



# DEVELOPMENT CONTROL COMMITTEE

**ROOMS 2 & 3, BURNLEY TOWN  
HALL**

**Thursday, 12th October, 2023 at 6.30  
pm**

## **SUPPLEMENTARY AGENDA**

**9) *Update Report - DC Committee 2023-10-12***

**3 - 8**

**PUBLISHED**

**11<sup>th</sup> October 2023**

This page is intentionally left blank

## DEVELOPMENT CONTROL COMMITTEE

Thursday 12<sup>th</sup> October 2023

### Update Report prior to Committee meeting

#### AGENDA ITEM 6a

HOU/2023/0448 2 Lindsay Park, Worsthorne with Hurstwood  
Pages 9-18

#### Late correspondence from objector on 5<sup>th</sup> October 2023

Since the publication of the agenda an objector has submitted some supplementary comments:

*1. The image shown under point 8. visuals is incorrect (see attached) - this extension has been fully built, (see attached) the roof is on and all walls have been erected, you can clearly see this from the roadside.*

*2. The following point is incorrect and has been measured by planning inspector Iain Crouch, measured at 15m from the original house not the proposed extension. This does contravene the 15m rule.*

*12.1 To rear (south east) – habitable room window will face into own garden and to boundary planting/side elevation of neighbour's garage at approx. 15.0m. No conflict.*

*3. The following point is also incorrect, could it be explained as to why this has been concluded?*

*12.2 To side (north east) – blank elevation will face retaining wall to neighbour's garden at approx. 1.2 – 1.8m distance. No conflict given the neighbour's garden is at a significantly higher level than the garden of No. 2 Lindsay Park plus the boundary is a wall with fence above, so no impact of detriment. Furthermore there is no need for a 'no further openings' condition due to height of boundary wall.*

#### Officer comments in response:

Officers are aware that the photographs within the agenda report were taken at an earlier stage in the development and additional photographs will be included within the committee presentation. The submitted plans show how the development will appear when complete.

The impact on residential amenity is addressed within the agenda report and the site plan shows distances from the extension to the adjacent garage. However, it acknowledged that the reference to some measurements within the report are not accurate. For clarity further measurements were taken on site on 11th October as follows:

Distance from original house to garage at 4 Lindsay Park – 15.32m

Distance from extension to garage at 4 Lindsay Park – 11.32m

Distance from extension to boundary with 137 Brownside Road – 1.03m

## **AGENDA ITEM 6b**

### **REM/2023/0169 – Land at Barden Lane, Burnley**

**Pages 19-30**

#### Affordable Housing

An additional plan has been received that identifies the properties in the scheme which would be provided as Affordable Housing (First Homes) to comply with the outline planning permission which requires 5% of the scheme to be Affordable Housing (delivered as First Homes). The submitted plan identifies these as Plots 1, 71, 72 and 73 at the north side of the site fronting Barden Lane. This complies with the outline permission and would be acceptable.

#### Amended/Additional Conditions

It is recommended that Condition 2 is modified as below to allow site clearance and remediation to be carried out prior to the submission of the details for water main protection:

2. No development other than site clearance and remediation shall be commenced, until details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall include a survey that identifies the exact location of the water main, the potential impacts on the water main from construction activities (including any construction compound), the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures, including a timetable for implementation, to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full prior to commencement of development (other than site clearance and remediation) in accordance with the approved details and timetable and shall be retained thereafter for the lifetime of the development.

In the event that the survey of the water main identifies the buildings/plots as within a 3m standoff either side of the main (6m in total), the developer shall submit evidence to the Local Planning Authority that a diversion has been agreed in writing with the relevant statutory undertaker and that the approved works have been undertaken prior to the commencement of development.

Reason: In the interest of public health and to ensure protection of the public water supply, in accordance with Policies NE5 and CC4 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to avoid any potential risk to water infrastructure on the site.

The following additional planning conditions are recommended:

4. Prior to any above ground works details and representative samples of the external materials of construction to be used on the walls and roofs of the development as indicated on the submitted Materials Schedule (reference SKPMCW37- MAT-01RevA) shall be submitted to and approved in writing by the Local Planning

Authority. The development shall thereafter only be carried out in accordance with the approved details of materials.

Reason: To ensure a satisfactory appearance to the development, in accordance with Policy SP5 of Burnley's Local Plan (July 2018). The material details are required prior to the commencement to ensure that the approved materials are available for use at the appropriate stage of the development.

5. Notwithstanding any indication on the approved plans, details of the boundary treatments to be used in the development shall be submitted to and approved in writing by the Local Planning Authority prior to any above ground works. The boundary treatment shall thereafter be carried out as approved for each plot prior to each dwelling being first occupied. All approved boundary treatments shall be carried out and completed prior to the practical completion of the development and shall be retained at all times.

Reason: To ensure adequate and sensitive boundary treatment to provide a satisfactory appearance to the development, in accordance with Policy SP5 of Burnley's Local Plan (July 2018). The boundary treatment details are required prior to the commencement to ensure that they can be correctly implemented at the appropriate stage of the development.

6. Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no enlargement of the dwelling as specified in Class A of Part 1 of Schedule 2 of that Order shall be carried out at plots 64, 65, 70 and 73 and no new or improved means of access to a highway as specified in Class B of Part 2 of Schedule 2 of that Order shall be carried out at any plot or part of the development, without express planning permission first being obtained from the Local Planning Authority.

Reason: To allow the Local Planning Authority to assess the visual impact of any enlargement to dwellings at prominent plots along the main estate road and to assess the impact of any change or addition to the approved access arrangements for the development, in the interests of the character, appearance and safety of the development, in accordance with Policies SP5 and IC1 of Burnley's Local Plan (July 2018).

## **AGENDA ITEM 6c**

### **Tree Preservation Order B140 (L) Colne Road & Steer Street Pages 31- 39**

The new owner of the land is unable to attend the meeting to speak due to other commitments but has submitted a written statement for members to read in his absence.

This is attached as Appendix 1 to the late correspondence.

### **End of Late Correspondence**

This page is intentionally left blank

**Item 6C – TPO B140 (L) – Land at Colne Road / Steer Street**

11<sup>th</sup> October 2023

Good evening, Dear Respected Members,

Apologies for not being able to be in attendance this evening, due to prior commitments, within the borough and we are very grateful to you, in reading our objection, to the confirmation of the above TPO order, as the new landowners.

We have detailed the objections, in various letters, sent on behalf of ourselves, our solicitor and a specialist qualified tree consultant, some of which have been summarised in the officer's report to this committee.

We would like to highlight and respond to the following numbered points, raised in the officer's summary of key points, presented to this committee this evening:

**Point 2** – The provisional order was made dated the 11<sup>th</sup> of July and the property was purchased via auction on the 19<sup>th</sup> and no attempt was made, to notify the auctioneers, or to install a site notice, so that any potential purchaser, could be made aware of the TPO, which has drastically decreased the value of the land.

**Point 3** – One of the trees protected by the order was then incorrectly felled by Lancashire County Council and another was heavily pruned. This could have easily been avoided if a site notice had been installed as mentioned above.

**Point 4** – Some of the remainder of our objections, are detailed in this section of the officer's report.

**Point 5** – The local authority did not inform all the persons interested in the land, affected by the order, as they knew this land was up for sale in auction, so could have easily displayed a site notice as good practice, to inform any interested parties without "interfering in such matters" as they state in their final paragraph of this section.

**Point 6** – Burnley Borough Council have been incorrectly maintaining this land for several years, despite it not even being in their ownership, or liability to maintain, costing thousands, to local taxpayers over the years.

The overall weight of the branch of the poplar tree, which overhangs the full pavement and carriageway, of the busy Colne Road and any chance of failure of this, is a Category 1 Hazard, which could result in serious injury or death if it was to break and fall.

**Point 7** - There is no professionally qualified tree specialist's opinion, on the condition of these trees, protected by the provisional order and no detailed assessment of the trees has been undertaken by the council, even by the officer responsible, for making the provisional order. To consider the trees to be healthy with no concern, is incorrect, unqualified, and contrary to LCC, felling the tree, that they had also incorrectly identified.

To conclude, if members are minded to approve this provisional TPO order, based on unqualified opinions, then we together with our solicitors and qualified tree specialist, request that proceedings & convictions are taken against LCC, for felling and pruning a tree protected by this provisional order, especially bearing in mind the background of this case and all of the errors, leading up to the felling / pruning of the trees and the ownership / maintenance history.

If this is not done, then surely you would be setting a precedent and should, also never be able to act, against any private individuals, who made similar "genuine" unqualified mistakes, again in the future on this site, or any other site protected by tree preservation orders?

Simply replanting a felled tree, protected by a provisional order, which is no longer correct as only 3 trees remain and not 4, is not an adequate penalty, unless this same penalty applied to all, who undertook similar felling of protected trees in the future?

We thank you all for your time and attention listening and sincerely hope, that all member's support, our genuine objections, for the reasons stated above and refuse this application to formalise this provisional tree preservation order.

Yours Sincerely

