



DEVELOPMENT CONTROL COMMITTEE

BURNLEY TOWN HALL

Thursday, 14th March, 2024 at 6.30 pm

PRESENT

MEMBERS

Councillors S Chaudhary (Chair), M Hurt (Vice-Chair), G Birtwistle, S Cunliffe, S Graham, J Harbour, B Horrocks, A Hosker, J Inckle, S Kazmi, A Kelly, L Khan, A Raja, P Reynolds and M Steel

OFFICERS

Paul Gatrell	– Head of Housing & Development Control
Laura Golledge	– Planning Manager
Janet Filbin	– Principal Planner
Erika Eden-Porter	– Principal Planner
Carol Eddleston	– Democracy Officer
Mollie Boothman	– Legal Officer

70. Apologies

There were no apologies for absence.

71. Minutes

The Minutes of the last meeting held on 7th February 2024 were approved as a correct record and signed by the Chair.

72. Additional Items of Business

There were no additional items of business.

73. Declarations of Interest

Councillor Raja declared a personal interest in minute number 80 [agenda item 6e) FUL/2023/0708 as he was one of the three members who had asked for the decision to be taken by the committee rather than by an officer under delegated authority. In accordance with the Code of Conduct for Members he was permitted to remain in the meeting and participate fully in the debate and vote.

74. Exclusion of the Public

Exclusion of the press and public was as set out in the agenda.

75. List of Deposited Plans and Applications

The following members of the public attend the meeting and addressed the Committee under the Right to Speak Policy:

FUL/2022/0629

Gary Isherwood
Matthew Hartley
Graham Love

FUL/2021/0691

Karl Walker

RESOLVED: That the list of deposited plans be dealt with in the manner shown in these minutes.

76. FUL/2022/0629 - Land West Of Heckenhurst Avenue Brownside Burnley

Town and Country Planning Act 1990

Erection of 36 three and four bedroom dwellings with associated landscaping, car parking and access from Heckenhurst Avenue
Land West of Heckenhurst Avenue Brownside Burnley

Prior to the vote on the resolution to refuse the planning application the Committee was advised by the Head of Housing and Development Control that the Committee would not have delegated authority to pass such a resolution as this would be a decision that, in his professional opinion, was substantially contrary to the Local Plan and Local Plan Policies.

The Committee was further advised that, under the Council's constitution, the Committee did not have delegated powers to pass a resolution to refuse as this would be a decision that was substantially contrary to the Local Plan. The vote to refuse would be taken but, if carried, it would have no effect. The decision would be referred to the Head of Legal and

Democratic services to confirm in writing within five working days after the decision of the Committee, in consultation with the Chair, whether she agreed with the view of the officers. If she agreed that the decision was substantially contrary to the local plan it would be referred to the Full Council for determination.

The Committee was advised by the Legal Advisor that any decision taken in this matter must be based on, and only on, proper planning grounds reflecting their planning judgment of the case. Their officers had advised fully in relation to the relevant material considerations and policy background and members should consider that advice carefully. Whilst they were not bound to follow that advice, in any appeal proceedings arising out of the decision they made, the Council would 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 failed to, or could not do so, then costs may be awarded against it.

The Legal Advisor reiterated that members were not bound to adopt the professional or technical advice given by their own officers or received from statutory bodies or consultees. However, they would be expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and were able to produce relevant evidence to support their 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 a costs order may, or may not, be made and how much that may, or may not, amount to, was, however, not a material consideration and was therefore not something members should be considering in deciding whether planning permission should be granted or not.

On several occasions the Head of Housing and Development Control asked members who were minded to refuse the application to provide detailed reasons why they believed the application did not meet Local Plan Policies IC1, IC2 and IC5.

DECISION

The resolution to refuse planning permission was carried and the reasons provided were: the application did not meet the requirements of Burnley's Local Plan 2018 policies IC1 Sustainable travel and IC2 Managing transport and travel impacts and IC5 Protection and Provision of Social and Community Infrastructure.

1. The social infrastructure within the local area, including the provision of school places and health care facilities, is unable to cater for the cumulative impacts of development in Worsthorne, inclusive of the proposed development, which would adversely affect the delivery of social and community facilities, contrary to Policy IC5 of Burnley's Local Plan (July 2018).
2. The proposed development would fail to deliver sustainable travel and maximise opportunities for the use of sustainable modes of travel by adopting the hierarchy set out in IC1 b) or provide safe and convenient access due to the conditions of Brownside Road which: -
 - i) is restricted to one lane in width due to parked cars, thereby compounding issues of congestion and inconvenience to users; and,
 - ii) has inadequate footways that do not exist on both sides of the road, reducing the provision of accessible routes between the application site and local and

surrounding facilities including bus stops, and the primary school, local shop, church, public houses in Worsthorne village and facilities towards Pike Hill and Burnley town centre.

The proposed development would therefore lead to unacceptable conditions and reduce highway safety for all highway users, contrary to Policies IC1 and IC2 of Burnley's Local Plan (July 2018). The risk is heightened for school children, the elderly and those with accessibility issues, who are clearly listed in the Equality Act 2010.

In accordance with the legal advice provided and Part 3 of Burnley Borough Council's Constitution at Section A.1.a.3 - Delegations to the Development Control Committee, the matter stands referred to the Head of Legal and Democratic Services, who (following consultation with the Chairman (or in his or her absence the Vice Chairman) of the Development Control Committee), will confirm in writing that she agrees with the view of the Head of Housing and Development Control no later than five working days after the day of the meeting, then the matter will be referred to Full Council for determination.

Motion to refuse planning permission against officer recommendation (Motion)	
That planning permission be refused as the application did not meet the requirements of Burnley's Local Plan Policies IC1, IC2 and IC5.	
Councillor Saeed Chaudhary	Abstain
Councillor Martyn Hurt	For
Councillor Gordon Birtwistle	For
Councillor Scott Cunliffe	For
Councillor Sue Graham	Against
Councillor John Harbour	Against
Councillor Bill Horrocks	Against
Councillor Alan Hosker	For
Councillor Jacqueline Inckle	For
Councillor Syeda Kazmi	For
Councillor Anne Kelly	For
Councillor Lubna Khan	For
Councillor Asif Raja	For
Councillor Paul Reynolds	Against
Councillor Mike Steel	For
Carried	

77. FUL/2021/0691 - Land south of Rossendale Road, Burnley

Adjournment of meeting

With the consent of the meeting the Chair adjourned the meeting for five minutes at 9:00pm.

The meeting reconvened at 9:05pm.

It was moved, seconded and RESOLVED that the meeting continue beyond three hours to allow the remainder of the business on the agenda to be concluded.

Prior to the vote on the resolution to refuse the planning application the Committee was advised by the Head of Housing and Development Control that the Committee would not have delegated authority to pass such a resolution as this would be a decision that, in his professional opinion, was substantially contrary to the Local Plan and Local Plan Policies.

The Committee was further advised that, under the Council's constitution, the Committee did not have delegated powers to pass a resolution to refuse as this would be a decision that was substantially contrary to the Local Plan. The vote to refuse would be taken but, if carried, it would have no effect. The decision would be referred to the Head of Legal and Democratic services to confirm in writing within five working days after the decision of the Committee, in consultation with the Chair, whether she agreed with the view of the officers. If she agreed that the decision was substantially contrary to the local plan it would be referred to the Full Council for determination.

The Committee was advised by the Legal Advisor that any decision taken in this matter must be based on, and only on, proper planning grounds reflecting their planning judgment of the case. Their officers had advised fully in relation to the relevant material considerations and policy background and members should consider that advice carefully. Whilst they were not bound to follow that advice, in any appeal proceedings arising out of the decision they made, the Council would 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 failed to, or could not do so, then costs may be awarded against it.

The Legal Advisor reiterated that members were not bound to adopt the professional or technical advice given by their own officers or received from statutory bodies or consultees. However, they would be expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and were able to produce relevant evidence to support their 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 a costs order may, or may not, be made and how much that may, or may not, amount to, was, however, not a material consideration and was therefore not something members should be considering in deciding whether planning permission should be granted or not.

On several occasions the Head of Housing and Development Control asked members who were minded to refuse the application to provide detailed reasons why they believed the application did not meet Local Plan Policy IC5 as he did not consider that any sound reasons had been put forward.

DECISION:

The resolution to refuse planning permission was carried and the reason provided was: the application did not meet the requirements of Burnley's Local Plan 2018 policy IC5 Protection and Provision of Social and Community Infrastructure.

1. The social infrastructure within the local area, in particular, the provision of school places and health services, is unable to cater for the proposed development, which would adversely affect the delivery of social and community facilities, contrary to Policy IC5 of Burnley's Local Plan (July 2018).

In accordance with the legal advice provided and Part 3 of Burnley Borough Council's Constitution at Section A.1.a.3 - Delegations to the Development Control Committee, the matter stands referred to the Head of Legal and Democratic Services, who (following consultation with the Chairman (or in his or her absence the Vice Chairman) of the Development Control Committee), will confirm in writing that she agrees with the view of the Head of Housing and Development Control no later than 5 working days after the day of the meeting, then the matter will be referred to Full Council for determination.

Motion to refuse planning permission contrary to officer recommendation (Motion)	
That planning permission be refused as the application did not meet the requirements of Burnley's Local Plan 2018 policy IC5 Protection and Provision of Social and Community Infrastructure.	
Councillor Saeed Chaudhary	Against
Councillor Martyn Hurt	Abstain
Councillor Gordon Birtwistle	For
Councillor Scott Cunliffe	For
Councillor Sue Graham	Against
Councillor John Harbour	Against
Councillor Bill Horrocks	Against
Councillor Alan Hosker	For
Councillor Jacqueline Inckle	For
Councillor Syeda Kazmi	For
Councillor Anne Kelly	For
Councillor Lubna Khan	For
Councillor Asif Raja	For
Councillor Paul Reynolds	Abstain
Councillor Mike Steel	For
Carried	

78. LBC/2024/0029 - Burnley Mechanics Manchester Road Burnley

Burnley Mechanics Theatre Manchester Road Burnley
Replacement of timber loading bay doors to the rear with powder coated aluminium

DECISION

That the application be approved subject to the following conditions.

CONDITIONS AND REASONS

1. The works hereby permitted shall begin before the expiration of three years from the date of this consent.

Reason: As required by Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out other than to the specifications as indicated on the approved drawings except where modified by the conditions of this consent.

The approved drawings are: Mechancis/Mec 01 (Proposed Loading Bay Doors at 1:100 Scale) received 22 February 2024.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

3. All materials to be used in the approved scheme shall be as stated on the application form and approved drawings.

Reason: In order to safeguard the special architectural or historic interest and heritage significance of the building and comply with Policy HE2 of Burnley's Local Plan (July 2018).

4. This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved in writing by the Local Planning Authority prior to any works commencing.

Reason: In order to safeguard the special architectural and historic interest of the listed building and to comply with Policy HE2 of Burnley's Local Plan (July 2018).

5. Any works of making good to the retained fabric, shall be finished to match the adjacent work with regard to the methods used and to colour, material, texture, and profile, except where indicated otherwise on the drawings hereby approved.

Reason: In order to safeguard the special architectural and historic interest of the listed building and to comply with Policy HE2 of Burnley's Local Plan (July 2018).

79. FUL/2023/0784 - 30-32 The Mall Burnley Lancashire

Town and Country Planning Act 1990
Installation of new shopfront
30-32 The Mall, Burnley, Lancashire, BB11 1BA

DECISION

That the application be approved subject to the following conditions.

CONDITIONS AND REASONS

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

3. All materials to be used in the approved scheme shall be as stated on the application form and approved drawings and shall not be varied without the prior written approval of the Local Planning authority.

Reason: To ensure that the development will be of a satisfactory appearance and to comply with policies SP5 and HS5 of Burnley's Local Plan 2018.

4. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:

- 24 Hour emergency contact number.
- Details of the parking of vehicles of site operatives and visitors.
- Details of loading and unloading of plant and materials.
- Measures to protect vulnerable road users (pedestrians and cyclists).
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Measures to deal with dirt, debris, mud, or loose material deposited on the highway because of construction.
- Measures to control the emission of dust and dirt during construction.
- Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
- Construction vehicle routing.
- Delivery, demolition, and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: In the interests of the safe operation of the adopted highway during the demolition and construction phases.

Note

This is a grant of planning permission only. It is not a grant of Advertisement Consent. Should Advertisement Consent be necessary for works approved within this planning application, separate consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 will be required.

80. FUL/2023/0708 - 17 Towneley Street Burnley Lancashire
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Town and Country Planning Act 1990

Change of use from family dwelling (Use Class C3) to children's care home (Use Class C2) with an attic conversion and a rear single storey extension (Re-submission of COU/2023/0421).

DECISION

That the application be approved subject to the following conditions.

CONDITIONS AND REASONS

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the submitted application form received 23rd November 2023 and the following submitted Drawings:

Drawing No. 2207/01A, Existing and proposed plans and location plan, received 23.11.23

Reason: To ensure continued compliance with the Development Plan.

3. No materials shall be used for the proposed development other than those referred to on the submitted application form and the approved plans, and so retained.

Reason: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality in accordance with Policy SP5 of the Local Plan, and the NPPF.

4. No construction work shall take place on the development hereby approved outside the hours of 8am to 6pm Monday to Friday, 8am to 1pm on Saturday and not at any time on Sundays and Bank Holidays.

Reason: To safeguard the residential amenities of the local area, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent re-enactment, the approved use shall only be used as a residential care home for up to 2 children who shall be housed from within a 40-mile radius of the application site and not for any other use falling within Class C2.

Reason: To ensure the satisfactory implementation of the proposal to meet local needs and in order that the Local Planning Authority can assess future changes of use in the interests of amenity and highway safety to accord with Policy SP5 of Burnley's Local Plan (July 2018).

Informative Notes:

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.
2. May I also bring to your attention the requirements of the Building Regulations 2010 which is a separate statutory approval that may relate to your development. The

Council's Building Control Team can offer advice on your project and will provide you with detailed guidance in relation to all Building Regulation matters. They will also provide a fee proposal for undertaking a formal submission. Please refer to: Building Control - burnley.gov.uk

81. TPO/2023/0756 - 373 Padiham Road Burnley Lancashire

Town and Country Planning Act 1990
Application to crown reduce (by 25%) three trees protected by the Burnley (Arkwright Street No. 2) Tree Preservation Order 1988.
373 Padiham Road, Burnley.

DECISION

That the application be approved subject to the following conditions.

CONDITIONS AND REASONS

1. The tree work must be completed within 2 years from the date of this permission.

Reason: Pursuant to Regulation 17 (4) of the Town and County Planning (Tree Preservation) (England) Regulations 2012.

2. The tree work is restricted to the crown reduction (to a maximum of 25%) of three trees (T1, T2, T3).

Reason: In order to keep control of tree work in the interests of the amenity of the area.

3. The tree work must be carried out to British Standards.

Reason: In order that the work is completed to a suitable standard.

82. Decisions taken under the Scheme of Delegation

Members received for information a list of decisions taken under delegation for the period 23rd January 2024 to 1st March 2024.

83. Appeal and Other Decisions

Members received for information an update regarding appeals submitted and appeal decisions received since the last meeting.