Sollis, M Steel, J Sumner, M Townsend, D Whitaker and F Wild

OFFICERS

Lukman Patel	– Chief Executive
Rob Dobson	– Chief Operating Officer
Catherine Waudby	– Head of Legal and Democratic Services
Paul Gatrell	– Head of Housing & Development Control
Chris Gay	– Governance Manager
Carol Eddleston	– Democracy Officer
Janet Filbin	– Principal Planner
Laura Golledge	– Planning Manager
Alison McEwan	– Democracy Officer
CJ Walmsley	– Democracy Officer
David Bristow	– Mayor's Officer

90 Minutes of the Last Meeting

RESOLVED, THAT: The Minutes of the meeting of the Council held on 27th February 2024 be confirmed and signed by the Chair.

91 Declarations of Interest

There were no declarations of interest in any of the items on the agenda.

92 Mayor's Communications

The Mayor presented Long Service Awards to Councillors Lubna Khan and Asif Raja in appreciation for their eight years' service to the Council. Councillor Neil Mottershead accepted a Long Service Award on behalf of Councillor Payne who would also have completed eight years' service to the Council by the end of the Municipal Year.

The Mayor thanked the members who were standing for re-election on 2nd May: Councillors Saeed Chaudhary, Scott Cunliffe, Bill Horrocks, Alan Hosker, Martyn Hurt, Jackie Inckle, Karen Ingham, Lubna Khan, Margaret Lishman, Asif Raja and Don Whitaker.

The Mayor also thanked those members who, in addition to himself, were retiring at the end of the municipal year: Councillors Marcus Johnstone, Mark Payne and Andy Wight.

93 Public Question Time

The following members of the public addressed the meeting under the right to speak policy:

Mr Daniel Brooks – Fortnightly waste collection.

Mr David Roper – Electric Vehicle charging points.

Mrs Nicola Dean – FUL/2021/0691 – Land South of Rossendale Road.

Mr Karl Walker – FUL/2021/0691 – Land South of Rossendale Road.

Ms Deborah Smith – FUL/2022/0629 – Land West of Heckenhurst Avenue.

94 Planning Performance - Quality of Decision making on Major Applications

RESOLVED, THAT: The report be noted.

95 Exclusion of the Public

In the course of the debate on minute number 97 [agenda item 6b FUL/2021/0691 – Land south of Rossendale Road], it was proposed by Councillor Mark Townsend and seconded by Councillor Sue Graham that the public be excluded from the meeting in order to allow members to discuss the privileged legal information that had been circulated to members in relation to that item and to minute number 98 [agenda item 6c FUL/2022/0629 – Land west of Heckenhurst Avenue, Burnside, Burnley].

On being put to the vote at 19:55 the motion was declared to be carried and it was RESOLVED accordingly.

96 Re-admittance of the Public

Members of the public were re-admitted to the meeting at 20:30.

97 Land South of Rossendale Road, Burnley

Consideration was given to a report on planning application FUL/2021/0691 – Land south of Rossendale Road, Burnley.

It was moved by Councillor Gordon Birtwistle and seconded by Councillor Alan Hosker:

That Full Council refuse the application on the grounds of IC5 which relates to the safeguarding of existing and local infrastructure.

As the motion was contrary to officer recommendation, the Head of Legal and Democratic Services gave the following costs warning:

'May I remind members that any decision taken in this matter must be based on, and only on, proper planning grounds reflecting your planning judgment of the case. Your officers have advised fully in relation to the relevant material considerations and policy background and you should consider that advice carefully. Whilst you are not bound to follow that advice, in any appeal proceedings arising out of the decision you make, the Council will be expected to produce evidence to substantiate each reason for refusal, by reference to the Development Plan and all other material considerations. If the Council fail to, or cannot do so, then costs may be awarded against it.

To re-iterate, you are not bound to adopt the professional or technical advice given by your own officers, or received from statutory bodies or consultees. However, you will be expected to show that you had reasonable planning grounds for taking a decision contrary to such advice and are able to produce relevant evidence to support your decision in all respects. If the Council were to fail to do so, it may be liable to have costs awarded against it.

Whether or not an adverse costs order may, or may not, be made and how much that may, or may not, amount to, is, however, not a material consideration and is therefore not something you should be considering in deciding whether planning permission should be granted or not'.

On being put to the vote the motion was declared to be lost.

It was moved by Councillor Mark Townsend and seconded by Councillor Bill Horrocks that:

The application be delegated to the Head of Housing and Development Control to approve subject to the applicant entering into a Section 106 Agreement to secure contributions to highway improvements, education, to provide affordable housing and a scheme for open space management and responsibilities.

On being put to the vote the motion was duly carried and it was RESOLVED accordingly.

Duration of Meeting

In accordance with Council Procedure Rule 13(1), members considered a motion without notice to continue the meeting beyond three hours in duration to allow the remaining business on the agenda to be transacted. It was RESOLVED accordingly.

98 Land West of Heckenhurst Avenue, Brownside, Burnley

Consideration was given to a report on planning application FUL/2022/0629 – Land West of Heckenhurst Avenue, Brownside, Burnley.

It was moved by Councillor Saeed Chaudhary and seconded by Councillor Gail Barton:

That the application be delegated to the Head of Housing and Development Control to approve subject to a section 106 Agreement to secure affordable housing, open space improvements, greenway creation and maintenance and management of public open space, reservoir walls and SuDS and education and highway contributions.

On being put to the vote the motion was declared to be carried and it was RESOLVED accordingly.

Adjournment of Meeting

The Mayor adjourned the meeting at 21:45.

The meeting reconvened at 22:00.

99 Constitutional Updates and Reporting

Consideration was given to a report setting out a number of items for noting, endorsement and approval.

RESOLVED, THAT Council:

1. Note the call-in waiver relating to an urgent Executive delegated decision taken by the Chief Executive on 7th March 2024 relating to the Local Authority Housing Fund (LAHF) for Temporary Accommodation (Appendix 1).
2. Note the Council delegated decision taken by the Chief Executive on 7th March 2024 relating to temporary changes to polling stations (Appendix 2).
3. Note the following minor changes to the Constitution to be made by the Monitoring Officer:
 - a) Part 4g Contract Procedures Rules - Contract value thresholds in the contents list to be updated to align with the values contained within the procedure rules themselves (Appendix 3).
 - b) Part 5a Arrangements for Dealing with Complaints against Elected Members under the Code of Conduct for Members – Reference to Lukman Patel as Monitoring Officer to be updated to Catherine Waudby as Monitoring Officer and reference to an online form has been added (Appendix 4).
 - c) Part 5j Protocol for Members of the Audit and Standards Committee and any sub-committees – Reference to Lukman Patel as Monitoring Officer to be updated to Catherine Waudby as Monitoring Officer (Appendix 5).
4. Endorse the recommendations from the Audit and Standards Committee to recruit a third Independent Person (Appendix 6).
5. Approve a change in the Constitution to preclude the use of council addresses for the purposes of imprints on printed and digital political campaign materials (Appendix 7).
6. Approve that the appointment of the 'Opposition Member on Burnley Town Board' be for a maximum of three years. The three-year term will come to an end if the holder is no longer in office or they are removed by the principal authority.

100 Development Control Committee - Decisions Substantially Contrary to the Local Plan

Consideration was given to a report relating to Part 3 of the Scheme of Delegation, 1. Council Functions a) Development Control Committee.

RESOLVED, THAT:

- 1) Full Council approve the removal of the provision from Part 3 of the Scheme of Delegation, Council Functions, a) Development Control Committee which requires Development Control decisions which are substantially contrary to the Local Plan to be referred to Full Council.
- 2) Full Council approve the following alternative provision which shall be inserted into Part 1a)

On a planning matter where the Head of Housing and Development Control / Legal Officer has advised before the vote is taken that the decision that the Development Control Committee is minded to take would represent:

- (a) decisions which would be substantially contrary to Burnley's Local Plan or any clearly stated Council policy; or
- (b) decisions which would give rise to substantial claims for compensation, the vote taken by Development Control Committee will not be effective, and the matter will be deferred until the next meeting of Development Control Committee so that the planning decision can be referred to the Head of Legal and Democratic Services for him/her to provide legal advice on the matter which will be presented to the Committee at its next meeting.

101 Urgent Executive Decisions

RESOLVED, THAT: The report be noted.

102 Reports from Committee Chairs

RESOLVED, THAT: The reports of Committee Chairs be noted.

103 Strategic Plan Progress Reports

RESOLVED, THAT: the Strategic Plan Progress Reports of Executive Members be noted.

104 Questions

No notice of questions had been submitted in writing in accordance with Council Procedure Rule 10(2).