

# DEVELOPMENT CONTROL COMMITTEE

Thursday, 8th June, 2023  
6.30 pm





# DEVELOPMENT CONTROL COMMITTEE

## ROOMS 2 & 3, BURNLEY TOWN HALL

Thursday, 8th June, 2023 at 6.30 pm

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Legal & Democracy by 5.00pm three days before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall, Manchester Road or at the Contact Centre, Parker Lane, Burnley or from the web at: [Request To Speak form](#). You can also register to speak via the online agenda. Requests will be dealt with in the order in which they are received.

### AGENDA

**1. Apologies**

To receive any apologies for absence.

**2. Minutes**

5 - 12

To approve as a correct record the Minutes of the previous meeting, held on 13<sup>th</sup> April 2023.

**3. Additional Items of Business**

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency.

**4. Declaration of Interest**

To receive any declarations of interest from Members relating to any item on the agenda in accordance with the provision of the Code of Conduct and/or indicate if S106 of the Local Government Finance Act applies to them.

**5. Exclusion of the Public**

To determine during which items, if any, the public are to be excluded from the meeting.

<b>6. List of Deposited Plans and Applications</b>	13 - 14
To consider reports on planning applications for development permission:	
a) <b>FUL/2022/0136 - Former Dexter Paints Site, Gannow Lane, Burnley</b>	15 - 54
b) <b>LBC/2023/0027 - Town Hall, Manchester Road, Burnley</b>	55 - 62
c) <b>HOU/2023/0246 - 15 Wsdale Close, Padiham</b>	63 - 74
d) <b>FUL/2022/0697 - Broadfield Specialist School (Former Hameldon Community College), Coal Clough Lane</b>	75 - 84
<b>7. Decisions taken under the Scheme of Delegation</b>	85 - 100
To receive for information a list of delegated decisions taken between 30 <sup>th</sup> March and 26 <sup>th</sup> May 2023.	
<b>8. Appeal Decisions</b>	101 - 104
To receive the outcomes of appeals against decisions by Burnley Borough Council.	
<b>9. Planning Enforcement Plan</b>	105 - 122
To note the revised Planning Enforcement Plan.	

## **MEMBERSHIP OF COMMITTEE**

Councillor Saeed Chaudhary (Chair)	Councillor Alan Hosker
Councillor Anne Kelly	Councillor Beki Hughes
Councillor Gordon Birtwistle	Councillor Shah Hussain
Councillor Joanne Broughton	Councillor Jacqueline Inckle
Councillor Scott Cunliffe	Councillor Neil Mottershead
Councillor Sue Graham	Councillor Paul Reynolds
Councillor John Harbour	Councillor Christine Sollis
Councillor Bill Horrocks	Councillor Mike Steel

**PUBLISHED**

Wednesday, 31 May 2023

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## DEVELOPMENT CONTROL COMMITTEE

BASEMENT STUDIO, MECHANICS THEATRE

Thursday, 13th April, 2023 at 6.30 pm

### PRESENT

### MEMBERS

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

### OFFICERS

Paul Gatrell	– Head of Housing & Development Control
Catherine Waudby	– Head of Legal and Democratic Services
Paula Fitzgerald	– Senior Planner
Alison McEwan	– Democracy Officer
Mollie Boothman	– Legal Assistant

### 130. Minutes

The Minutes of the last meeting were approved as a correct record and signed by the Chair.

### 131. Declaration of Interest

HOU/2023/0031, 30 Deer Park Road – Councillor Gordon Birtwistle explained that although he had expressed an interest in purchasing this property, this had not progressed, therefore he had no interest in this application.

### 132. List of Deposited Plans and Applications

#### RESOLVED

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

## 133. FUL/2023/0070 - Cornfield Farm Fishery, Cornfield Grove, Burnley

Town and Country Planning Act 1990  
Proposed log cabin for educational purposes.  
Cornfield Farm Fishery Cornfield Grove Burnley

### Decision

That the application be approved subject to the following conditions:

### Conditions

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. Prior to commencement of development, full details including elevational treatment and proposed materials shall be submitted in writing to and approved by the Local Planning authority. Thereafter the plans shall not be varied without 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 SP7 of Burnley's Local Plan 2018

3. No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority.

Reason: In order to protect the amenity of surrounding uses in accordance with policies SP4 and NE5 of Burnley's adopted Local Plan

4. The cabin hereby permitted shall only be used by Mark Smedley for educational purposes and shall not be used by any other organisations unless written permission is sought by the Local Planning authority.

Reason: In order to protect the amenity of surrounding uses in accordance with policies SP4, SP7 and NE5 of Burnley's adopted Local Plan

5. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework and Policy NE5 of Burnley's adopted Local Plan

### **134. FUL/2023/0034 - Halstead Farm, Lower Rosegrove Lane, Burnley**

Town and Country Planning Act 1990

Erection of 2 no. detached bungalows with access off Lower Rosegrove Lane  
Halstead Farm Lower Rosegrove Lane Burnley Lancashire

#### **Decision**

That the application be approved subject to the following conditions.

#### **Conditions**

1. The development hereby permitted shall be begun before 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 approved plans listed on this notice below and the structural report dated 2016.

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 approved drawings received 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

## Highways

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.
  - Wheel washing facilities.
  - Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result 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.
  - 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.

Reason: In the interests of highway safety in accordance with policies IC3 and SP5 of Burnley's adopted Local Plan (July 2018)

5. All visibility splays at the construction site access to the development shall be cleared to ground level prior to the commencement of any works in accordance with plan 22/85/11.

Reason: In the interests of highway safety in accordance with policies IC3 and SP5 of Burnley's adopted Local Plan (July 2018)

6. No dwelling shall be occupied until the car parking area as shown on plan 22/85/4B has been surfaced or paved and marked out in accordance with the approved plan. The car parking area shall thereafter be kept free of obstruction and available for the parking cars at all times.

Reason: To allow for the effective use of the parking areas.

7. Before the access is used for vehicular purposes, 45° visibility splays shall be provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway, in accordance with plan 22/85/11. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.9 metres above the nearside carriageway level which would obstruct the visibility splay.

Reason: To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility, in the interests of highway safety



8. Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block pavements, or other hard material in accordance with details on plan 22/85/11

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to road users.

9. The proposed access from the site to shall be constructed to a minimum width of 4.5m and this width shall be maintained for a minimum distance of 10m measured back from the nearside edge of the carriageway in accordance with plan 22/85/11

Reason: To enable vehicles to enter and leave the premises in a safe manner without causing a hazard to other road users.

10. The development hereby permitted shall not be occupied until an electric vehicle charging point has been installed, 1 per property and shall thereafter be maintained.

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.

## **Environmental Health**

11. 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. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

There shall be no burning of construction-derived waste or other materials within the curtilage of the premises.

Reason: to ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users in accordance with Policy SP5 of Burnley's Local Plan.

12. Prior to commencement of the development hereby approved, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A Preliminary Risk Assessment which has identified: all previous (historical) uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.

2. A Site Investigation Scheme, based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. Based on the Site Investigation Scheme and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying

any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Note: Any changes to these components, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the Local Planning Authority.

Reason: To ensure that risks from contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecology systems, to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, in accordance with policy NE5 of Burnley's adopted Local Plan.

## **Archaeology**

13. No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological or historical importance associated with the site.

## **Other**

14. The dry stone wall surrounding the site, as shown on plan 22/85/B shall be retained and repaired where necessary and shall remain in perpetuity.

Reason: In the interests of safeguarding the character of the area in accordance with policy SP5 of Burnley's adopted Local Plan.

## **Notes**

### **Coal Authority**

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 0845 762 6848.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

### **Construction Management Plan**

There must be no storage of materials in the public highway at any time. There must be no standing or waiting of machinery or vehicles in the public highway at any time.

There must be no machinery operating over the highway at any time, this includes reference to loading/unloading operations – all of which must be managed within the confines of the site.

A licence to erect hoardings adjacent to the highway (should they be proposed) may be required. If necessary this can be obtained via the County Council (as the Highway Authority) by contacting the Council by telephoning 01772 533433 or e-mailing [lhsstreetworks@lancashire.gov.uk](mailto:lhsstreetworks@lancashire.gov.uk)

### **Archaeology**

The programme of archaeological work should comprise a strip, map and record excavation of the area affected by the development. This work should be carried out by an appropriately qualified and experienced professional archaeological contractor to the standards and guidance set out by the Chartered Institute for Archaeologists

<b>135. HOU/2023/0031 - 30 Deer Park Road, Burnley</b>
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Town and Country Planning Act 1990

Proposed rear extensions and external works to adapt the property for a disabled individual. 30 Deer Park Road, Burnley, Lancashire BB10 4SD

### **Decision**

That the application be approved subject to the following conditions:

### **Conditions**

1. The development must be begun within three years of the date of this decision.

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 following submitted Drawings:

- Drawing No. 17486A 02 – existing details, received 20.01.2023
- Drawing No. 17486A 03D – proposed details, received 30.03.2023

Reason: To ensure continued compliance with the Development Plan.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order

with or without modification), no door, window, dormer window or rooflight other than those expressly authorised by this permission shall be constructed in the north-east facing elevation of the extension without Planning Permission obtained from the Local Planning Authority.

Reason: To ensure the privacy for adjacent occupiers, in accordance with Policy HS4 of the Local Plan and the NPPF.

4. Construction of the extension shall not commence until trees along the boundary of Nos. 30 and 32 Deer Park Road have been removed in accordance with details shown on Drawing No. 17486A 03D. No plants or other boundary features in excess of 900mm in height shall exist along the boundary between the front gardens of Nos. 30 and 32 Deer Park Road thereafter.

Reason: In the interests of the amenity of occupants of No.32 Deer Park Road, and to accord with Policies SP5 and HS5 of the Local Plan.

5. The extension shall not be occupied until a charging point for electric vehicles is included within the development. This shall be fitted in line with DfT guidance regarding Electric Vehicle Charging in Residential and Non-residential buildings, which states charge points must have a minimum power rating output of 7kW and be fitted with a universal socket that can charge all types of electric vehicles, and shall be retained thereafter.

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions, and to accord with Policy IC3 of the Local Plan.

6. The extension shall be faced and roofed in materials to match those used in the host property, as shown on Drawing No. 17486A 03D.

Reason: In the interests of visual amenity and to accord with Policies SP5 and HS5 of the Local Plan.

### **136. Decisions taken under the Scheme of Delegation**

Members noted the list of delegated decisions.

### **137. Appeals and Other Decisions**

Members noted the information on appeals.

BURNLEY BOROUGH COUNCIL  
DEVELOPMENT CONTROL COMMITTEE

REPORTS ON  
PLANNING APPLICATIONS



Photograph McCoy Wynne

Part I: Applications brought for  
Committee consideration

8<sup>th</sup> June 2023

Housing and Development Control

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# Part One Plan

Housing & Development  
Town Hall, Manchester Road

# Agenda Item 6a

Ref.

**FUL/2022/0136**

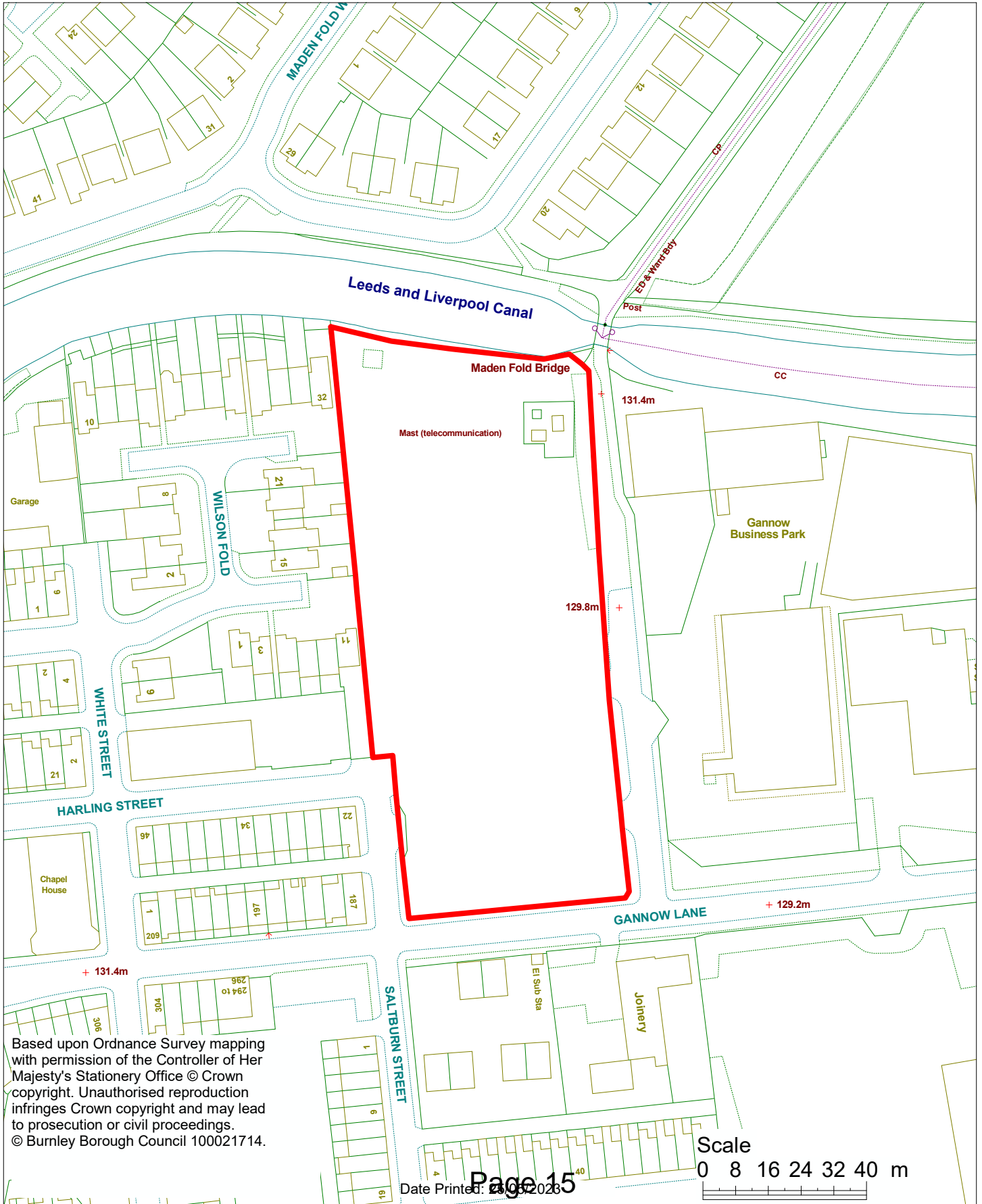
Paul Gatrell Head of Housing and Development

Location:

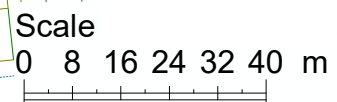


## Former Dexter Paints Site, Gannow Lane, Burnley

1:1250



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**Application Recommended for Delegation to the Head of Housing and Development Control to Approve**

**FUL/2022/0136**

**Rosegrove with Lowerhouse**

Town and Country Planning Act 1990

Proposed residential development comprising 36no elderly bungalows, landscape, access and associated works.

Address: Former Dexter Paints, Gannow Lane Burnley.

Applicant: Mr Nixon

**Background:**

The application was previously before Development Control Committee on 8<sup>th</sup> February 2023 and the resolution of the committee was to delegate to the Head of Housing and Development Control for approval subject to a Section 106 agreement. This agreement would secure a scheme for the ongoing management and maintenance of the internal private roads.

Following the meeting in February 2023, further discussions have taken place with the agent acting for the applicant who has confirmed that the applicant agrees to offer the internal roads up for adoption by the Highways Authority (Lancashire County Council) rather than entering into a legal agreement.

A General Road Layout ref R02a was submitted on 20<sup>th</sup> April, supported by Road Construction Details R01 and Road Adoption Area Plan.

As such the application is presented to Committee with a recommendation to vary the resolution to state “delegate to the Head of Housing and Development Control for approval subject to conditions” removing the requirement for a section 106 agreement; agree

Committee are also requested to agree minor alterations to condition 2 to reflect the updated plans; additional conditions recommended by the Highways Consultee relating to the road adoption.

It is recommended that this report is read in conjunction with the February Committee report at Appendix 1.

There are no other alterations proposed to the scheme, and other than revised highway comments no other representations have been received since the February Committee meeting.

**Consideration of the revised plans:**

The LCC highway officer has considered the submitted information and has confirmed that the road layout in general is acceptable for adoption.

They advise that the access will need to be formed as part of a Section 278 agreement with the following points and concerns to be addressed as part of this agreement.

- a street lighting assessment for Saltburn Street for the section from the junction with Harling Street to Gannow Lane,
- the formation of a section of 2m footway to join with the exist footway on Harling Street
- The provision of some tactile paviments across the junction of Saltburn Street and the new access
- The re-instatement of a section of footway to the gable of Plot 1

It is also recommended that electric points be included within the development and having discussed this with the highway officer this is now a building regulations requirement.

The two additional conditions recommended by highways are:  
Submission of details adoptable streets (condition 7) and  
Highway works constructed prior to occupation (condition 12).

No street lighting details are proposed at this stage and the Highway officer has provided some advice on the design requirements. It is recommended that conventional lights are installed to prevent excessive light spillage beyond the site. The agent has confirmed that this plan will be carried out by a specialist and submitted as part of the S278 agreement.

Other matters are discussed in detail in the previous committee report appended.

Please note minor changes to the formatting and bullet points in conditions for consistency.

### **Conclusion:**

As noted in this report, the only amendments to the proposal are that the internal roads will now be offered up for adoption by the Highway Authority. This is considered acceptable and will negate the need for a Section 106 agreement.

The proposal seeks to develop a site that is acceptable in principle as it is allocated for housing purposes in Burnley's Local Plan. It still proposes a suitably designed scheme, in line with the requirements of local and national planning policy as set out in the appended report. The site is a brownfield site which has existing viability constraints and the applicant has put forward a scheme for over 55s which is considered by officers, on balance, to be acceptable.

Matters such as design, scale and layout, traffic and highway safety, residential amenity, affordable housing, ecology and biodiversity, open space and drainage have been considered within the appended report and considered to be satisfactory. As such the development is considered acceptable and on balance, is acceptable in relation to the relevant local and national planning policy subject to the conditions listed below.

As such it is recommended accordingly.

**Recommendation:** Delegate to the Head of Housing and Development Control to approve subject to the conditions listed below.

### Conditions

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 below:

- Application form received 4<sup>th</sup> March 2022
- Location Plan received 4<sup>th</sup> March 2022
- Existing site Plan 03 received 4<sup>th</sup> March 2022
- Street Views Plan 07 received 4<sup>th</sup> March 2022
- Proposed Sections 12 received 13<sup>th</sup> June 2022
- Access Layout J1409 Access Fig 1 received 13<sup>th</sup> June 2022
- Amended Proposed Plans and Elevations 03A received 6<sup>th</sup> October 2022
- Amended Proposed Plans and Elevations 04B 05B received 22<sup>nd</sup> Jan 2023
- Amended Proposed Site Plan DWG 02 B received 22<sup>nd</sup> Jan 2023
- Planning and Design and Access Statement received 4<sup>th</sup> March 2022
- Preliminary Ecological appraisal received 4<sup>th</sup> March 2022
- Preliminary Risk Assessment received 4<sup>th</sup> March 2022
- General Road Layout ref R02a received 20<sup>th</sup> April 2023
- Road Construction Details R01 received 20<sup>th</sup> April 2023
- Road Adoption Area Plan received 20<sup>th</sup> April 2023

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

3. The development hereby approved shall be restricted to over 55s accommodation only.

Reason: Acceptability of the development is in accordance with the occupancy of the units being over 55s only in accordance with the provisions of the Burnley Local Plan and the National Planning Policy Framework.

### Materials

4. Prior to their use in the development hereby approved, details of the materials to be used for the external walls, roofs and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The materials shall then be retained as agreed for the duration of the development.

Reason: In the interest of visual amenity and the securing a high quality development, in accordance with the provisions of Policy SP5 of the Burnley Local plan and the provisions of the National Planning Policy Framework.

### **Contamination condition**

5. Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:
  - i. The Preliminary Risk Assessment carried out by Worms Eye has identified potential risks to future site users.
  - ii. A Site Investigation Scheme, based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - iii. Based on the Site Investigation Scheme and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - iv. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Note: Any changes to these components, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the Local Planning Authority.

Reason: To protect the amenity of local residents' in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provision of the National Planning policy Framework.

### **Highways**

6. No part of the development hereby approved shall be occupied until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning

Authority in consultation with the Highway Authority as part of a section 278 agreement, under the Highways Act 1980. The scheme shall be fully implemented and completed in accordance with the approved scheme prior to the occupation of the development hereby approved.

Reasons: In the interest of highway safety; to ensure a satisfactory appearance to the street infrastructure serving the approved development; and to safeguard the users of the street and visual amenities of the locality in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

7. No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

Reason: - In the interest of highway safety; to ensure a satisfactory appearance to the highway's infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway. in accordance with the provisions of Policies IC1 and SP5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

Note: The applicant is advised to obtain a technical approval for all estate street details from the local highway authority prior to the submission of such approved details to the local planning authority for condition discharge

8. 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.
- Arrangements for turning of vehicles within the site.
- Swept path analysis showing access for the largest vehicles regularly accessing the
- site and measures to ensure adequate space is available and maintained, including
- any necessary temporary traffic management measures.
- 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 interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

9. Deliveries to the approved development shall only be accepted between the hours of 9:00am and 3:00pm Monday – Friday, to avoid peak traffic on the surrounding highway network.

Reason: In the interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

10. For the full period of construction facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud, stones and debris being carried onto the highway. Provision to sweep the surrounding highway network by mechanical means will be available and the roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: In the interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

11. Prior to commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority for a highway surface water drainage scheme.

The development should be undertaken in accordance with the agreed details and the scheme shown on the approved drawing shall be constructed in accordance with the approved details, and retained thereafter.

Reason: In the interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

12. No part of the development hereby approved shall be occupied until all the highway works have been constructed and completed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of

the highway scheme/works. in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

### **Adaptable homes**

13. Prior to the occupation of the development hereby approved, evidence shall be provided to and approved in writing by the Local planning Authority which demonstrates that at least 20% of the houses hereby approved have been built to current adaptable homes standards (Part M4(2) of the building Regulations 2010).

Reason: In the interest of providing adaptable homes to support the changing needs of occupiers over a lifetime in accordance with Policy HS4 of the Burnley Local Plan.

### **Lead Local Flood Authority**

14. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water sustainable drainage strategy (surface water and foul water drainage strategy incorporating an assessment of flood risk, Rev A, October 2022, Reford) submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

- a) Sustainable drainage calculations for peak flow control and volume control for the:
  - i. 100% (1 in 1-year) annual exceedance probability event;
  - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
  - iii. 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance, with an allowance for urban creep
  
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
  - i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
  - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels;

- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- c) Evidence of an assessment of the existing on-site surface water drainage systems to be used, to confirm that these systems are in sufficient condition and have sufficient capacity to accept surface water runoff generated from the development.
- d) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

15. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

- i. Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
- ii. Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.



Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

16. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The details of the manual to be submitted for approval shall include, as a minimum:

- i. A timetable for its implementation;
- ii. Details of SuDS components and connecting drainage structures, including watercourses and their ownership, and maintenance, operational and access requirement for each component;
- iii. Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
- iv. The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- v. Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- vi. Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- vii. Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

17. The occupation of the development shall not be permitted until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

## **Landscaping /levels and implementation**

18. Prior to the occupation of the first dwelling houses hereby approved, full details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include, but not be limited to:

- i. Proposed finished levels or contours
- ii. Means of enclosure
- iii. Car parking layouts
- iv. Other vehicle and pedestrian access and circulation areas
- v. Hard surfacing materials
- vi. Minor artefacts and structures (e.g seating/signs etc)
- vii. Proposed and existing functional services above and below ground (e.g drainage power, communications cables, manholes etc)
- viii. Bin store hedge surrounding planting

Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants, plant sizes and proposed numbers/densities where appropriate.

All hard and soft landscaping shall be carried out in accordance with the approved details no later than the first available planting season following occupation of the first dwelling house or in accordance with the programme prior agreed in writing with the local planning authority

Reason: In the interest of securing a quality finish to the development in accordance with the provisions of Policies SP5 and HS4 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

### **Canal conditions**

19. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) should be provided to the local planning authority for approval in writing to include measures detailing how materials will be stored on site and how the canal will be protected from dust and site laden runoff.

Reason: In the interest of protecting the integrity of the canal during the development process in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

### **Coal**

20. No development shall commence until;

- i. A scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
- ii. Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented

on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance in accordance with the timetable agreed with the local planning authority.

Reason: In the interest of protecting the integrity of any unstable land during the development process in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

21. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: In the interest of protecting the integrity of any unstable land during the development process in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

## **United Utilities**

22. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
- i. An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
  - ii. (A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
  - iii. Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
  - iv. Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
  - v. Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

### **Greater Manchester Ecology Unit**

23. No removal or works to any hedgerows, trees, shrubs or brambles shall take place during the main bird breeding season 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority for written approval.

Reason: In the interest of the protection of protected species in accordance with the provisions of Policy NE1 of the Burnley Local Plan and the provision of the National Planning Policy Framework.

24. Prior to occupation, a lighting design strategy for areas to be lit externally shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- i. Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- ii. Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- iii. Provide details of light levels and spillage

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: In the interest of the protection of biodiversity and ecology on the site in accordance with Policy NE1 of the Burnley Local Plan and in the interest of highway safety and residential amenity in accordance with policies SP5 and IC1 of the Burnley Local plan, and in accordance with the provisions of the of the National Planning Policy Framework

25. A scheme for the Biodiversity Enhancement Measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall be agreed in writing with eh Local Planning Authority) and shall be retained thereafter.

Reason: In the interest of the enhancement of biodiversity on the site in accordance with the provisions of Policy NE1 of the Burnley Local Plan and the National Planning Policy Framework.

### **Environmental Health**

26. 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: in the interest of protecting residential amenity in accordance with policies HS4 and NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

27. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- There shall be no burning of construction-derived waste or other materials within the curtilage of the premises.
- All noise mitigation measures to be instated for the eastern boundary of the development (as per the planning and design access statement) and for the windows/external fabric of the dwellings (as per the noise impact assessment dated 27th September 2022).
- The lighting scheme should comply with Environmental Zone E3 (small town centres or suburban locations) of the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011 (or later versions). It should be designed so that it is the minimum needed for security and operational processes and be installed to minimise potential pollution caused by glare and spillage.

Reason: To demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts to air, land and water quality, whilst assessing vibration, heat, energy, light and noise pollution both during their construction and in their operation in accordance with Policy NE5 of Burnley's Local Plan and to ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users in accordance with Policy SP5 of Burnley's Local Plan.

28. Prior to the first use of the development hereby approved the hedge surrounds shown on the site layout at the front of the properties shall be installed and available for use for the storage of bins. The bin storage areas shall remain in place for the duration of the development and for the use of storage of bins only.

Reason: In the interest ensuring a quality development in accordance with Policy SP5 of the Burnley Local Plan.

1. The developer is advised to consider the comments from Lancashire Fire and Rescue, Canal and Rivers Trust, Highways Authority, Lead Local Flood Authority and United Utilities comments available online prior to the commencement of development.
2. The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the expense of the client/developer.
3. The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278), with Lancashire County Council as Highway Authority prior to the start of any development. The applicant should be advised to contact the county council for further information by telephoning the Development Support Section on 0300 123 6780 or email [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk), in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the location, district and relevant planning application reference number.
4. The grant of planning permission will require the developer to obtain the appropriate permits to work on, or immediately adjacent to, the adopted highway network. The applicant should be advised to contact Lancashire County Council's Highways Regulation Team, who would need a minimum of 12 weeks' notice to arrange the necessary permits. They can be contacted on [lhsstreetworks@lancashire.gov.uk](mailto:lhsstreetworks@lancashire.gov.uk) or on 01772 533433.

L Golledge  
30<sup>th</sup> May 2023

**Application recommended for delegation to the Head of Housing and Development Control to approve subject to a Section 106 obligation.**

**FUL/2022/0136**

### **Rosegrove with Lowerhouse**

Town and Country Planning Act 1990

Proposed residential development comprising 36no elderly bungalows, landscape, access and associated works.

Address: Former Dexter Paints, Gannow Lane Burnley.

The application is before Development Control Committee as the proposed number of units is over the guide number provided in Policy HS1/22 of the Burnley Local Plan which requires 'around 27' houses for this site.

### **Background:**

There is planning application history on this site connected with the previous industrial occupier and the telecommunications mast, which was granted planning permission in 1999/2000. The most relevant permission is that for the residential development of the site which was granted in 2015 (application reference APP/2015/0114). This was for 27 detached and semi-detached bungalows. The access to the site from Saltburn Street has been put in place pursuant to the previous residential permission. 2no houses were constructed as a result of that planning permission, but they were never completed and were left empty. The developer sold the land to the current owner, who demolished the buildings and cleared the site. There is also a 15m high telecommunications mast in the northeast corner of the site which will remain in situ.

The applicant has various sites for over 55s accommodation across Lancashire and manages and maintains those sites as part of his family business. One of the other sites is that at Weaver's Fold, further up Gannow Lane, for which planning permission was granted in 2016 for 94 dwellings (APP/2015/0423). That site was completed 4 years ago. The applicant has recently also sold one of his sites to Calico (Antley Court, Burnley) who rent out the properties, they currently charge £120 per week for the properties, the applicant always aspires to keep his rents below the social housing rental income; currently charging £110 per week.

### **Application site:**

The site is located on the north side of Gannow Lane at the junction of Gannow Lane and Saltburn Street. The Leeds Liverpool Canal runs along the northern boundary of the site. To the west of the site there are terraced houses along Saltburn Street and more modern houses at Wilson Fold. To the east of the site is Gannow Business Park, where there is a number of industrial occupiers. On the opposite side of Gannow Lane to the south there are semi-detached houses under construction. The site is located about 600m from Gannow Top roundabout and the A671 road to Burnley to the east and about 100m from the shops and services on Rosegrove Lane to the west.

### **Proposal:**

The proposals are for the construction of 36 no. elderly person bungalows (to be occupied by those 55 years of age or over).

The proposed bungalows are to be one bedroomed, with a separate living room, kitchen, bathroom and dining/health care room. They are all to be provided with one car parking space and are arranged in terraced groups around a central access road. There will be communal front and back gardens with an area of open space provided close to the Leeds Liverpool Canal. The access point to the site will be from Saltburn Street as per the previously approved access.



Fig 1: Location Plan

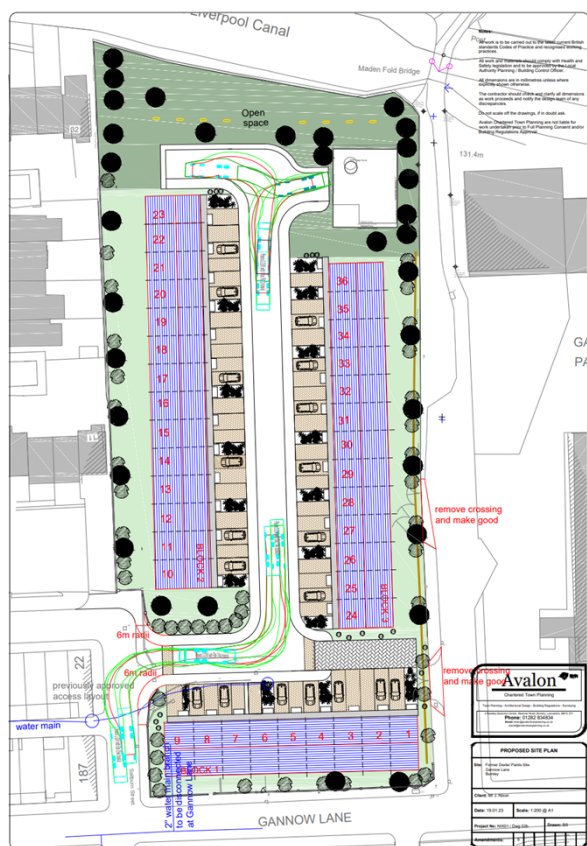


Fig 2: Proposed Site Plan (as amended)



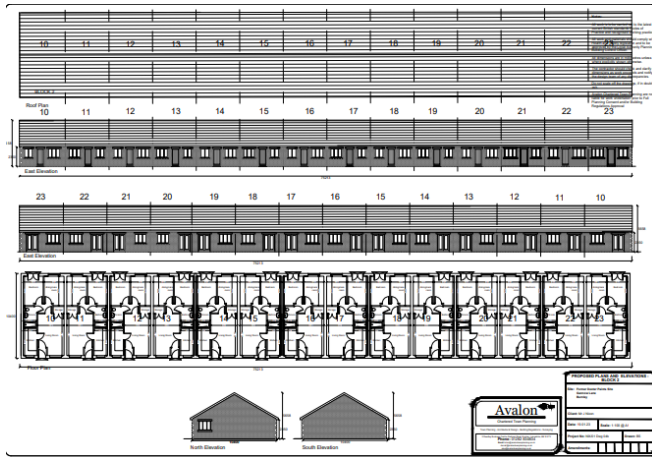


Fig 3: Proposed plans and elevations (as amended)



Fig 4: Photo of the site (taken from the submitted Design and Access Statement)

**Relevant Policies:**

Burnley Local Plan

- SP1 – Achieving Sustainable Development
- SP2 - Housing Requirement 2012-2032
- SP4 – Development Strategy
- SP5 – Development Quality and Sustainability
- HS1 - Housing Allocations
  - HS1/22 - Dexter Paints
- HS2 - Affordable Housing Provision
- HS3 - Housing Density and Mix
- HS4 - Housing Developments
- NE1 - Biodiversity and Ecological networks
- NE3 - Landscape Character
- NE4- Trees, Hedgerows and Woodland
- NE5 – Environmental Protection
- IC1- Sustainable Travel
- IC2 - Managing Transport and Travel Impacts
- IC3 – Car Parking Standards
- IC4 - Infrastructure and Planning Contributions
- CC4 - Development and Floor Risk
- CC5 - Surface Water Management and Sustainable Drainage Systems

Material considerations:

National Planning Policy Framework (NPPF)  
Development Contributions Supplementary Planning Document (SPD)  
Air Quality Management: Protecting Health and Addressing Climate Change SPD (2020)  
Planning for Health SPD (2022)  
Technical Housing Standards – nationally described space standards.

### **Site History:**

APP/2015/0114 Proposed residential development comprising 27no. bungalows, associated private and general amenity space, landscaping, access and parking (re submission of APP/2013/0430), Approved.

APP/2013/0430 Proposed demolition of existing warehouse and erection of 30no. bungalows, Refused.

### **Consultation Responses:**

Publicity: 2no letters have been received following the publicity for the planning application. These are not objections but raised matters which need to be addressed in the application. The following points are raised:

- The site has been cleared and as result any biodiversity has been removed a condition should be used to ensure that the landscaping scheme comprise native species of trees, shrubs and wildflower planting to compensate for the loss of habitat.
- The granting of planning permission on this site for housing may mean that the adjacent business cannot operate 24 hours in the future due to noise and vibration form the business in their operation.

Contamination consultant: No objection, a condition is requested to be included in relation to potential contamination on the site.

Lancashire County Council Highways Authority (HA): No objections but the following matters to be addressed:

- 6m radius kerb is required at the access to bring it to adoptable standards
- a street lighting assessment for Saltburn Street for the section from the junction with Harling Street to Gannow Lane
- the formation of a section of 2m footway to join with the exist footway on Harling Street
- The provision of some tactile paviours across the junction of Saltburn Street and the new access
- The re-instatement of a section of footway to the gable of Plot 1
- A swept path analysis for a refuse collection vehicle to enter the site and turn in the turning head adjacent to plots 23 and 36 increase of visitor parking
- Electric vehicle charging points

Various conditions are requested relating to:

- Management and maintenance of estate streets to remain private streets or

- which do not conform to adoptable highway standards.
- Scheme for site access/off-site highway mitigation works
- Construction Management Plan (CMP).
- Construction deliveries outside peak traffic
- Wheel washing /mechanical road sweeping
- Highway surface water drainage

Following the submission of amended plans the HA have confirmed again there is no objections to the proposal. They note it is expected that this site remains a private site in line with other similar sites that have been delivered by the applicant. The applicant has addressed some of the concerns raised, and the remainder of the concerns being addressed through a S278 agreement with the HA.

As part of the off-site highways works they require the following points and concerns to be addressed:

- A street lighting assessment for Saltburn Street for the section from the junction with Harling Street to Gannow Lane,
- The formation of a section of 2m footway to join with the exist footway on Harling Street
- The provision of some tactile paviments across the junction of Saltburn Street and the new access
- The re-instatement of a section of footway to the gable of Plot 1

It is also expected that:

- The carriageway and associated footways shall be constructed in line with Lancashire County Councils' adoptable standards.
- A charging point for electric vehicles shall be included in the development.
- Street lighting provision should be in line with conventional street lighting schemes, it is noted that a taller floodlighting scheme as utilised at Weavers Fold may not be approved as the light spill beyond the site to the canal and the rear of Wilson Fold maybe excessive.

Conditions are requested to relate to:

- Management and maintenance of estate streets to remain private streets or
- which do not conform to adoptable highway standards.
- Scheme for site access/off-site highway mitigation works. Construction Management Plan (CMP)
- Construction deliveries outside peak traffic
- Wheel washing/mechanical road sweeping
- Highway Surface water drainage
- New road built to Lancashire County Council's Specification for Construction of Estate Roads
- Highway works constructed prior to occupation.
- Electric vehicle charging point.
- Lighting

Lead Local Flood Authority (LLFA): Initial objection was received to the proposal. Following the submission of additional information, this was maintained. The objections were made on the following grounds:

- Inadequate Surface Water Sustainable Drainage Strategy

Following further information, the LLFA withdrew the objection to the application. Conditions are requested relating to the following:

- Final Surface Water Sustainable Drainage Strategy to be submitted
- Construction Surface Water Management Plan
- Sustainable Drainage System Operation and maintenance Manual
- Verification Report of Constructed Sustainable Drainage System

Canal and Rivers Trust: No objections. Comments relating to the impact on the character and appearance of the waterway corridor; with specific consideration to be given to:

- Boundary treatments
- Landscaping
- Surveillance
- Anomaly of drawing ref 12
- Measures should be included to protect the canal during construction and promote biodiversity on site

Lancashire Fire and Rescue: Comments made with regards to matters relating to fire safety.

The Coal Authority: The Coal Authority concurs with the recommendations of the Preliminary Risk Assessment (Desk Study) that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

Conditions requested as follows:

- Site investigation and verification

United Utilities: Further information required as have concerns about the proximity to the water asset. A site plan showing the location of the water main and the site layout shall be submitted for consideration.

- Drainage Strategy condition is requested.

Greater Manchester Ecology Unit (GMEU): No objection, conditions requested relating to the following:

- Bird breeding season
- Measures to protect the canal during construction
- Lighting design
- Measures to ensure net gain for biodiversity

Environmental Health: No objection but a condition is requested in relation to noise and disturbance. On the submission of a vibration report, no objections have been made on this basis.

BBC Greenspaces Team: No request for on site or off-site children's play areas. The green space provided within the site seems sufficient for the development size, which can be maintained by a management company.

### **Planning and Environmental Considerations:**

#### **Principle of the development:**

Policy SP1 of Burnley's Local Plan, adopted in July 2018, states that the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the National Planning Policy Framework (NPPF). It will work proactively with applicants and to find solutions which mean that the proposed can be approved wherever possible to secure development that improves the economic, social and environmental conditions of the borough. It also echoes the guidance in the NPPF by stating that 'Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.'

Policy SP2 sets out the Housing Requirement for the Borough between 2012 and 2032, identifying a net additional requirement of 3,880 dwellings, of which there is a residual requirement of 1,798 dwellings to be met by site allocations. Policy HS1 identifies those sites have been chosen through the local plan process to meet this requirement. The application site is one of the sites identified for housing HS1/22 – former Dexter Paints Land at Hollins Cross Farm, and is identified as Brownfield land.

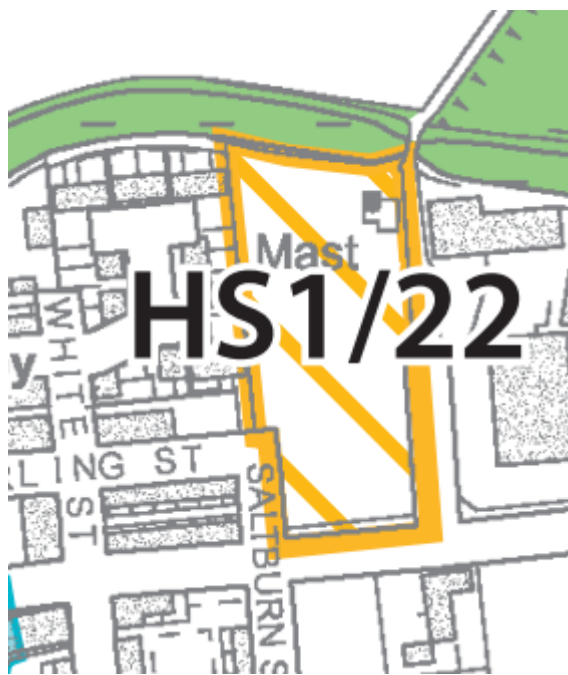


Fig 5: Site allocation in Burnley Local Plan HS1/22 Dexter Paints site

Policy HS1 states that development on the allocated site will be acceptable in principle for housing development and will be required to be delivered in accordance with the site-specific requirements set out in HS1/22, together with the requirements of other policies elsewhere in the plan. This policy states that the development of the site is acceptable for around 26 units. It is accepted that the increase in units on the site to 36 is around 35% above this, however the policy does not provide an upper limit. With this in mind, the suitability of the development will be addressed in full in this regard in the remaining sections of the report.

Therefore, it is considered that the principle of developing the site for residential purposes is established through the Local Plan.

These sites have been selected in accordance with the development strategy in Policy SP4 and the principle of development assessed on their individual characteristics and locations taking into consideration potential adverse impacts of development and whether they could be mitigated to an acceptable level.

Moreover, the allocated sites and their potential impacts have been subject to a high level of scrutiny by third parties and examination by the Planning Inspectorate as part of the Local Plan adoption.

<b>HS1/22 – Former Dexter Paints</b>	
<b>Housing Delivery</b>	The site is acceptable for around 27 dwellings.
<b>Additional and Site Specific Policy Requirements and Design Principles</b>	
<ol style="list-style-type: none"> <li>1) Vehicular access should be taken from Saltburn Street only, with the existing site access from Gannow Lane permanently closed;</li> </ol>	
<ol style="list-style-type: none"> <li>2) Screening and noise mitigation measures are required in order to lessen the impact of noise from adjacent industrial uses to the east of the site; and</li> <li>3) Proposals should address the site’s waterfront location in accordance with Policy SP5.</li> </ol>	
<b>Supporting Information</b>	
<ol style="list-style-type: none"> <li>1) Planning Permission has been granted for the redevelopment of this site.</li> <li>2) Screening and noise mitigation measures to lessen the impact of noise from the adjacent industrial uses is required. Distance should be maintained between existing industrial uses to the east of the site.</li> <li>3) Access should be taken from Saltburn Street.</li> <li>4) The site will require contamination investigation and remediation due to previous industrial usage in accordance with Policy NE5.</li> <li>5) The following conditions were attached to the current planning permission: The existing access to the site shall be physically and permanently closed and the existing verge/footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads, concurrent with the formation of the new access; The new estate roads including the access into the site from Saltburn Street shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base-course level before any construction works take place within the site.</li> </ol>	

Fig 6: Policy HS1/22 Dexter Paints Site taken from Burnley Local Plan.

**Design /Scale and layout:**

Policy SP5 states, amongst other things, that the Council will seek high standards of design, construction and sustainability in all types of development. In respect of design and layout, this requires new housing to respect existing, or locally characteristic street layouts, scale and massing; contribute positively to the public realm; provide for new open space and landscaping which enhances/or provides mitigation for loss of biodiversity; respect the townscape or landscape setting; be orientated to make good use of daylight and solar gain; to ensure there is no unacceptable impact on the amenity of neighbouring occupants or new occupiers; and provide for carefully designed storage for bins and recycling containers. Policy HS4 provides more detail.

Paragraph 126 of the NPPF states that *'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'*. As such design is a key consideration in any planning application.

The scheme proposed is for 36 houses. The Policy HS1/22 states that 'around 27' dwelling will be acceptable on this site. The applicant has maximised the number of the units on the site due to it's layout but has managed to incorporate quality landscaping and open space provision on the site despite this. Therefore, although not strictly in accordance with the wording of the policy, which is not exact, officers accept that 36 houses can be accommodated on the site.

The development would be constructed from natural stone walls and slate roofs, which are welcomed natural materials resulting in quality finish to the development. They would be laid out on the site in 3 blocks, two running north to south with a central access road and one across the front of the site, behind a low stone wall on Gannow Lane, separated by a small grassed area. The access would be from Saltburn Street as required by policy HS1/22, and there would be an area of open space provided adjacent to the canal. A condition is attached to secure landscaping in detail, which will visibly improve the development.

Although it is acknowledged that to improve design further it would be beneficial to consider orientating houses towards the canal and perhaps building houses directly overlooking the canal, the applicant has explained that this is not possible as the area of land close to the Canal has a steep incline and has been filled in the past. This makes it potentially unviable for this kind of development due to the additional costs of piling and the impracticality of having houses raised above the ground for ease of access for the occupants. It is accepted by officers that this is a difficult site to develop in terms of viability and as such the layout presented to Members is the one the applicant considers viable to develop on this site.

The houses would be single storey one bed terraced properties with one parking space per house, and bins located at the front of the properties, behind low hedges. This ensures elderly residents do not have to drag bins from the back of their properties on bin day, which makes them more accessible, and also ensures that they are hidden from view behind the hedgerow.

The floor area provided is in line with the Government's technical housing standards. There would be communal open garden areas at the back of the houses with areas for the occupants to sit out.

It is not unusual when considering a design for a housing scheme, that permeability of the site is requested to allow people to move through the site easier, who may not live there, and allow occupants to access the site from various points. In this case the applicant has provided the main entrance and exit to the site from Saltburn Street. This layout of the scheme is considered benefit in terms of a feeling of safety and security for the older occupants; there is also no tow path on this side of the canal, which stops people who are not wanted to enter the site. Officers consider this is an acceptable approach for this scheme.

The applicant has various other development in the area which are well maintained and laid out.

Below is a Google image of the applicant's other site at Weavers Fold further up Gannow Lane. Planning permission was granted for that site for 94 dwellings in 2016 (application APP/2015/0423). The site was completed around 4 years ago.



Fig 7: Current photograph showing communal garden area and planting at Weaver's Fold.



Fig 8: Current photograph showing landscaped entrance at Weaver's Fold.

The applicant has explained to officers that he offers a bespoke service to his occupiers which allows them to benefit from a well landscaped housing estate planted out and maintained on their behalf by his company. The applicant has confirmed that due to the older age of the occupiers, they do not want the extra stress of having to maintain their own gardens and as such the model works well where garden areas are shared and maintained by the applicants company.

A condition is included to ensure that a full scheme and programme comes forward for the management and maintenance of these areas which can be agreed in detail with the local planning authority.

The Canal and Rivers Trust has specified that they would like to keep boundary treatments near the canal low and that a natural planting scheme would benefit the canal frontage. They have also requested that the orientation of the end houses is changed to allow some overlooking. The applicant has not agreed to facilitating this but has put in some windows on those end elevations which will look over this space. The applicant did not agree that the re orientation of these houses was necessary and wanted to keep the linear arrangement to the layout due to the restraints of the site. The inclusion of the extra windows on the end



elevations are welcomed, although it is acknowledged that changing the full orientation of these end houses, would be more of a benefit to the layout of the development. In addition to this officers have asked whether 4 units could be placed at the canal side of the site directly overlooking the site, however on discussion with the applicant, it has been accepted that the build out costs associated with this due to the previous infill in this area and the slope wouldn't be viable. In any case, it is acknowledged that the area directly adjacent to the canal should be kept free for maintenance to the canal and also to protect the integrity of the canal.

Policy SP5 also requires that measures should be incorporated to minimise energy and water consumption and opportunities should be sought on site to supply energy from renewable and low carbon sources, along with opportunities to contribute towards local and community renewable and low carbon energy initiatives. The applicant has confirmed that the new Building Regs Part L which came into effect in June 2022 have a 30% improvement over the old Regs for energy efficiency as compared to when Policy SP5 was adopted. Each dwelling with on-site parking is now also required to have an electric charge point fitted to the dwelling (Part S). The applicant has also confirmed they have not been able to identify any local community low carbon initiatives to contribute towards. Alternative low carbon energy sources, such as thermal or solar are not considered viable here as they would be expensive to install on what is already a marginal site. As such it is considered that the applicant has incorporated measures to minimise energy and water use as required by the provisions of that policy.

Policy HS4 requires that 20% of the dwelling should be built to be adaptable to support the changing needs of the occupiers over their lifetime. The agent has confirmed that 100% of the buildings will be built to adaptable standards on account that they are specifically for the over 55s and this has been taken into account in their design. A condition is included to ensure that this is demonstrated to have been met prior to the occupation of the dwelling houses.

On balance, although it is accepted that the layout of the development is not optimised, the over 55 occupancy of this site means that the scheme before Members has been designed specifically for their needs, and on this basis a flexible approach can be applied. The quality finish of the development through materials and landscaping, with the inclusion of the conditions referred to in this section of the report, means that officers consider that on the whole, the development is acceptable and in accordance with the relevant local and national planning policy in this regard.

### **Traffic and Highway Safety:**

The NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The NPPF also requires proposals to provide safe and suitable access for all users and to create opportunities for walking, cycling and public transport. Policy IC1 of the adopted Burnley Local Plan states that development scheme should promote sustainable travel, provide a safe and convenient access and provide/contribute to off and on-site infrastructure where necessary to ensure the development does not materially add to highway safety concerns or reduce the efficient use of the highway network. Policy IC2 of the same plan requires this level of development to be accompanied by a Transport Assessment (as it has been), and Policy IC3 relates to car parking standards within new developments specifically.

The site is located in a sustainable position close to bus links and within walking distance of shops. The access is provided from Saltburn Street, as stipulated by Policy HS1/22 and parking for 1no vehicle is provided with each dwelling in line with the required standards set out in the Local Plan.

The applicant has confirmed that the internal layout of the development will not be offered to the Highways Authority (HA) for adoption. The HA has confirmed that there would be some S278 works which will be required, as set out in the consultation section of this report, and this will be secured through the use of a condition. The applicant is aware of this and has raised no objection to the requirement for these works. In relation to the internal roads, if approved a

S106 obligation will be put in place to secure the ongoing management and maintenance of the internal roads in the proposed development. This will ensure that they are management maintained to the correct standards for the future occupants.

Parking has been provided on the site in line with the relevant parking standards, and a condition has been requested which requires an electric charging point to be provided on site for each dwelling. This matter is however addressed by Building Regulations and as such it is not required to add an additional condition here. A condition regarding lighting has also been requested, which will be incorporated within a condition requested by the ecologists (GMEU) to reduce the number of conditions attached to the planning permission.

With the inclusion of the conditions as requested by the HA and the noted S106 obligation, and in the absence of an objection from the statutory consultee, officers are satisfied that the development is acceptable in this regard and in accordance with the relevant local and national planning policy.

### **Residential amenity:**

Policy SP5 seeks to ensure that development has no unacceptable adverse impact on the amenity of neighbouring occupants or result in unacceptable conditions for future users and occupiers of the development. This is supported by the provisions of the NPPF. HS4 gives detailed guidance in relation to required overlooking/overbearing distances.

Policy NE5 requires that development proposals should demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risk of adverse impacts to air, land and water quality, vibration heat, energy, light and noise pollution both during construction and in operation. A letter received following public consultation has raised a possible issue of vibration from the adjacent commercial premises.

The Local Plan provides detail in relation to distances which should be maintained between houses, either within the scheme proposed, or adjacent to the site. In this case there is only 2no units which do not adhere to these distances, units 14 and 15 as detailed on the proposed site Layout. The distance to the properties to the rear are below that which is set out in Policy HS4, which requires 15m. In this case there is 11m between the existing gable end and the proposed windows of units 14 and 15. Although it is acknowledged that this is not ideal, overall the distances are maintained throughout the development and as the impact will be on future occupants, not existing occupants of no 11, they will be aware of the situation prior to them moving in. As such, on the whole it is considered that the development is acceptable and in accordance with the relevant policy in this regard.

The Council's Environmental Health Officer has considered the proposal and has raised no objection in relation to potential contamination on the site, they have requested that a condition is attached in relation to this.

A letter was received from a nearby business which expressed concern that if residential properties were located on this site it could stop them from being able to operate their business on a 24 hour basis in the future, although they have no plans for this currently.

As a result, the applicant has supplied a vibration report which has considered this, and it has been acknowledged by the EHO that this is not a matter to be concerned about and vibration would not be an issue for the future occupants from this established business.

With the requested conditions relating to contamination and the confirmation that vibration is not an issue which concerns the Council's EHO, officers are satisfied that the development is acceptable and in accordance with the relevant local and national planning policy in relation to residential amenity.

## **Affordable housing**

Policy HS2 of the adopted Burnley Local Plan sets out the Council's approach to affordable housing. The Council's adopted 'Developer Contributions' Supplementary Planning Document sets out the requirements for the different types of housing sites in terms of affordable housing provision. This site has a requirement for 0% affordable housing provision.

The proposal is therefore considered acceptable in this regard.

## **Ecology and biodiversity**

Policy NE1 states that all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible. In all cases measures should be taken to safeguard protected and priority species and habitats before any development commences. Paragraph 174 of the NPPF states that

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

c) Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'.

Paragraph 180 of the NPPF states that when determining planning applications local planning authorities should apply certain principles, the relevant one to this application is:

'If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused'.

Objections have been received to the proposal in relation to the impact on ecology and biodiversity, these are set out in full in the consultation section of the report.

The applicant has confirmed that they are keen to make biodiversity improvements on the site and this is welcomed by officers. The Greater Manchester Ecology Unit (GMEU) have considered the proposals and have made no objections to the development. They have confirmed that the application includes an ecology assessment which has been undertaken by a suitably qualified ecological consultant. That consultant has undertaken a detailed survey of an appropriate level.

The survey showed that the site has limited ecological value and that the main issue to be considered would be with nesting birds and the clearance of any remaining trees and shrubs during the nesting season. As such a suitably worded condition has been requested. In addition, they have stated that as the site is adjacent to the Leeds Liverpool Canal, standard measures to protect the canal from accidental harm during construction should be included within the Construction Environmental Management Plan for the site.

It was also highlighted that the canal is likely to be used for foraging and commuting for bats, therefore no additional light pollution should be caused by the proposals and a suitably worded lighting condition is recommended. This condition has been incorporated into the lighting condition for the Highways Authority to reduce the number of conditions added to the decision, if approved.

Finally, GMEU expect that a condition is also included to ensure that suitable Biodiversity Enhancement Measures are included to ensure there is no net loss across the site.

With the inclusion of these requested conditions, and with the support of the applicant, officers are satisfied that the proposal meets with the relevant local and national planning policy in this regard.

### **Open Space:**

Local Plan Policy HS4(5) requires open space to be provided at a rate of 0.3ha per 50 dwellings. Where this is impracticable a payment in lieu can be made for the benefit of existing public open space nearby.

This development will be restricted to over 55s and are 1 bedroomed units, therefore it is not considered that children will be living at the site. Although it is acknowledged that there is likely to be grandchildren visiting the site, this would not be an intensive use comparable to a family housing development.

The Council's Green Spaces department has considered the proposal and consider that there is no need as a result of the restricted occupation, for play provision on site. There is a good sized open space area on the site and as such they are satisfied, provided this is management and maintained by the developer, that this would be acceptable for this development.

This proposal has a greater quantity of open space on the site than the previous approval. There are also communal open garden areas around the properties, leading to much more openness than the previous approval. These areas will provide for hedgerows and natural planting to contribute towards the semi natural environment of this area, allowing, for example, bat routes along the canal.

The applicant manages and maintains all the open space on other developments in their ownership and this is the intension for this site. The business is family run and the expectation is that this will be the long term strategy with all their developments. Officers are therefore satisfied that due to the specific offer of the applicant, that the management and maintenance arrangements are acceptable through the use of a suitably worded condition. The use of a condition also allows the local planning authority to retain control with regards to the quality of the ongoing management of the site.

With the recommended condition, it is considered that this proposal is acceptable and in accordance with the relevant local and national planning policy in this regard.

### **Drainage**

Policy CC4 seeks to ensure that new development does not result in increased flood risk either on the development site or elsewhere. Policy CC5 requires surface water discharge to be appropriately managed and discharge to be restricted through measures including SuDS. The NPPF also provides detail.

The Drainage Strategy submitted with the application confirms that it is intended by the applicant that surface water runoff from the site will use the existing connection for surface water and install drainage which will take all water surface runoff from the new buildings and hardstanding area and that surface water attenuation will be provided within he development site using underground storage. The proposals will be designed so as not to effect the existing situation and therefore there will be no change to the flood risk upstream or downstream of this location.

Foul water will be drained into the public combined sewer that lies just to the north of the existing site access and flows south into the 450mm diameter public sewer that lies within Gannow Lane.

United Utilities have considered the detail of the drainage of the site and they have confirmed that they have no objection. They have requested that the applicant submit a further detailed

site layout which shows the location of the water main on site in relation to the proposed development on the site (such as walls, fencing etc). This has been provided by the applicant. United Utilities have also requested a detailed condition is included to give full details of the surface water and foul water drainage scheme prior to the commencement of development.

In relation to surface water, the Lead Local Flood Authority have provided comments. They initially objected to the proposals, however with the submission of further drainage information they have now withdrawn this objection, subject to the conditions requested as noted in the consultation section of the report.

With the extra information having been provided, and with the inclusion of the conditions requested by the statutory consultees, and with no objections received from them, officers consider that the development is acceptable and in accordance with the relevant local and national planning policy in this regard.

### **Other matters:**

**Bins:** The Council's preference is always for bins to be stored at the rear of developments. However, in this case the applicant has applied for bin storage at the front of the houses. This will ensure that the elderly residents are not required to manoeuvre bins long distances for collection on bins days. Although ideally, they would be kept at the rear, the installation of quality planted bin stores at the front of the houses will ensure that the bins are kept to a tidy appearance and will make accessing them easier for occupants.



Fig 9: Demonstration of bin storage areas on another site belonging to the applicant

**Coal:** The application site falls within the defined Development High Risk Area and as such within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. As required, the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Preliminary Risk Assessment (Desk Study) (25 February 2022, prepared by Worms Eye Ltd), which accompanies this planning application.

The Coal Authority has considered this and has raised no objections to the application, they have requested the use of a condition as noted in the consultation section of the report. With this included, officers are satisfied that the development is acceptable and in accordance with the relevant local and national planning policy in this regard.

### **Conclusion:**

The proposal seeks to develop a site that is acceptable in principle as it is allocated for housing purposes in Burnley's Local Plan. The proposed scheme has been amended since first submitted and proposes a suitably designed scheme, in line with the requirements of local and national planning policy as set out in the report. The site is a brownfield site which has

existing viability constraints and the applicant has put forward a scheme for over 55s which is considered by officers, on balance, to be acceptable.

Matters such as design, scale and layout, traffic and highway safety, residential amenity, affordable housing, ecology and biodiversity, open space and drainage have been considered within the report and considered to be satisfactory. As such the development is considered acceptable and on balance, is acceptable in relation to the relevant local and national planning policy subject to the conditions listed below and the S106 agreement for the ongoing management and maintenance of the internal road layout:

### **Recommendation:**

The application be delegated to the Head of Housing and Development Control to approve subject to securing ongoing management and maintenance of the internal road layout through S106 obligation and the conditions listed below:

### **Conditions**

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 below:

Application form received 4<sup>th</sup> March 2022  
Location Plan received 4<sup>th</sup> March 2022  
Existing site Plan 03 received 4<sup>th</sup> March 2022  
Street Views Plan 07 received 4<sup>th</sup> March 2022  
Proposed Sections 12 received 13<sup>th</sup> June 2022  
Access Layout J1409 Access Fig 1 received 13<sup>th</sup> June 2022  
Amended Proposed Plans and Elevations 03A 04B 05B  
Amended Proposed Site Plan DWG 02 B  
Planning and Design and Access Statement received 4<sup>th</sup> March 2022  
Preliminary Ecological appraisal received 4<sup>th</sup> March 2022  
Preliminary Risk Assessment received 4<sup>th</sup> March 2022

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

3. The development hereby approved shall be restricted to over 55s accommodation only.

Reason: Acceptability of the development is in accordance with the occupancy of the units being over 55s only in accordance with the provisions of the Burnley Local Plan and the National Planning Policy Framework.

### **Materials**

4. Prior to their use in the development hereby approved, details of the materials to be used for the external walls, roofs and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The materials shall then be retained as agreed for the duration of the development.

Reason: In the interest of visual amenity and the securing a high quality development, in accordance with the provisions of Policy SP5 of the Burnley Local plan and the provisions of the National Planning Policy Framework.

#### Contamination condition

5. Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:
  1. The Preliminary Risk Assessment carried out by Worms Eye has identified potential risks to future site users.
  2. A Site Investigation Scheme, based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  3. Based on the Site Investigation Scheme and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  4. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Note: Any changes to these components, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the Local Planning Authority.

Reason: To protect the amenity of local residents' in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provision of the National Planning policy Framework.

#### Highways

6. No part of the development hereby approved shall be occupied until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority as part of a section 278 agreement, under the Highways Act 1980. The scheme shall be fully implemented and completed in accordance with the approved scheme prior to the occupation of the development hereby approved.

Reasons: In the interest of highway safety; to ensure a satisfactory appearance to the street infrastructure serving the approved development; and to safeguard the users of the street and visual amenities of the locality in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

7. 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.
- Arrangements for turning of vehicles within the site.
- Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures.
- 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 interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

8. Deliveries to the approved development shall only be accepted between the hours of 9:00am and 3:00pm Monday – Friday, to avoid peak traffic on the surrounding highway network.

Reason: In the interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

9. For the full period of construction facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud, stones and debris being carried onto the highway. Provision to sweep the surrounding highway network by mechanical means will be available and the roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: In the interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

10. Prior to commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority for a highway surface water drainage scheme.

The development should be undertaken in accordance with the agreed details and the scheme shown on the approved drawing shall be constructed in accordance with the approved details, and retained thereafter.



Reason: In the interest of highway safety in accordance with the provisions of Policies IC1 and IC2 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

Adaptable homes

11. Prior to the occupation of the development hereby approved, evidence shall be provided to and approved in writing by the Local planning Authority which demonstrates that at least 20% of the houses hereby approved have been built to current adaptable homes standards (Part M4(2) of the building Regulations 2010).

Reason: In the interest of providing adaptable homes to support the changing needs of occupiers over a lifetime in accordance with Policy HS4 of the Burnley Local Plan.

Lead Local Flood Authority

12. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water sustainable drainage strategy (surface water and foul water drainage strategy incorporating an assessment of flood risk, Rev A, October 2022, Reford) submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

a) Sustainable drainage calculations for peak flow control and volume control for the:

- i. 100% (1 in 1-year) annual exceedance probability event;
- ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
- iii. 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance, with an allowance for urban creep

b) Final sustainable drainage plans appropriately labelled to include, as a minimum:

- i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
- ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels;
- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
- iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
- v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
- vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
- vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

c) Evidence of an assessment of the existing on-site surface water drainage systems to be used, to confirm that these systems are in sufficient condition and have sufficient capacity to accept surface water runoff generated from the development.

d) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

13. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.

b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

14. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The details of the manual to be submitted for approval shall include, as a minimum:

a) A timetable for its implementation;

b) Details of SuDS components and connecting drainage structures, including watercourses and their ownership, and maintenance, operational and access requirement for each component;

c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;

d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;

e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;

f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and

g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

15. The occupation of the development shall not be permitted until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

#### Landscaping /levels and implementation

16. Prior to the occupation of the first dwelling houses hereby approved, full details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include, but not be limited to:

Proposed finished levels or contours  
Means of enclosure  
Car parking layouts  
Other vehicle and pedestrian access and circulation areas  
Hard surfacing materials  
Minor artefacts and structures (e.g seating/signs etc)  
Proposed and existing functional services above and below ground (e.g drainage power, communications cables, manholes etc)  
Bin store hedge surrounding planting

Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants, plant sizes and proposed numbers/densities where appropriate.

All hard and soft landscaping shall be carried out in accordance with the approved details no later than the first available planting season following occupation of the first dwelling house or in accordance with the programme prior agreed in writing with the local planning authority

Reason: In the interest of securing a quality finish to the development in accordance with the provisions of Policies SP5 and HS4 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

#### Canal conditions

17. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) should be provided to the local planning authority for

approval in writing to include measures detailing how materials will be stored on site and how the canal will be protected from dust and site laden runoff.

Reason: In the interest of protecting the integrity of the canal during the development process in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

Coal

18. No development shall commence until;
- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance in accordance with the timetable agreed with the local planning authority.

Reason: In the interest of protecting the integrity of any unstable land during the development process in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

19. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: In the interest of protecting the integrity of any unstable land during the development process in accordance with the provisions of Policy NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

UU

20. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
  - (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
  - (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
  - (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
  - (v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policies CC4 and CC5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

GMEU

21. No removal or works to any hedgerows, trees, shrubs or brambles shall take place during the main bird breeding season 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority for written approval.

Reason: In the interest of the protection of protected species in accordance with the provisions of Policy NE1 of the Burnley Local Plan and the provision of the National Planning Policy Framework.

22. Prior to occupation, a lighting design strategy for areas to be lit externally shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
  - c) Provide details of light levels and spillage

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: In the interest of the protection of biodiversity and ecology on the site in accordance with Policy NE1 of the Burnley Local Plan and in the interest of highway safety and residential amenity in accordance with policies SP5 and IC1 of the Burnley Local plan, and in accordance with the provisions of the of the National Planning Policy Framework

23. A scheme for the Biodiversity Enhancement Measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall be agreed in writing with eh Local Planning Authority) and shall be retained thereafter.

Reason: In the interest of the enhancement of biodiversity on the site in accordance with the provisions of Policy NE1 of the Burnley Local Plan and the National Planning Policy Framework.

EHO

24. 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: in the interest of protecting residential amenity in accordance with policies HS4 and NE5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

25. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- There shall be no burning of construction-derived waste or other materials within the curtilage of the premises.
- All noise mitigation measures to be instated for the eastern boundary of the development (as per the planning and design access statement) and for the windows/external fabric of the dwellings (as per the noise impact assessment dated 27th September 2022).
- The lighting scheme should comply with Environmental Zone E3 (small town centres or suburban locations) of the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011(or later versions). It should be designed so that it is the minimum needed for security and operational processes and be installed to minimise potential pollution caused by glare and spillage.

Reason: To demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts to air, land and water quality, whilst assessing vibration, heat, energy, light and noise pollution both during their construction and in their operation in accordance with Policy NE5 of Burnley's Local Plan and to ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users in accordance with Policy SP5 of Burnley's Local Plan.

26. Prior to the first use of the development hereby approved the hedge surrounds shown on the site layout at the front of the properties shall be installed and available for use for the storage of bins. The bin storage areas shall remain in place for the duration of the development and for the use of storage of bins only.

Reason: In the interest ensuring a quality development in accordance with Policy SP5 of the Burnley Local Plan.

Informative – The developer is advised to consider the comments from Lancashire Fire and Rescue, Canal and Rivers Trust, Highways Authority, Lead Local Flood Authority and United Utilities comments available online prior to the commencement of development.

Elizabeth Hindle  
27<sup>th</sup> January 2023

Housing & Development  
Town Hall, Manchester Road

Ref.

## LBC/2023/0027

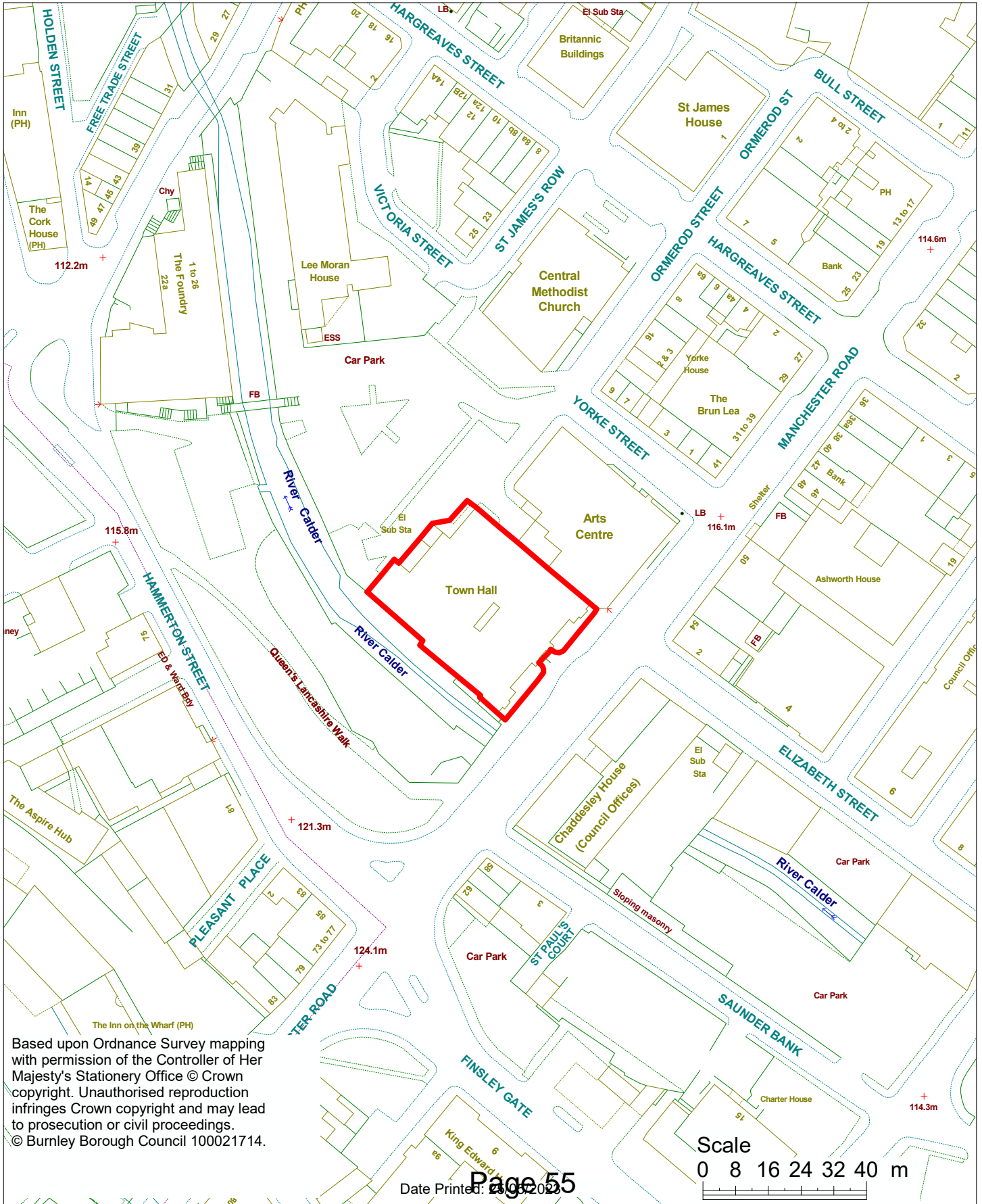
Paul Gatrell Head of Housing and Development

Location:

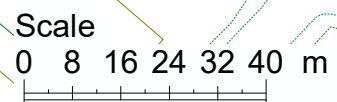


## Town Hall, Manchester Road, Burnley

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**Application for Listed Building Consent**  
Restoration of Ceiling to Council Chamber (Retrospective)  
TOWN HALL MANCHESTER ROAD BURNLEY

Applicant: Burnley Borough Council  
Agent: Property Services (Liberata UK Ltd)

**Application Property and Summary of Heritage Significance:**

This application relates to Burnley Town Hall, a heritage asset of high significance reflected in its Grade II Listing. The significance of the building is found to lie chiefly in its architectural and historic interest. It holds high significance as a notable example of Victorian municipal architecture in the Renaissance Revival style, which retains much original detail both externally and internally. The building possesses a high level of architectural interest for its external qualities including its embellishment and degree of intactness. Internally, the building has retained a significant amount of its original plan form, internal fabric, fixtures and features. The effect of these elements are particularly legible in the public areas including the principal entrance, hall and staircase; and the civic suite including the Council Chamber, Reception Room and Mayors Parlour and as such are of high significance. Surviving original finishes and fittings to the office accommodation are of moderate significance, though later 20<sup>th</sup> century fixtures and finishings throughout the building and insensitive service installations have a negative impact in places. The building also holds value at a local level in representing the political history and growth of Burnley; and in terms of its contribution to the architectural quality and character to the townscape.

This application specifically relates to the Council Chamber. The most notable feature being the finely decorated coved (barrelled) and coffered ceiling comprising 14 polychromed plaster panels painted with the Lancashire Boroughs coats-of-arms and separated by rib mouldings. The upmost (flat) part of the ceiling is framed by square panels decorated with stucco flowers and has a central ceiling rose with laurel leaf detail. The ceiling is positioned above an ornate plaster cornice beneath which is a lettered frieze recording the principal dates of Burnley's civic history.



The Victorian wall panelling and furnishings were sold in 1973. It is thought that the ceiling and lettered frieze were redecorated at this time, using a contemporary colour palette of modern dark brown, orange, turquoise blue, dark green, sage green, mint green, mustard, cream and gold mica paints. Having suffered from damp, the polychromed plaster panels were restored in 1987-8 including crack filling, extensive retouching and varnishing.

## **Background:**

Following the initial inspection of a suspected dry rot fruiting body located in the cornice to the south-east (Manchester Road elevation), expert investigation and condition surveys have identified the following defects to high level areas within the Council Chamber:

- Damage and decay to the structural timbers of the cornice to the south-east (Manchester Rd) and south-west (Riverside) elevations and supporting timbers above the cornice and within the barrelled ceiling as a result of past water ingress and dry rot fungal infestation.
- Damage to the plaster and decoaration of the upper wall, cornice and barrel ceiling panels to the south-east (Manchester Rd) and south-west (Riverside) elevations caused by past water ingress including de-bonded and friable paint (cracked, blistering, flaking and powdering); damage to the varnish layer (abraded and discoloured); and softened and blistered wall-plaster.
- Significant cracking and displacement in the cornice, barrel ceiling and ceiling plaster have also been identified as a likely result of movement and structural defects within the roof void above the ceiling.

It is to be noted that the moisture readings reveal the ceiling plaster to be dry which indicate that the extensive repairs to the external envelope of the building have eliminated the water ingress issues and enhanced the weathertightness of the building.

The investigatory surveys included specialist analysis of the historic plaster and paint finishes to develop a clear conservation strategy and specification. The investigation identified, amongst other details, the finish types and colours of the original scheme of decoration. The ceiling is found to have originally been finished in olive green, straw and cream lead oil paints with a rich lustre finish. Preliminary trials have also been undertaken to determine the most effective cleaning method.

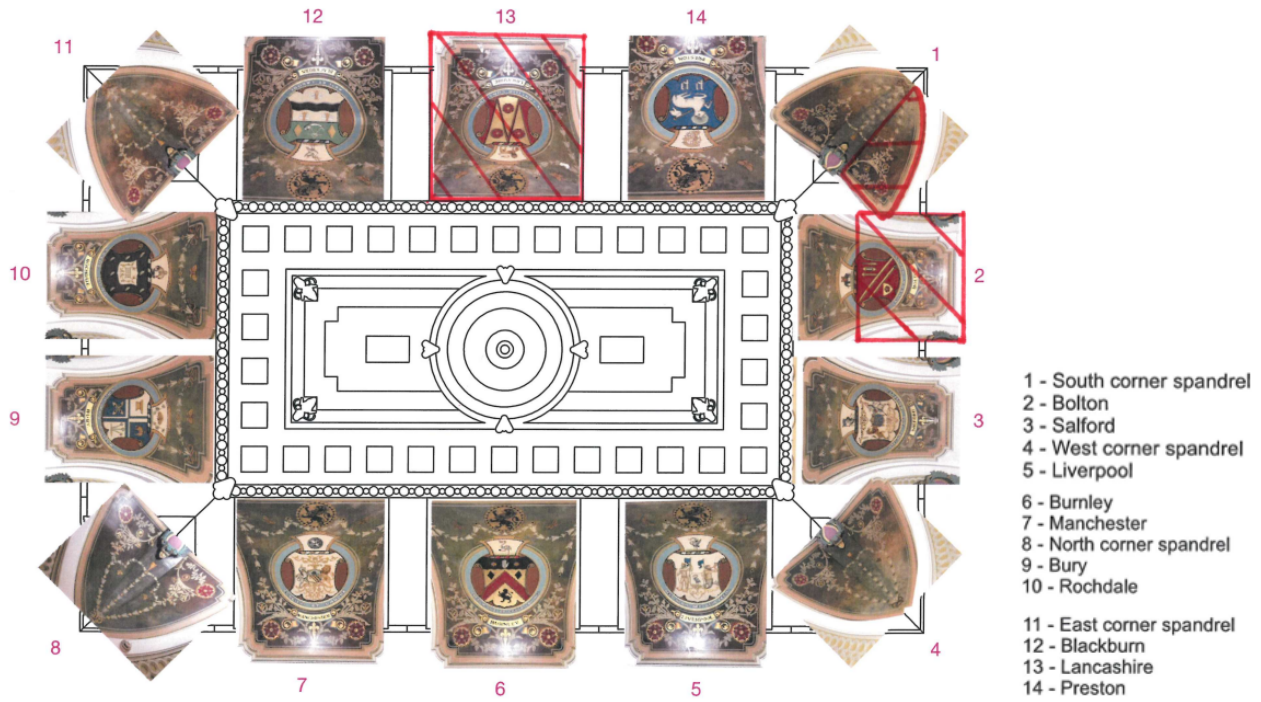
## **The Proposal:**

This application seeks retrospective listed building consent for the restoration (structural, fabric and cosmetic repairs) of the Council Chamber ceiling and decorative finishes identified through detailed survey and expert investigation as described in the submitted drawings and schedules of work, specialist condition surveys, investigations and reports.

The works that have been undertaken are summarised as follows:

- Removal of all fabric affected with fungal growth and/or decay and water damage including sections of timbers; areas of perished plaster (to three walls); cornice and rib moulding. Panel 13 (Lancashire) has been removed in its entirety, and Panels 1 (corner spandrel) and 2 (Bolton) have been partially removed in addition to approximately 7.0m length of cornice to Manchester Road elevation and approximately 4.0m of cornice to the riverside elevation below the affected panels.
- Treatment of the masonry with a water based fungicide fluid and treatment of any localised sound timbers with preservatives.
- Replacement of all decayed sections of timber with like for like sections using pre-treated timber.
- Structural reinforcement works and repairs to the roof void, walls and ceiling as specified by the conservation engineer.
- Reinstatement of all the decorative plaster work to match the existing/original detail including mouldings and cornices etc.
- Replaster over exposed masonry with a lime-rich plaster.
- In-filling and in-painting of the coat of arms plaster panels.

Traditional repair techniques have been employed but also the use of modern techniques of re-engineering including pinning, ties, reinforcement bars and plates where necessary and unavoidable.



Extent of loss of polychromed plaster panels (highlighted in red)



Initial Dry Rot Outbreak Below the Lancashire Panel



Reconstruction of the Lancashire Panel



Partial Removal of Panels 1 and 2



Removal of Cornice, Support Timbers and Wall Plaster

The historic decorative scheme, including colours and finishes, has been established through investigative works undertaken by specialist conservators and is proposed to be reinstated following the repairs.

The works have been informed by the findings and recommendations of expert heritage advisors, following detailed survey and research, and has been developed following extensive engagement with the Council's heritage planner who remains actively involved in the project.

This application is presented to Committee as the applicant is Burnley Council.

**Relevant Policies:**

Burnley's Local Plan (July 2018): Policy HE2 (Designated Heritage Assets) outlines the key requirement for proposals to have regard to the desirability of sustaining and enhancing the significance of listed buildings and, where appropriate, securing a viable use most consistent with their conservation. All levels of harm should be avoided. The policy adopts the NPPF's categories of 'substantial' and 'less than substantial' harm and the corresponding policy tests (as set out in NPPF 201 and 202). In summary, these tests provide an opportunity for an applicant to demonstrate that there would be public benefits arising from a proposal which may outweigh heritage harm.

The National Planning Policy Framework (2021): It is the conservation of heritage assets in a manner appropriate to their 'significance' which is the focus of the NPPF. Paragraph 199 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm. Paragraph 200 sets out that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Planning (Listed Buildings and Conservation Areas) Act 1990: Sections 16 and 66 as below.

**Relevant Recent Site History:**

The site has an extensive planning history which mainly relates to internal and external works to maintain the upkeep and safeguard the viability of the building, the most relevant recent application being APP/2017/0561 for re-roofing works including structural repairs to defective chimney stacks, lift shaft and clock dome; and stone and leadwork conservation.

**Consultation Responses:** None received.

**Assessment:**

The main issue for consideration is the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) and 66 confer upon local planning authorities a duty to have special regard to the desirability of preserving the special interest of a listed building, its setting or any features of special architectural or historic interest that it possesses. With regard to the NPPF and Local Plan Policy HE2 this can be defined as the impact of the proposal on the significance (special interest) of the Listed Building affected with 'preservation' in this context meaning doing no harm to the significance as opposed to keeping it utterly unchanged.

Having regard to the relevant policy and legislation, as set out above, the main issue is whether the works have preserved (not cause harm to) the special interest (significance) of the Listed Building.

**Impact on the significance (special interest) of the Listed Building:**

The proposal involves urgent repairs to arrest the infestation of fungal dry rot and to strengthen the ceiling structure including works to conserve the surviving plasterwork. The works have been carefully

considered following conservator, structural engineer and timber decay specialist advice to ensure that the ceiling construction is understood as a whole. The application is supported by their specialist reports and surveys, these documents and their findings have been assessed by the Council's Heritage Planner who advises that they cumulatively provide a well-considered analysis of the significance of the Council Chamber Ceiling, its construction and the likely causes and extend of the defects. The supporting information explains the reasons for the works and demonstrates a good level of understanding of both the heritage significance and the construction and behaviour of traditional buildings and materials. Having regard to these documents, there is compelling evidence that the works were urgent and unavoidable and could not have been reasonably achieved by alternative less harmful means.

The approach and methodology for undertaking the works is considered appropriate and sympathetic to the historic fabric and significance of the building, only removing fabric where necessary and reinstating with materials and techniques that match and are appropriate to the existing.

Taking the above into account it has been demonstrated that without the works, the ceiling structure and its decorative plasterwork would be at risk of further decay which could further undermine its stability and integrity. However, the loss of historic fabric and introduction of modern techniques of structural reinforcement has had a minor adverse impact on significance (at the lower end of the 'less than substantial' scale of harm). Taking into account that the substantive part of the listed building would not be adversely affected by the works and would therefore not result in any real change in the ability to understand and appreciate the overall significance of the heritage asset. Moreover, stabilising and strengthening the ceiling and surviving historic fabric will facilitate the continued use of the building in support of its long-term conservation which is considered to constitute a desirable public benefit as will the reinstatement of the historic decorative scheme.

Having regard to the supporting documents and drawings, it is considered that the applicant has adequately demonstrated that the works were necessary and unavoidable in order to address the identified structural defects and arrest the dry rot fungal infestation. The works were appropriately specified so as to mitigate any harm arising and when considered against the heritage benefits resulting from the retention and good repair of historic building fabric are sufficient to outweigh the identified less than substantial harm to significance in accordance with Policy HE2, the NPPF and the duty assigned by the LBCA Act.

### **Conclusion:**

The works were informed by a sound understanding of the significance of the heritage asset and limited to what was reasonably necessary to arrest the dry rot fungal outbreak and secure structural stability. The works are robustly justified against the considerable public benefits associated with arresting decay in the interests of preservation.

### **Reccomendation: Approve with conditions**

In giving considerable importance and weight to the duties at Section 16(2) and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in consideration to the objective of the NPPF and Policy HE2 of Burnley's Local Plan I would recommend that listed building consent be granted subject to 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: Y91/200 (Proposed Works: Council Chamber Roofspace) received 16 January 2023.

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: 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. 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).

EEP (Principal Planner) 18.05.23

Housing & Development  
Town Hall, Manchester Road

Ref.

## HOU/2023/0246

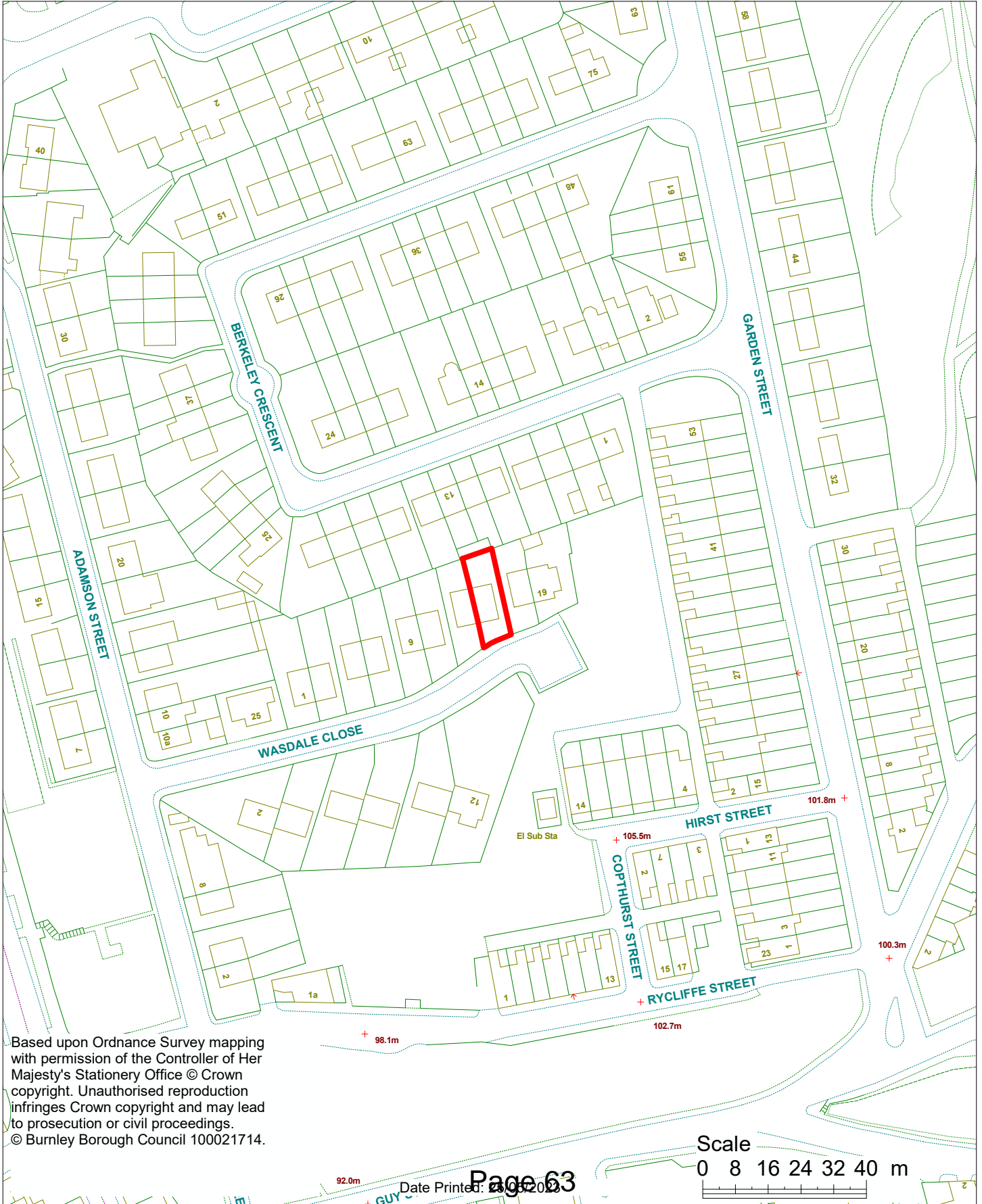
Paul Gatrell Head of Housing and Development

Location:

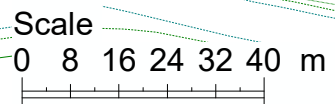


### 15 Wasdale Close, Padiham

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Gawthorpe

Town and Country Planning Act 1990

15 Wasdale Close, Padiham, Burnley, Lancashire BB12 8NJ

Proposed bay window extension to front elevation; front dormer extension (width 900mm) and cladding; re-roof with smooth tiles. Installation of external insulation to all elevations with a k-rend finish.

**Background:**

The application site consists of a small semi-detached bungalow with front and rear dormers clad in white upvc contained within a dual pitched concrete tiled roof. The property is faced in rough cast red brick.

The bungalow is set back from the road, with gardens to the front and rear. The front garden consists of a grassed area with a pathway to the side entrance and beyond is the rear garden. The rear boundary is defined by various types of wooden fencing with No. 13 Berkley Crescent's Garden to the rear. A small wooden fence defines the boundary to the side adjacent neighbour (No. 17 Wasdale Close).

The dwelling is located on Wasdale Close which is a cul-de-sac within a predominately residential area on the outskirts of Padiham.

The property is within the development boundary limits of the Principal Town of Burnley as defined by the Adopted Local Plan.

The application is presented to committee as the applicant is Burnley Borough Council.

**Proposal:**

To extend the front elevation with the addition of a bay window, extend the width of the existing dormer to the front elevation by 900mm with white upvc cladding; re-roof the existing roof with smooth tiles, form a new window opening on the gable wall and a new doorway to the rear. Replace all existing white doors and windows with upvc anthracite frames. Installation of external insulation to all elevations with a k-rend finish.

The extension is to be constructed from materials to match the attached bungalow to form a symmetrical relationship with the neighbouring property.

It is proposed to create a cloakroom and utility room to the ground floor with a doorway into the rear garden via steps. Also to provide shower room to the first floor and create a larger bedroom to the dwellinghouse, with external modifications.

**Relevant Policies:**

Burnley`s Local Plan July 2018.

HS4 – Housing Developments

HS5 – House Extensions and Alterations

SP1 – Achieving Sustainable Development

SP4 – Development Strategy

SP5 – Development Quality and Sustainability

Residential Extensions Supplementary Planning Document (SPD) October 2022.

National Planning Policy Framework (NPPF) 2021

**Site History:**

No relevant site history,

**Consultation Responses:**

Lancashire County Council Highways – no objection

**Objections/comments:**

After consulting nearby neighbours, no comments/objections have been received during the neighbour notification period.

**Planning and Environmental Considerations:**

The site is located within the development boundary of Burnley of the adopted Local Plan, as such Policy SP4 states that development will be focused on Burnley and Padiham with development of an appropriate scale. Given that the works will take place within the curtilage of an existing dwelling, sited within the development boundary of Burnley, the principle of the development is considered acceptable.

**Principle:**

The main issues for consideration are the visual amenity and design of the extension and the impact upon the neighbouring amenity. The proposal does not result in loss of parking and does not impact highway safety.

**Visual Amenity and Design:**

Policy SP5 of the adopted Local Plan sets out requirements for 'high standards of design, construction and sustainability in all types of development.' Policy HS5 further states, 'Alterations and extensions, including roof extensions and the erection of

buildings and structures within the curtilage of dwellings, should be high quality in their construction and design in accordance with Policy SP5'

Section 12, Paragraph 126 of the National Planning Policy Framework states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which we live and work and helps make acceptable to communities.

The applicant as part of the proposal seeks to extend the front elevation with the formation of a bay window and the installation of external insulation to all elevations with a k-render finish, with a complete re-roof of the dual pitched roof. Materials are proposed to match the adjoining property to create a greater degree of symmetry and enhancing the visual appearance of both the host and adjoining, neighbouring property. This is considered acceptable in this instance as the neighbouring property has already undergone similar external changes, that would not justify a refusal of planning permission.

Part of the proposal seeks to rebuild an existing front dormer with a larger front dormer to the dwellinghouse. In line with section 3.6 (dormers & roof extensions) of the Council's Supplementary planning document, normally proposals for front dormer extensions such as the one proposed would be considered unacceptable due to their visual impact. However, in this case the proposal is seeking to extend an existing front dormer that has been in situ for a period of time well in excess of four years – and, as such the visual harm of the front dormer to this property has already taken place and is well-established. Therefore, in this case, it needs to be determined whether the proposed extension to the existing dormer would have a materially greater impact on the visual amenity of the area than the existing dormer in place.

The proposal would involve rebuilding the existing dormer to allow the face of the dormer to be an additional 900mm in width. No further enlargement of the existing dormer is proposed. In terms of the proposal's size, it is not considered in this case that the proposed enlargement of the existing dormer would materially increase the prominence of the dormer to such an extent that would substantiate a refusal of planning permission.

The submitted plans show the materials proposed to be used to construct the dormer extension are keeping to those currently in place – with the extension dormer front and cheeks clad to match the existing upvc cladding, horizontally installed. Given the proposed materials would match those currently in place the use of upvc cladding is considered acceptable in this case.

Overall, taking into consideration that the dormer is existing in and the external works will use materials to match the adjoining neighbouring property, the proposal is considered acceptable in terms of its impact upon visual amenity and design of the host property and the surrounding street scene. It will also form a symmetrical relationship with the neighbouring, adjoining property.

### **Neighbouring Amenity:**

Both national and local policies aim to protect the amenity of all existing and future occupants of land and buildings. Policy HS5 of the adopted Local Plan and the residential extensions SPD seeks to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including reasoning of overlooking, lack of privacy or reduction of outlook or daylight.

The front extension to create a bay window and other alterations are not considered to result in any significant impact on the residential amenity of any neighbouring residents by means of overlooking and privacy.

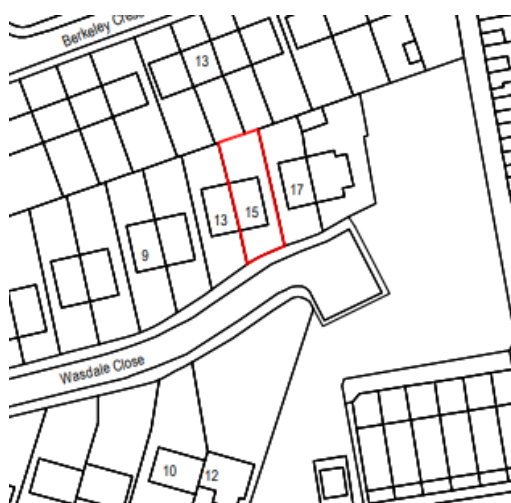
Due to the existing dwelling having an existing front dormer, the proposed flat roofed dormer extension is not considered to result in any significant negative impact on the residential amenity of any neighbouring occupiers.

The scheme involves the insertion of a window to the gable elevation which would be fitted with obscure glass. Therefore, the window would not result in any undue overlooking or loss of privacy of the neighbouring property.

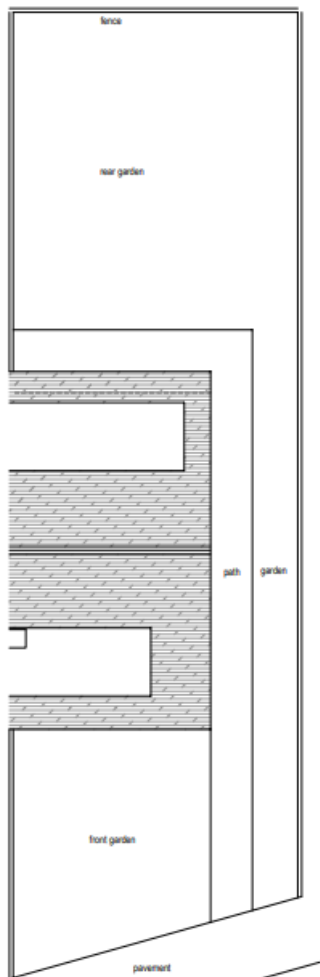
In addition to the above, no comments/objections have been received during the neighbour consultation stage.

Overall, taking into account the size, form and orientation of the development, the proposal would not significantly harm the outlook, privacy or reduce the amount of daylight and sunlight enjoyed by the neighbouring residents, and is therefore compliant with Section 12 of the National Planning Policy Framework, Policies HS4 & HS5 of the adopted Local Plan and the guidance contained within the Councils residential extensions supplementary planning document.

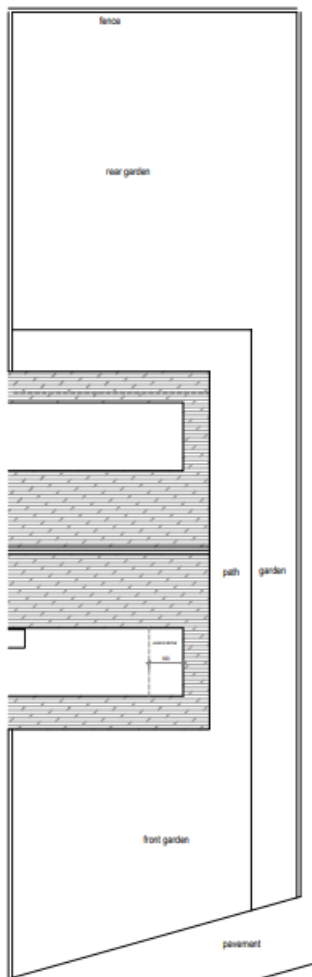
### **Location plan:**



**Existing and proposed site plans:**

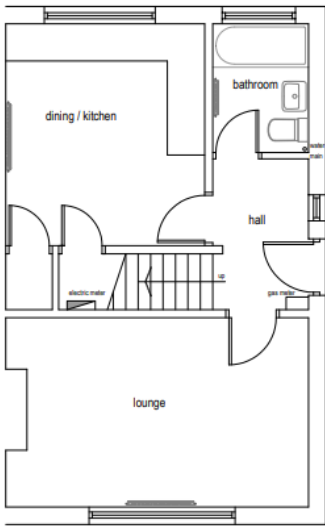


Existing Site Plan

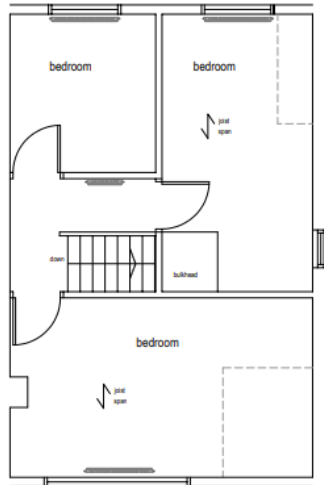


Proposed Site Plan

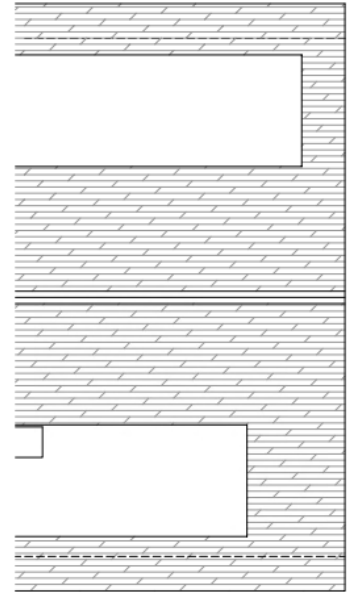
**Existing floor and roof plans:**



Existing Ground Floor Plan

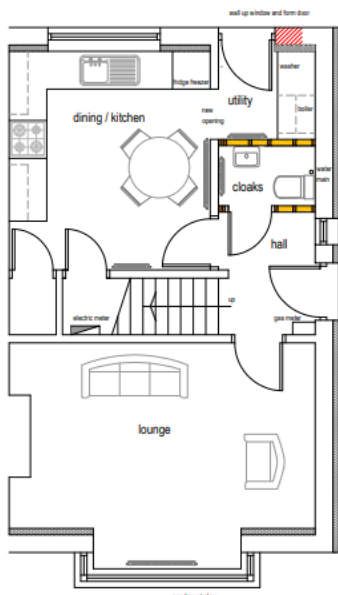


Existing First Floor Plan

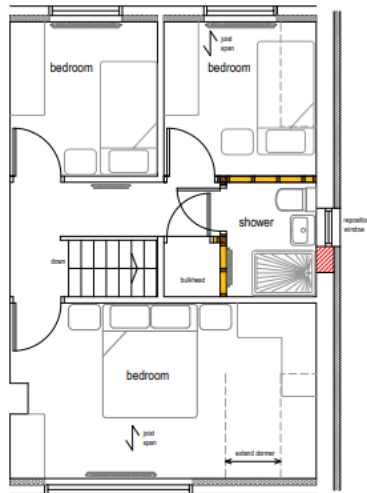


Existing Roof Plan

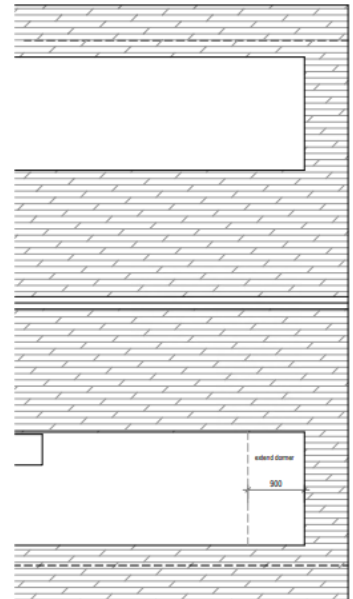
**Proposed floor and roof plans:**



Proposed Ground Floor Plan



Proposed First Floor Plan



Proposed Roof Plan

**Existing elevations:**



**Proposed elevations:**



## No. 13 & No. 15 Wasdale Close



### **Conclusion:**

The proposal is considered to be acceptable and in accordance with the National Planning Policy Framework, the adopted Local Plan and the guidance contained within the Councils residential extensions supplementary planning document listed above.

### **Recommendation:**

That planning permission be granted subject to the following Conditions:

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 24<sup>th</sup> April 2023 and the following submitted Drawings:

Drawing No. 616/01 - Existing plans, received 24.04.23

Drawing No. 616/02, - Existing elevations, received 24.04.23



Drawing No. 616/03, - Proposed plans, received 24.04.23  
Drawing No. 616/04, - Proposed elevations, received 24.04.23  
Drawing No. 616/05, - Site plans, received 24.04.23  
Drawing No. 616/06, - Location plan, received 24.04.23

Reason: To ensure continued compliance with the Development Plan.

3. The new window opening on the side elevation facing No. 17 Wasdale Close shall be obscurely glazed and shall thereafter be retained with obscure glass. No new windows shall be installed in this elevation without a further planning permission being granted.

Reason: To protect the privacy of the occupiers at No. 17 Wasdale Close and in the interest of residential amenity, and to accord with Local Plan Policies SP5, HS4 and HS5.

4. No materials shall be used on the external elevations or roof of 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.

### **Article 35 Statement:**

The Local Planning Authority has acted positively in determining this application, in accordance with paragraph 38 of the National Planning Policy Framework by assessing the proposal against relevant planning policies and all material considerations. The nature of the proposal has not necessitated any liaison with the applicant prior to determining to grant planning permission in accordance with the presumption in favour of sustainable development.

### **Informative Notes:**

1. The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine

gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

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](http://burnley.gov.uk/building-control)

Housing & Development  
Town Hall, Manchester Road

Ref.

## FUL/2023/0697

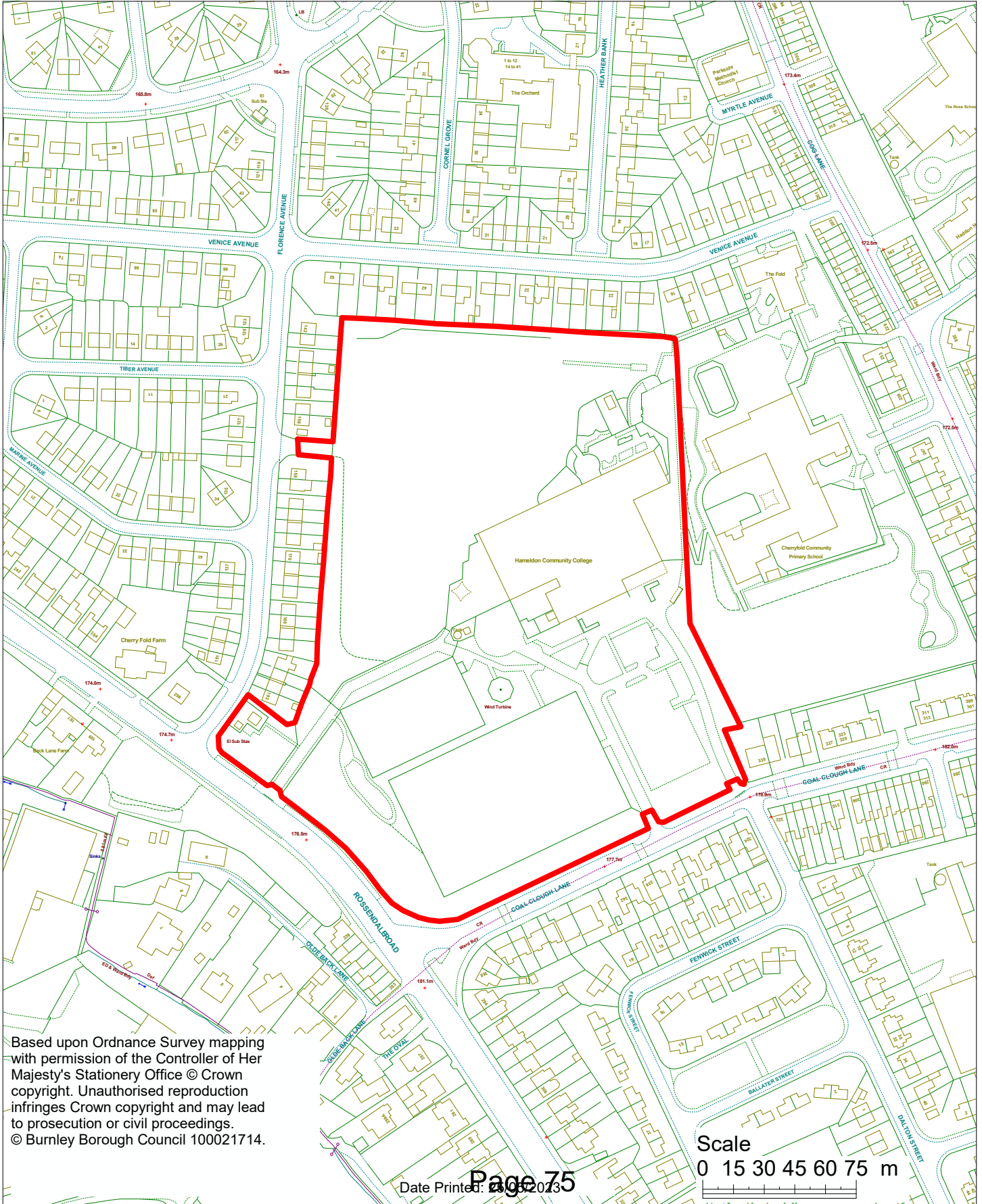
Paul Gatrell Head of Housing and Development

Location:

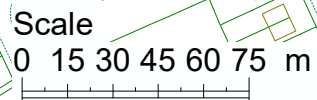


## Broadfield Specialist School, Coal Clough Lane, Burnley

1:2500



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**Application Recommended for Approval with  
Conditions  
Rosegrove with Lowerhouse**

**FUL/2022/0697**

Town and Country Planning Act 1990

Improvements to access arrangements to front and rear of the school and modifications to the existing car park

Broadfield Specialist School, (Former Hameldon Community College), Coal Clough Lane, Burnley BB11 5BT

**Background:**

The premises was originally a mainstream school, closed in 2019 and now a special educational needs facility. It is located within an urban area to the South-west of Burnley town centre. There are existing points of vehicular access from Rossendale Road and Coal Clough Lane, with Coal Clough Lane the primary access for staff and visitors. The site is within the development boundary of Burnley, as identified within the adopted Local Plan.

The application is presented to committee due to the number of objections which have been received.

**Proposal:**

To undertake minor external works to facilitate more effective use as a special educational needs facility. The work is to be undertaken in two distinct areas (detailed schedule of works in submitted Design & Access Statement) and can be summarised thus:

Front car park

Reconfiguration of the existing car park to facilitate parking and drop off area for special needs buses and minibuses with short length of new tarmac pavement to connect to adjacent pedestrian routes. The net effect upon parking provision will be the loss of two mini-bus spaces plus three car spaces according to the submitted plans. Please note that the application form states a loss of two mini-bus spaces plus six car spaces, however three of the spaces shown on the submitted plans are indicated as 'Taxi' spaces, so this would account for the difference.

Area to rear (north) of main school building

Widening of existing footpath and reconfiguration of external area to assist wheelchair access.

**Visuals:**



**Coal Clough Lane access plus existing bus stops**



Existing layout



Proposed layout



Proposed areas of works (identified in red)



Proposed carpark layout





**Relevant Policies:**

Burnley's Local Plan 2018

- SP1 – Achieving Sustainable Development
- SP4 – Development Strategy
- SP5 – Development Quality and Sustainability
- CC4 - Development and Flood Risk
- CC5 – Surface Water Management and Sustainable Drainage Systems
- IC3 – Car Parking Standards

NPPF 2021

**Site History:**

None of relevance.

**Consultation Responses:**

Highways – no objection, however would like to see the existing bus stops on Coal Clough Lane removed and replaced with one single bus stop to current standards, either via a s.106 or s.278 Agreement, with the cost estimated at £25,000 payable by the applicant.

The Case Officer has discussed this with the applicant. The applicant does not wish to remove the bus stops.

**Objections:**

Eight including a County Councillor. The main point of objection is on-street car parking and its negative impact upon highway safety and access for buses. Objectors state that teachers park on the public highway in front of houses and in the vicinity of junctions, thus causing a hazard.

#### **Article 35 Statement:**

The Local Planning Authority has acted positively and proactively in determining this application, in accordance with paragraph 38 of the National Planning Policy Framework, by assessing the proposal against relevant planning policies and all material considerations, identifying matters of concern within the application as (originally submitted) and negotiating acceptable amendments to the proposal with the applicant in order to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

#### **Planning and Environmental Considerations:**

##### **Principle:**

The site is located within the development boundary of Burnley as identified within the adopted Local Plan, in which appropriate development is supported. The site is within existing school premises, therefore the proposal complies with SP4.

##### **Design and Appearance:**

The physical works proposed are minimal in visual terms and are all contained within the school grounds, therefore no implication in visual terms. The works proposed are:

- Increased fillet to kerb to improve turning circle for wheelchair minibuses.
- Remove indicated grass verge and tree.
- Straighten roadworks and paving to allow improved flow to buses car park. New Kerb locally.
- Add 2 wheelchair minibus parking (Total 5).
- Burn off old white lining, remove grass verge and replace with matching tarmac.
- New wheelchair minibus parking exit road. Alter grass verge, add drainage and new kerb to both sides.
- Removed corduroy paving to replace with matching tarmac. Level for wheelchairs.
- Renew tarmac path to minibus dropoff.
- Remove broken metal grated flooring and replace with matching paving flags.
- Tarmac to doors on north side to be levelled to assist wheelchair access/egress.
- Adjust flower bed areas to allow 1500mm min wheelchair access, infill shale gravel with tarmac.
- Remove any timber posts impeding access route.
- Damaged patches relaid with matching tarmac.
- 2 existing picnic benches removed (or repositioned) to create wider access route (min 1500mm) /emergency egress.
- Omit cobbles & relay with Tarmac.
- Remove raised planter, make good / level and replace to matching tarmac flooring.
- Remove the gravel grass, replace with tarmac.
- Remove gates
- Remove 2 raised planters, make good surface underneath and renew with matching tarmac.
- Join path with matching tarmac.
- Retaining kerb for where planter was removed.
- Proposed Light post.
- Road mark ' NO ENTRY', and arrow line.
- Proposed Removable Bollard.
- Proposed Timber Gate.

##### **Impact upon Amenity:**

The works are all to take place within the existing grounds. The proposed use remains the same. The Agent confirms that the school was built originally for 750 students and roughly 100 staff, whereas the SEN facility has 190 pupils around 120 staff. Therefore the potential for a reduction in amenity for nearby residents is less than would have existed prior to 2019.

**Drainage:**

The proposed works include an additional 232sq.m of potentially impermeable hard surfacing. The planning application form states that surface water will drain to both the public sewer and a soakaway, however no further information is given. Given the amount of grass at the facility it is likely that additional impermeable surface can drain to earth. A condition requiring details of drainage to be submitted, approved and implemented in accordance with the hierarchy of drainage options in National Planning Practice Guidance is recommended which will adequately deal with the drainage issues.

**Parking:**

The school was built to accommodate 750 students plus approx. 100 staff. The Agent states that the SEN facility has 190 pupils and approx. 120 staff. Currently the facility has 78 car plus 7 mini-bus spaces. The proposal would reduce this to 75 car plus 5 mini-bus spaces according to the submitted plan.

IC3 requires one space per two staff plus one space per 10 students and doesn't differentiate between community college and SEN uses.

Under IC3, the Community College would have required (75 & 50) 125 spaces, so a shortfall of 47 car spaces existed in 2019. The SEN use requires (19 & 60) 79 spaces, so a proposed shortfall of 4 car spaces will exist, however if the 5 mini-bus spaces are included as car parking spaces, the proposed parking provision will exceed IC3 by 1 space.

The Highway consultee's desire to see the existing bus stops on Coal Clough Lane reduced from 5 to 1 is understood and appreciated. Doing so would also provide more on-street parking adjacent to the school, which would be to the benefit of objectors. However, given that the proposal is to improve the functioning of a use that meets IC3 and that the current use is far better in IC3 terms than the previous Community College, on balance it is not considered that a reason for refusal based upon the retention of bus stops would be reasonable.

It is appreciated that some residents have objected on grounds of on-street parking. However it is not considered that this application can be refused for this reason as the proposed parking provision meets IC3.

**Conclusion:**

This planning application is for minor external works to an existing school. The only issue raised by objectors is that of on-street parking.

When applying the parking standards stated within the adopted Local Plan the difference between the amount of parking required for the previous use and that required for the current use is significant.

The rationalisation of bus stops would be desirable and beneficial for residents, however as the proposal accords with IC3 in terms of parking provision it is not required to make the application acceptable in planning terms. It would not meet the tests for planning conditions set out in the NPPF and would be unreasonable to impose this requirement.

**Recommendation:** Approve subject to conditions

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 permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

- Drawing No. 217105-AFL-XX-00-A-00002 C3 – existing site plan, received 29.11.2022
- Drawing No. 217105-AFL-XX-00-A-00003 C4 – demolitions plan, received 29.11.2022
- Drawing No. 217105-AFL-XX-00-A-00004 C5 – proposed site plan, received 29.11.2022
- Drawing No. 217105-AFL-XX-00-A-00005 C4 – proposed car park plan, received 29.11.2022
- Design & Access Statement, received 20.11.2022

3. Notwithstanding details shown within the approved application, details of surface water drainage shall be submitted to, approved in writing and duly implemented prior to creation of additional impermeable surfacing.

Reason: In the interests of proper drainage of the site and to accord with the provisions of the NPPF.

## BURNLEY BOROUGH COUNCIL DEVELOPMENT CONTROL COMMITTEE

# REPORTS ON PLANNING APPLICATIONS



Photograph McCoy Wynne

Part II: Decisions taken under the scheme of delegation.  
**For Information**

8<sup>th</sup> June 2023

Housing and Development

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## List of Delegated Decisions

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
FUL/2022/0632	Mr & Mrs Philip and Julie Stirpe	Land Adjacent To Lower Howorth Fold House Howorth Road Burnley BB11 2RE	Demolition of stable and storage buildings and erection of eco-home, detached stable, store and garage.	Approve with Conditions	12th April 2023
LBC/2022/0663	Mr Fentem	Berrils Green Farm Burnley Road Cliviger Lancashire BB10 4SY	(1) Part demolition of outshut and canopy roof and erection of a two storey extension to the rear (north east) elevation. (2) Excavation and reconstruction of north east elevation of retained outshut and insertion of 3 no conservation rooflights. (3) Blocking up of C20 window to the rear (north east) elevation. (4) Partial rebuilding and structural repairs to the front (south west) elevation (retrospective). (5) Alterations to internal layout. (6) Stripping out (retrospective) and renewal of services. (7) Strip out (retrospective) and renewal of internal plaster	Approve with Conditions	12th May 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
HOU/2022/0662	Mr Fentem	Berrils Green Farm Burnley Road Cliviger Lancashire BB10 4SY	(1) Part demolition of outshut and canopy roof and erection of a two storey extension to the rear (north east) elevation. (2) Excavation and reconstruction of north east elevation of retained outshut and insertion of 3 no conservation rooflights. (3) Blocking up of C20 window to the rear (north east) elevation. (4) Partial rebuilding and structural repairs to the front (south west) elevation (retrospective).	Approve with Conditions	12th May 2023
CND/2022/0674	Mr Alex Kenwright	Land at Accrington Road, Burnley	Proposed Partial Discharge of Condition 30 (Surface water sustainable drainage scheme) and Condition 33 (Foul water scheme) for Phases 1, 2A & 2B of outline planning permission OUT/2020/0366	Conditions part discharged	15th May 2023
FUL/2022/0564	Mrs Domenica Hume	Go Outdoors Childcare And Holiday Club 54 Airdrie Crescent Burnley Lancashire BB11 4DW	Erection of detached nursery building and associated car parking, together with change of use of vacant land to form part of nursery curtilage.	Approve with Conditions	9th May 2023
CND/2022/0712	Mr David Devine	Land West Of Smithyfield Avenue Worsthorne Burnley BB10 3JG	Discharge of conditions 3 (Materials); 4 (Tree Protection); 7 (Construction Environment Management Plan); and 8 (Construction Management Plan) relating to planning permission FUL/2021/0274.	Conditions part discharged	11th April 2023



<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CND/2022/0746	Ms Christelle Lightfoot	Land South Of Rossendale Road Burnley	Proposed Discharge of Condition 3 (External materials), Condition 4 (Scheme of landscaping), Condition 9 (Landscape and Ecological Management Plan) and Condition 10 (Tree protection measures) of planning permission FUL/2021/0273 for residential development	Conditions discharged	3rd May 2023
HOU/2022/0737	Mr Phillip McGlaughlin	51 Westwood Road Burnley Lancashire BB12 0HR	Proposed two-storey side extension.	Approve with Conditions	5th April 2023
CND/2023/0010	Mr David Devine	Land West Of Smithyfield Avenue Worsthorne Burnley BB10 3JG	Application to discharge condition no.6 (External Lighting Layout) and condition no.13 (Highway Maintenance & Management) relating to FUL/2021/0274.	Conditions part discharged	3rd April 2023
CND/2022/0745	Ms Christelle Lightfoot	Land South Of Rossendale Road Burnley	Proposed Discharge of Condition 12 (External lighting), Condition 13 (Construction Management Plan), Condition 17 (Site access and off-site highway works), Condition 19 (Access for construction traffic), Condition 20 (Estate street phasing and completion plan) and Condition 39 (Finished floor levels) of planning permission FUL/2021/0273 for residential development.	Conditions part discharged	3rd May 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
FUL/2023/0015	Mr Brett Swinfield	Burnley Campus Barden Lane Burnley Lancashire BB10 1JD	To change part of existing external school car park and paved area to accommodate a new nursery playground and alter part of external windows to doors or reversely to suit the new nursery usage.	Approve with Conditions	25th April 2023
CND/2023/0023	Ms Christelle Lightfoot	Land South Of Rossendale Road Burnley	Proposed Discharge of Condition 32 (Surface Water Pollution Prevention during Construction) of planning permission FUL/2021/0273 for residential development	Conditions discharged	9th May 2023
FUL/2023/0047	Board of Governors	Basnett Street Nursery School Basnett Street Burnley Lancashire BB10 3ES	Proposal for provision of a modular building to serve as a multi-use teaching and meeting space.	Approve with Conditions	4th April 2023
HOU/2023/0037	Mr Jabed Baksh	191 Casterton Avenue Burnley Lancashire BB10 2PF	Proposed extension.	Approve with Conditions	17th April 2023
ESR/2023/0055	C/O Agent	Crow Wood Holme Road Stoneyholme Burnley Lancashire BB12 0RT	Proposed development of a ground mounted solar voltaic array and associated infrastructure	Not EIA development	26th April 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
FUL/2023/0053	Mr Alastair Douglas	39 Coleshill Avenue Burnley Lancashire BB10 4PF	Erection of a 3 Bedroomed Dwelling in Garden of No.39 Coleshill Avenue	Approve with Conditions	22nd May 2023
TPO/2023/0059	Mr Darran Harris	Oak Hill 167A Todmorden Road Burnley Lancashire BB11 3EE	Application to prune branches of trees T15, T16, T17, T18 covered by the Burnley (Todmorden Road, no 3, Burnley) Tree Preservation Order 1978.	Approve with Conditions	18th April 2023
HOU/2023/0062	Mr Mark Slattery	11 Dyneley Avenue Cliviger Lancashire BB10 4JD	Proposed two storey side extension, single storey rear extension and enlargement of hardstanding.	Approve with Conditions	18th April 2023
FUL/2023/0084	C/O Agent	1 Howe Walk Burnley Lancashire BB11 1QB	Replacement shopfront	Approve with Conditions	18th April 2023
CND/2023/0087	Ms Christelle Lightfoot	Land South Of Rossendale Road Burnley	Proposed Discharge of Condition 21 (Highway surface water drainage), Condition 30 (Surface water drainage scheme), Condition 31 (Surface water scheme verification and maintenance/management scheme) and Condition 33 (Foul water drainage scheme) of planning permission FUL/2021/0273.	Conditions part discharged	9th May 2023
HOU/2023/0095	Mr Jordan Slater	33 Tiverton Drive Briercliffe Lancashire BB10 2JT	Two storey extension to rear, Two/ single storey extension to side and increasing size of existing front porch	Approve with Conditions	27th April 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
HOU/2023/0103	Mr _ Mrs M Zimnoch	49 Highfield Avenue Burnley Lancashire BB10 2PS	Single storey rear and side extension.	Approve with Conditions	5th April 2023
LBC/2023/0111	Mr And Mrs Starkie	29 - 31 Rosehill Road Burnley Lancashire BB11 2JS	Proposed addition of oak framed open porch to the west elevation.	Approve with Conditions	27th April 2023
CEU/2023/0108	Mr & Mrs Wyatt	Afonwen Ightenhill Park Lane Burnley Lancashire BB12 0RW	Certificate of Lawfulness for existing use of land as residential garden	Lawful Dev Cert issued	26th April 2023
FUL/2023/0113	n/a	Unit 3 Pioneer Place Curzon Street Burnley BB11 1DF	Installation of pergola and planter	Approve with Conditions	4th April 2023
CEA/2023/0099	Mr and Mrs Ryan and Demi Jones	30 Bentham Avenue Burnley Lancashire BB10 1XZ	Single storey rear extension.	Lawful Dev Cert not issued	4th April 2023
HOU/2023/0105	Mrs Nabila Bibi Qadeer	7 Albert Street Burnley Lancashire BB11 3DB	Single storey rear extension.	Approve with Conditions	20th April 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
HOU/2023/0120	Mr Chris Jones	20 Tiverton Drive Briercliffe Lancashire BB10 2JT	Extension to front of property (Re-submission of HOU/2022/0563).	Approve with Conditions	30th March 2023
CND/2023/0123	Mr Andrew Stott	160 St James Street Burnley Lancashire BB11 1NR	Discharge of conditions 4 and 5 of FUL/2022/0024 (Details provided for sizes and sections of shopfront and bay windows.)	Conditions part discharged	20th April 2023
HOU/2023/0112	Mr Stephen Bushby	21 Bouldsworth Road Worsthorne-with-hurstwood Lancashire BB10 3JT	Demolition of existing garage block and rear extension and the construction of new single storey flat roof side and rear extensions. New bay windows to the front elevation.	Approve with Conditions	20th April 2023
HOU/2023/0127	Mr S Waris	1 Fifth Avenue Burnley Lancashire BB10 1YA	Single storey rear extension with pitched roof.	Approve with Conditions	27th April 2023
PAH/2023/0122	Mr Andrew Wraight	3 Douglas Way Briercliffe Lancashire BB10 2JH	Proposed single storey rear extension which will extend: 3.5 metres beyond rear wall of dwelling; 3.8 metres maximum height; 2.7 metres height at the eaves.	Prior Approval not required accept	17th April 2023
CND/2023/0128	Mr Ibrahim Altaf	Holbeck Avenue Burnley Lancashire	Proposed Discharge of Condition 10 (Scheme for construction of site access points and off-site works of highway improvement) of planning permission APP/2012/0152 for residential development	Conditions discharged	5th May 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CND/2023/0129	Mr Mohammed Umran	156 St James Street Burnley Lancashire BB11 1NR	Discharge of conditions of planning application FUL/2022/0640, Condition 4 - (Joinery details for the shopfront console/corbel; fascia and pilaster), Condition 5 ( precise details of the oriel bay windows).	Conditions part discharged	20th April 2023
NMA/2023/0130	Mr Clive Durkin	Land To The West Of Briercliffe Road Burnley General Hospital Casterton Avenue Burnley Lancashire BB10 2PH	Proposed minor amendments to sub-station in site`s southern corner and amend Condition 5 (landscape scheme) to allow for changes to hard surfacing; alter elevations by removing recessing of small sections; add safety rail to roof; and, amend Condition 9 (biodiversity enhancement measures) to alter bat and bird box plan, of planning permission FUL/2021/0659 (Non-material minor amendment)	Non-Material Minor Amendment Granted	5th May 2023
LBC/2023/0132	Ms Mary Wallace	2 Hill End House Halifax Road Briercliffe Lancashire BB10 3QL	Proposed works to replace the existing rotten timber and single pane large picture window.	Approve with Conditions	19th May 2023
PAH/2023/0138	Mr Garth Paddock	10 Rosehill Avenue Burnley Lancashire BB11 2PN	Proposed single storey flat roof rear extension with lantern light which will extend: 4.00 metres beyond rear wall of dwelling; 3.00 metres maximum height; 2.50 metres height at the eaves.	Prior Approval refused	18th April 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
FUL/2023/0109	School Governors of St James CE Primary School	St James Lanehead Ce Primary School Briercliffe Road Burnley Lancashire BB10 2NH	Erection of a Modular classroom building that will serve as an EYFS extension to the existing Primary school within the same site boundary	Approve with Conditions	27th April 2023
FUL/2023/0139	Dr Nadia Kauser	263 Colne Road Burnley Lancashire BB10 1EF	Change of use from residential dwelling to office with internal security shutters and signage to front elevation	Refuse	5th April 2023
CND/2023/0141	Mr Nathan Tonge	Accrington Road Burnley BB11 5QJ	Proposed Full Discharge of Condition 25 (Implementation of programme of archaeological works ) of outline planning permission OUT/2020/0366	Conditions discharged	15th May 2023
NMA/2023/0140	Mr S Arnfield	Land At Stoneyholme Recreation Ground And Burnley College Grosvenor Street Burnley Lancashire	Minor amendment to add proposed security lodge to approved scheme for industry hub (Non-material minor amendment to planning permission FUL/2021/0270)	Non-Material Minor Amendment Granted	25th April 2023
FUL/2023/0058	Ms Helen Gauder	Garage Plots 6 & 7, Land Off Cleveland Road, Burnley, Lancashire	Construction of domestic garage	Approve with Conditions	6th April 2023
PAH/2023/0116		38 Moorland Road Burnley Lancashire BB11 2NY	Proposed bedroom/wet room extension to rear which will extend: 6 metres beyond rear wall of dwelling; 3.14 metres maximum height; 2.58 metres height at the eaves.	Prior Approval not required accept	20th April 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
HOU/2023/0134	Mr Chris Bull	Falcon Crest Bungalow Marsden Road Burnley Lancashire BB10 2BL	Proposed single storey extension.	Approve with Conditions	27th April 2023
HOU/2023/0146	Mr G Beaumont	7 The Chase Burnley Lancashire BB12 0EY	Single storey flat roof rear extension with landscaping works to rear garden.	Approve with Conditions	20th April 2023
HOU/2023/0152	Mr Umar Ayub	14 Queens Road Burnley Lancashire BB10 1XX	Two storey rear extension and part single storey extension.	Approve with Conditions	27th April 2023
CEA/2023/0158	Mr Oliver Wood	1 Taydale Cottages Standen Hall Drive Burnley Lancashire BB10 2EF	Demolition of conservatory and construction of single storey extension to the rear	Lawful Dev Cert issued	11th May 2023
PAH/2023/0148	Mr John Gallery	1 Barry Street Burnley Lancashire BB12 6DT	Proposed single storey rear extension which will extend: 4.720 metres beyond rear wall of dwelling; 3.440 metres maximum height; 2.765 metres height at the eaves.	Prior Approval not required accept	25th April 2023
HOU/2023/0161	Mr Nick Read	6 Middlesex Avenue Burnley Lancashire BB12 6AA	Proposed two storey and single storey side extensions, plus smooth render to existing and proposed external walls	Approve with Conditions	27th April 2023



<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
HOU/2023/0166	Mr Damien Hindle	9 Red Lees Road Cliviger Lancashire BB10 4HZ	2 Storey side extension (resubmission of HOU/2022/0449).	Approve with Conditions	20th April 2023
NMA/2023/0164	Mr Stuart Arnfield	Burnley College Princess Way Burnley Lancashire BB12 0AN	Non-material amendment to planning permission FUL/2022/0636: Reduction in height and change to shape and finish to lecture theatre roof over-run at roof level; Reduction in number of fume extract flues at roof level; Change to position and height of fume extract flue; Minor alterations to window fenestration; Omission of projecting bay window on South East Elevation	Non-Material Minor Amendment Granted	14th April 2023
PTE/2023/0167	Mr Cameron Wilson	Dexter Paints Gannow Lane Burnley BB12 6QP	Installation of three new antennas at a height of 25.92 metres, the replacement of three existing antennas at 24 metres, the installation of a GPS module at a height of 3.1 metres, and the ancillary equipment to support the existing telecoms installation.	Prior Approval not required accept	18th May 2023
PAD/2023/0145	Mrs Dawn Wade	Barn At Pilkington Fields Sellars Fold Burnley Road Hapton Lancashire BB11 5QT	Conversion of farm shop into one dwelling.	Prior Approval refused	9th May 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CEA/2023/0178	Mr Nigel Jenkins	Grass Edge Of Wycoller And Downham Park South Of 26 Wycoller Ave Burnley BB10 4LF	Air quality monitoring station	Lawful Dev Cert issued	20th April 2023
CND/2023/0181	Mr Mark Wilkinson	Land Off Harrogate Crescent, Burnley	Proposed Discharge of Condition 16 (Operation and Maintenance Plan and Verification Report for Surface Water Drainage) of Planning Permission FUL/2021/0264 for residential development	Conditions discharged	15th May 2023
HOU/2023/0183	Mr Stephen Gourlay	19 Kirkfell Drive Burnley Lancashire BB12 8AZ	Proposed first floor extension to side	Approve with Conditions	9th May 2023
HOU/2023/0173	Mr Adam O'Brien	4 Thane Row Bacup Road Cliviger Lancashire BB11 3QY	Proposed two-storey rear extension with balcony and single storey extension	Application Withdrawn	12th May 2023
PAH/2023/0199	Mr S Ashworth	6 Ullswater Road Worsthorne-with-hurstwood Lancashire BB10 4HX	Proposed single storey pitched roof conservatory extension to rear which will extend: 4 metres beyond rear wall of dwelling; 3.1 metres maximum height; 2.3 metres height at the eaves.	Prior Approval not required accept	27th April 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
PAH/2023/0200	Mr R Barber	16 Thornton Road Worsthorne-with-hurstwood Lancashire BB10 4HQ	Proposed single storey rear orangery which will extend: 3.5 metres beyond the rear extension wall (total 6.0 metres beyond the original wall of the dwelling); 3.5 metres in height and height to eaves 2.5 metres.	Prior Approval not required accept	27th April 2023
PAOR/2023/0204	Mr Jacob Fekete	Chaddesley House Manchester Road Burnley Lancashire BB11 1HW	Prior Approval (Class MA) Use of the Upper Ground, First and Second Floors of office building as 24 apartments	Prior Approval Granted	12th May 2023
FUL/2023/0198	Mr Yusaf Afzal	149 Nairne Street Burnley Lancashire BB11 4NP	Ground floor conversion from workshop and office to 2no self contained flats	Approve with Conditions	15th May 2023
CND/2023/0210	Mrs Jo Kemp	Land At Former Bull And Butcher Pub Manchester Road Habergham Eaves Burnley BB11 5NP	Proposed Discharge of Condition 15 (Verification Report and Operation & Maintenance Plan - Surface Water Drainage System) of planning permission FUL/2021/0135.	Conditions discharged	15th May 2023
CND/2023/0218	Mr Nik Puttnam	Land At Curzon Street And Pioneer Place Car Park Burnley Lancashire	Application to discharge condition number 5 (delivery and servicing plan) and condition number 6 (Travel Plan) of planning permission VAR/2022/0046.	Conditions part discharged	10th May 2023
HOU/2023/0188	Mr Charles Haynes	26 Tiverton Drive Briercliffe Lancashire BB10 2JT	Single storey rear extension	Approve with Conditions	9th May 2023

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
ADV/2023/0224	Kia UK Limited	Perrys Vauxhall Garage Accrington Road Burnley Lancashire BB11 5EX	Display of various static illuminated and non illuminated signage.	Approve with Conditions	11th May 2023
CEA/2023/0241	Mr Andrew Kilby	8 Maden Fold Bank Burnley Lancashire BB12 6EL	Rear single storey extension	Lawful Dev Cert not issued	12th May 2023

BURNLEY BOROUGH COUNCIL  
DEVELOPMENT CONTROL COMMITTEE

REPORTS ON  
PLANNING APPLICATIONS



Photograph McCoy Wynne

Part III: Appeal and other decisions  
**For Information**

8<sup>th</sup> June 2023

Housing and Development

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## APPEAL DECISIONS

Dates: 31<sup>st</sup> March – 31<sup>st</sup> May 2023

File Ref	Location	Proposal	Date Appeal Determined	Decision
VAR/2022/0479	The Stables Plot 4 Lennox Street	Variation of conditions 3 (materials), 4 (landscape works), 12 (fencing and walling) and removal of conditions 14 (permitted development) and 16 (vehicular access) of planning permission FUL/2021/0393.	03.04.2023	AWD

ALC - Appeal Allowed with Conditions

ALLOW - Enforcement Appeal Allowed

AW - Appeal allowed

AWCST - Appeal allowed with costs

APPABY - Appeal held in abeyance

ASP - Appeal allowed in part

AWD - Appeal withdrawn

DIS - Appeal dismissed

DISCST - Appeal dismissed with costs

DISMIS - Enforcement Appeal Dismissed

FEEDUE - Appeal Allowed, Awaiting Fee Payment

HCLOG - High Court Appeal Lodged

INPROG - Appeal In Progress

LODGED - Appeal Lodged

QUASH - Quashed on Appeal

REMIT - Remitted to Secretary of State

VALID - Appeal Valid

WITHDR - Enforcement Appeal Withdrawn

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## PLANNING ENFORCEMENT PLAN

## DEVELOPMENT CONTROL COMMITTEE



DATE	8 <sup>th</sup> June,2023
PORTFOLIO	Housing and Development Control
REPORT AUTHOR	Karen Morville
TEL NO	01282 477221
EMAIL	<a href="mailto:kmorville@burnley.gov.uk">kmorville@burnley.gov.uk</a>

### PURPOSE

1. To consult members on the introduction of the revised Planning Enforcement Plan

### RECOMMENDATION

2. Members are advised to note content of report

### REASONS FOR RECOMMENDATION

3. The Government recommends in paragraph 59 of the National Planning Policy Framework that : *'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.'*

### SUMMARY OF KEY POINTS

4. This policy is intended to provide guidance to officers, to businesses and to members of the public, setting out the principles and the standards the service will work to in enforcing breaches of planning control. It sets out what we can and can't do in terms of planning enforcement. It also explains how complaints are investigated, how we prioritise and what tools we have available where enforcement action is considered necessary.

**FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

5. None

**POLICY IMPLICATIONS**

6. None

**DETAILS OF CONSULTATION**

7. None

**BACKGROUND PAPERS**

8. Planning Enforcement Plan – May 2023

**FURTHER INFORMATION**

**PLEASE CONTACT: Karen Morville**  
**ALSO: Laura Golledge - Planning Team**  
**Manager**

## **APPENDIX 1: Examples of Combined Authorities and Deals**

### **Cambridgeshire and Peterborough CA (Six councils)**

CA Established June 2016 Governance: combined authority with directly elected mayor

The deal includes specific funding for housing, with the Mayor responsible for a £100m housing and infrastructure fund, and the combined authority having control over a ringfenced £70m to meet housing needs. The Combined Authority has control of an additional £20million a year funding allocation over 30 years, to be invested to the Cambridgeshire and Peterborough Single Investment Fund, to boost growth.

The Mayor has number of powers under the deal, including responsibility of a multiyear, consolidated transport budget, an identified Key Route network of local authority roads and strategic planning powers. The Combined Authority, working with the Mayor, has powers including responsibility for chairing a review of 16+ skills provision, devolved adult skills funding from 2018-19 and joint responsibility with Government and other local partner organisations to co-design the new National Work and Health Programme focusing on those with a health condition or disability and the very long term unemployed.

### **Greater Manchester CA (10 Councils)**

CA formally established 2016 (first deal 2014) Governance: combined authority with a directly elected mayor

The first deal included a devolved and consolidated transport budget, responsibility for franchised bus services and integrated smart ticketing across all local modes of transport, as well as exploring opportunities for devolving rail stations across the GMCA area. Powers powers over strategic planning, control of a new £300 million Housing Investment Fund, a reformed earn back deal and agreement for the mayor of GMCA to take on the role of Police and Crime Commissioner. Responsibility for devolved business support budgets, control of the Apprenticeship Grant for Employers and power to reshape Further Education (FE) provision are also included, as is control of an expanded Working Well pilot and joint commissioning arrangements with DWP for the Work Programme.

Subsequent expansions of deal: July 2015

Following the initial deal in 2014, Greater Manchester and NHS England signed up to arrangements to bring together £6 billion of NHS and social care budgets so that joint planning of these services deliver better care for patients. In addition, the March 2015 Budget announced a pilot scheme in Greater Manchester and Cheshire East to enable the retention of 100% of any additional business rate growth.

November 2015

Further devolution to GMCA includes a commitment from Government to consider how regulatory reform can support local housing and public service reform aspirations, the power to implement a Community Infrastructure Levy and the development of a business case for a Land Programme. It also sets out that the Infrastructure Commission will provide advice on investment priorities for the North, transparency commitments pertaining to the funding of franchised bus services and agreement to consider proposals for a joint investment platform to improve the area's highways network. Subject to legislation, the Mayor will have the power to introduce a Business Rates Supplement, and GMCA will agree a MOU with the British Business Bank setting out how they will work together to

support SMEs. The deal also outlines considerations for the establishment of a Public Service Reform Investment Fund and how Government will support GMCA to develop and implement an integrated approach to preventative services for children and young people. GMCA will carry out an analysis of all post-19 skills provision. The deal commits to discussion on further areas for co-operation and grants that GMCA will gain Intermediate Body status.

Subsequent expansions of deal: March 2016

The GMCA also intends to absorb the Manchester joint waste disposal authority To bring together funding from the Troubled Families Programme, Working Well pilot; Cabinet Office Life Chances Fund into a Life Chances Investment Fund Work with the Government and PCC on joint commissioning of offender management services, youth justice and services for youth offenders, the courts and prisons estates, 'sobriety tagging', and custody budgets; The Government to enable local commissioning of outcomes to be achieved from the adult education budget starting in academic year 2016/17; and will fully devolve budgets to the Combined Authority from academic year 2018/19. These arrangements do not cover apprenticeships. GMCA pilot 100% retention of business rates as of 1 April 2017

### **Liverpool City Region CA (6 Councils)**

Governance: Combined Authority with a directly elected mayor

The deal includes devolved responsibility for a consolidated transport budget with a multi-year settlement, responsibility for franchised bus services and powers over strategic planning, including the creation of new Mayoral Development Corporation. LCR will also create a Single Investment Fund that draws together city region and agreed national funding streams, to which central government will allocate an additional £30 million a year funding over 30 years to unlock economic potential in the region. Further components of the deal include new responsibilities and devolved arrangements for skills provision, a commitment to work towards a devolved approach to business support and a stated partnership approach with Government on innovation, energy and National Museums Liverpool. Full deal details Subsequent expansion of deal: March 2016 This gives Liverpool additional new powers over transport, pilots the approach to 100% business rate retention across the city region, as well as agreeing further commitments for the City Region and Government to work together on children's services, health, housing and justice.

### **North of Tyne (3 councils – inc one county) November 2018**

Governance: combined authority with a new directly elected mayor

In the 2017 Autumn Budget, the Government announced that it had agreed a 'minded to' devolution deal with the North of Tyne authorities, which will be subject to the consent of local partners. This would see £600million of investment in the region over 30 years and create a new mayor elected in 2019 with powers over key economic levers including planning and skills. Full deal details For further information on devolution deals and a register of the powers devolved [click here](#)



## **PLANNING ENFORCEMENT PLAN**

**MAY 2023**

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## **ENFORCEMENT PLAN 2023**

### **1. Introduction**

Planning legislation is designed to control the development and use of land in the public interest. The credibility of the planning system relies on the Council's readiness to take effective enforcement action when needed. The Council is committed to providing a speedy and efficient planning enforcement service to respond to breaches of planning control.

The Council has signed up to the Government's Enforcement Concordat which sets out the principles of good enforcement practice. These are:

**Standards:** to publish clear standards of service and performance.

**Openness:** to provide information and advice in plain language, to discuss problems with anyone experiencing difficulties and to be transparent in decision making processes.

**Helpfulness:** to work with all parties to advise on and assist with compliance. To provide contact details for further information.

**Consistency:** to carry out duties in a fair, equitable and consistent manner.

**Proportionality:** to take action in proportion to the risks posed and how serious the breach is.

**Complaints about the Service:** to provide well-publicised, effective and timely complaints procedures.

In Burnley, planning enforcement work is carried out under the Scheme of Delegation. The power to investigate allegations of breaches of planning control is given to the Head of Housing and Development Control and the power to take enforcement action, including court proceedings and serving statutory notices is given to the Head of Governance and Law.

### **2. Purpose of document**

This policy is intended to provide guidance to officers, to businesses and to members of the public, setting out the principles and the standards the service will work to in enforcing breaches of planning control. It sets out what we can and can't do in terms of planning enforcement. It also explains how complaints are investigated, how we prioritise and what tools we have available where enforcement action is considered necessary. It replaces the Burnley Enforcement Plan 2015.

### 3. About planning enforcement

Government guidance to local planning authorities on enforcement is set out the **National Planning Policy Framework** at paragraph 59. This states:

*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.*

The National Planning Policy Framework is supported by DLUHC and MHCLG Guidance (Enforcement and post-permission matters. Responding to suspected breaches of planning control.) which can be viewed at [Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/enforcement-and-post-permission-matters)

There is no duty under the Town and Country Planning Acts to take planning enforcement action - powers given to local authorities are discretionary. In deciding whether to take enforcement action, the Council must decide whether the unauthorised works would unacceptably affect public amenity. The Government expects any action taken to be expedient and proportionate to the harm caused. For example, it would not be appropriate to take action in the case of a small extension to a dwelling which, although technically needing planning permission, does not cause any harm to the amenity of the area or nearby residents.

In deciding whether to take enforcement action the Authority is also required to have regard to the **Development Plan** and to any other material considerations including the National Planning Policy Framework. A significant element of the development plan for Burnley is the Burnley Local Plan, adopted in 2018. This document can be viewed here:

[Burnley's Local Plan - burnley.gov.uk](https://www.burnley.gov.uk/planning-and-building-control/planning-policy/burnley-local-plan)

It is important to remember that, in general, it is not a criminal offence to carry out development before obtaining planning permission and it only becomes an offence when there is failure to comply with a formal enforcement notice.

However, there are exceptions to this in that unauthorised works to listed buildings, carrying out works to protected trees and the display of advertisements without the necessary consent all do constitute offences which are liable to prosecution. (See further information at 10, 11 and 12 below)

It is also important to understand that planning enforcement does take time, particularly where evidence needs to be collected or where formal notices are served and the right to appeal is exercised. A satisfactory outcome can take many months to achieve.



There are **time limits** after which enforcement action cannot be taken. Generally speaking, if a building has been completed for more than 4 years, or a use has been carried on, or a planning condition breached, for more than 10 years, the Council will not be able to take any enforcement action. (This does not apply in the case of listed buildings)

#### **4. What we deal with**

- Unauthorised building works
- Unauthorised change of use
- Works to listed buildings
- Demolition in Conservation Areas
- Works to trees covered by a Tree Preservation Order or within a Conservation Area
- Works not being carried out in accordance with the approved plans
- Breaches of planning conditions
- Unauthorised advertisements

#### **5. What we don't deal with**

- Works that do not require planning permission
- Works that are anticipated but have not yet started (except in exceptional circumstances where a serious breach can be prevented)
- Boundary disputes
- Obstruction of a highway or public footpath (this is dealt with by Lancashire County Council)
- Advertisements on the highway or on street furniture (this is dealt with by Lancashire County Council)
- Enforcement of deeds or covenants (these are enforced by the landowner)
- Untidy land/fly-tipping (these are dealt with by the Council's Streetscene service)
- Fly-posting (dealt with by Streetscene)
- Noise complaints (dealt with by the Council's Environmental Protection Team, unless there is a condition attached to a planning permission restricting noise levels that is being breached).

#### **6. How to make a complaint**

Complaints can be made via the link below and completing the pro-forma:-

[www.burnley.gov.uk/planning/planning-enforcement/](http://www.burnley.gov.uk/planning/planning-enforcement/)

You will need to provide:

- The address of the site
- Your own contact details, including your name and address
- Details of the alleged breach, including the start date, if known
- An indication of what harm is being caused, and to whom
- Any details you have about the persons responsible

The identity of a complainant will be treated as confidential. However, if the complaint results in a court case, the success of that case may rely on evidence being given by the complainant. In such a case, the Council will discuss this with any potential witnesses before taking a decision about whether to prosecute an offender.

Anonymous complaints will not be investigated unless they are of a very serious nature and it is in the public interest to do so.

## **7. How we prioritise complaints**

To make the most effective use of the limited resources available, cases will be prioritised, taking into account the significance of the breach and the level of harm caused. Works requiring an urgent response, and are described thus:

- Demolition or irreparable alteration of a Listed Building.
- Demolition of a building within a Conservation Area.
- Works to trees protected by a Tree Preservation Order or within a Conservation Area.
- Development that creates a physical danger or is otherwise considered likely to be injurious to human health.

All other works are subject to a triage system and are accorded a level of priority accordingly. In all events Burnley Borough Council aims to deal with all enforcement matters as efficiently as Council resources allow. It is important to note that Council resources are finite, and that not all complaints can be dealt with straight away.

## **8. How we investigate a complaint**

All complaints received via the Council's website are acknowledged automatically. Complaints are viewed by Council Officers and the degree of harm assessed. A view is subsequently taken as to the necessity and practicality of taking enforcement action. It is important to remember that many complaints received are not considered expedient to progress.

In most cases it will be clear from submitted information whether a breach has taken place, and in the event of a breach whether the matter requires further investigation. Some cases will require a site visit.

Authorised officers have statutory powers to enter land and buildings to investigate breaches of planning control. If the property is a dwelling, 24 hours advance notice may be required. Where these formal powers are used, officers will produce evidence of their authority, identity and the purpose of their visit when requested. It is an offence to obstruct an authorised person exercising their right of entry.

On occasion Burnley Borough Council may ask complainants for assistance, for example by keeping a log of alleged unauthorised activities. Successful prosecution requires sufficient evidence to demonstrate a breach of planning control.

The Council will not normally undertake covert surveillance for planning enforcement purposes. Should it be considered necessary to do so, surveillance will only be undertaken with prior authorisation and in accordance with the provisions of The Regulation of Investigatory Powers Act 2000 (as amended).

**A Planning Contravention Notice (PCN)** can be served where information is required regarding ownership of land or activities undertaken. A PCN can be served on anyone who is the owner or occupier of the land to which the notice relates, or has any other interest in it, or anyone who is carrying out operations on the land, or is using it for any purpose.

A PCN will require the recipient to provide information requested within 21 days relating to the alleged breach of planning control. Failure to comply with any aspect of the PCN is an offence for which the recipient can be prosecuted with the maximum fine currently being £1,000. To knowingly or recklessly provide false or misleading information on a PCN can result in a fine of up to £5,000.

A **Requisition notice**, under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 can also be used to establish information about the ownership of land. It is an offence to fail to respond to the notice or to knowingly or recklessly provide false or misleading information. The maximum fine on conviction is £5,000

## **9. What action we might take:**

- **No action** – if it is found that planning permission is not required, or the breach is very minor and causes no harm to the environment or nearby residents, then no further action will be taken. Note that as a complainant, you may not automatically be informed that this is the case.
- **Negotiate solution** – if an issue is found to exist, we will try to negotiate a mutually acceptable solution to a planning breach wherever possible. It is acknowledged that his process can be both lengthy and frustrating for complainants who are waiting for a matter to be resolved, however this may be the most efficient method of securing a solution.

If building works or an unauthorised use are considered to be unacceptable, the Council will give the perpetrator time to remove the construction or cease the use. If this opportunity isn't taken by the perpetrator, formal enforcement action may follow.

- **Retrospective application** – where there is a realistic chance of an unauthorised development receiving retrospective planning consent, the perpetrator may be asked to make such an application. Such an application is only ordinarily submitted if enforcement action hasn't formally begun, as a Local Authority has the right to decline consideration of such an application following service of an Enforcement Notice.
- **Application for Lawful Development Certificate** – if it appears to the Council that a use or physical works might have become lawful due to the length of time the use or works have existed uninterrupted on the site, the perpetrator may be invited to submit an application for a Lawful Development Certificate. If such a Certificate is granted, no enforcement action can subsequently be taken. If such a Certificate is refused and no Appeal submitted, the matter may progress to service of an Enforcement Notice.
- **Breach of Condition Notice** – where a Planning Condition has not been complied with, a Breach of Condition Notice (BCN) can be served. A BCN clarifies steps needed to comply with said Condition and by what date these steps must be taken. There is no right of appeal against a Breach of Condition Notice and failure to comply can result in prosecution. The maximum fine on conviction is currently £2,500.
- **Enforcement Notice** – if attempts at negotiation are unsuccessful, an Enforcement Notice (EN) may be served. An EN must describe the breach, the steps necessary remedy the breach and an appropriate timescale to undertake those steps. Note that a period of no less than 28 days must elapse from the date of service of an EN until the Notice takes effect, and that the appropriate timescale to remedy the breach begins no earlier than the expiry of that 28 day period. The reality therefore is that from service of an EN, it may take a minimum of 56 days before the unauthorised use has to cease, or the unauthorised works be removed. There is a right of Appeal against an EN. If such an Appeal is lodged, the EN is suspended pending the outcome. If no Appeal is lodged, or if an Appeal is lodged and dismissed, subsequent non-compliance with an EN can result in prosecution in the Courts. The maximum fine on conviction is unlimited. In cases where prosecution has taken place, a Local Authority can apply for a Confiscation Order, under the [Proceeds of Crime Act 2002](#), to recover the financial benefit obtained through unauthorised development.

**Stop Notice** – in cases where urgent action is needed to remedy harm being caused, a Stop Notice can be served in addition to the Enforcement Notice. The purpose of a Stop Notice is to require activities to cease before the date for compliance set out in the Enforcement Notice. These are only used in exceptional circumstances where serious harm is being caused to public

amenity. There is no right of Appeal. A person who contravenes a stop notice after a site notice has been displayed, or the stop notice has been served on them, is guilty of an offence ([section 187\(1\) of the Town and Country Planning Act 1990](#)).

A person guilty of this offence is liable on conviction to an unlimited fine. In determining the amount of fine imposed the Court is to have regard to any financial benefit which has accrued, or appears likely to accrue, in consequence of the offence.

- **Temporary Stop Notice** - These take effect immediately and do not have to be accompanied by an Enforcement Notice. They last for a period of 28 days during which the local authority must decide whether any further action is needed. They cannot be used in certain situations, e.g. the use of a building as a dwelling, or in some cases involving use of a caravan where it is the occupant's main residence (although there are exceptions to this). Failure to comply is an offence and the maximum fine on conviction is unlimited.
- **Injunction** - in very serious cases, where irreparable harm is being caused, or where all other methods of enforcement have failed, the Council can seek an injunction in the County Court or High Court to prevent a breach of planning control. Failure to comply with an injunction is a contempt of court and can lead to a fine, imprisonment or assets being seized. This is only used in exceptional circumstances.
- **Prosecutions** - although normally a last resort, are an important part of the enforcement function. In deciding whether to prosecute, the Council will take into account whether it is in the public interest and whether there is sufficient evidence to prove the case beyond reasonable doubt. As referred to in 8 above, this may be dependent upon complainants being willing to assist with the provision of evidence and by appearing in court.
- **Direct action** - When steps required by an Enforcement Notice have not been taken within the compliance period (other than the discontinuance of the use of land), the Council will consider whether to exercise its power to enter the land and itself take those steps necessary to remedy the harm; and to recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so. If the costs cannot be recovered, a charge will be registered on the property with the Land Registry.
- **Planning Enforcement Order** - A local planning authority can seek a Planning Enforcement Order through the Magistrate's Courts where a breach of planning control has been deliberately concealed in an attempt to circumvent the "4 year rule" or the "10 year rule" which normally provide immunity from enforcement action. Its use will depend on whether or not there are other remedies available but also on whether or not any "concealment" was deliberate.

- **The Proceeds of Crime Act 2002** - provides for the confiscation or civil recovery of the proceeds from crime in the UK. The Council may be able to seek an award under the Act if relevant criteria are satisfied and a breach of planning control has resulted in monetary or other gain on the part of the perpetrator.

## 10. Trees

Trees are protected when they are subject to a Tree Preservation Order or if within a Conservation Area.

- It is an offence to cut down or otherwise destroy a tree covered by a Tree Preservation Order unless the local planning authority has given consent for those specific works. The maximum fine upon conviction is unlimited.
- Within a designated Conservation Area, an individual or organisation wishing to cut down or otherwise undertake works to trees is required to the Local Planning Authority 6 weeks' notice of said intent. Any person or organisation that carries out such work without service of such a Notice on the LPA is guilty of an offence. The maximum fine on conviction is unlimited.

If Burnley Borough Council is informed that a protected tree is in the process of being felled, the matter will be treated with priority. When questioning a landowner or an individual suspected of undertaking the works, it may be necessary to caution those concerned in accordance with the Police and Criminal Evidence Act 1984. A decision as to whether it is in the public interest to prosecute those concerned will be made following the interview, and in any event the planting of replacement trees will normally be required irrespective of whether or not prosecution takes place.

If a landowner fails to comply with this requirement, the Authority may serve a Tree Replacement Notice to ensure compliance. There is a right of Appeal against a Tree Replacement Notice.

The Council does not have the power to insist upon work being undertaken to protected trees on privately owned land.

## 11. High Hedges

Matters concerning high hedges can be considered under Part 8 of the Anti-Social Behaviour Act 2003, in which the Council can act as mediator for a fee.

The Government has published explanatory leaflets for the public:

- ['High Hedge: complaining to the Council'](#)
- ['High Hedge Complaints: Prevention and Cure'](#),

Requests for mediation can be made via e-mail to [planning@burnley.gov.uk](mailto:planning@burnley.gov.uk). The following information should be included:

- Name, address and other contact details as appropriate;
- Confirmation that the address relates to a domestic property;
- Name and address of other individuals/landowners concerned;
- Location plan showing the hedge and all property affected;
- Photographs of the hedge, preferably with an indication of scale;
- Confirmation that the hedge is in excess of two metres tall and comprises predominantly evergreen or semi-evergreen species;
- An outline of the steps taken to date to settle the matter by negotiation, with copies of relevant correspondence or other papers;
- Details of how the hedge is affecting the reasonable enjoyment of property.

Upon receipt of this information, the Council will write to relevant landowners, inviting them to present their case. A site inspection will be carried out and the Council will assess whether the hedge adversely affects the amenity of the complainant. If it is determined that action is needed, a Remedial Notice will be served on the owners of the hedge setting out that action, and a reasonable timescale.

The recipient of a Remedial Notice has a right of Appeal. If an appeal is subsequently lodged, the recipient is not required to undertake the work until the Appeal is determined.

A complainant also has a right of Appeal should the Council decide not to issue a Remedial Notice.

For further information, the Government has produced the following explanatory leaflet:

- [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/9410/highhedgesappeal.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9410/highhedgesappeal.pdf)

## **12. Advertisements**

It is an offence under the Town and Country Planning Act 1990 to display an advertisement without express consent. If officers consider that an application for the advertisement would probably be granted, then a retrospective application will be requested. Where the advertisement causes serious harm to amenity or public safety, a request will be made for its removal within a specific period. If the advertisement continues to be displayed after this period of time, then the offender will be prosecuted. The maximum fine on conviction is £2,500. In the case of a continuing offence, the maximum fine is £250 for each day the offence continues after conviction.

## **Removal Notice**

Section 225A of the 1990 Act gives the Local Planning Authority the power to remove and dispose of structures (such as hoardings) which are being used for unauthorised advertisement displays, but not on buildings to which there is no public right of access. The Authority would first serve a 'removal notice and would then be able to recover the cost of removal if the structure was not removed by the date specified in the notice. The recipient has a right of appeal to a magistrate's court.

The Local Planning Authority would be liable to pay compensation where any damage is caused to land or property, other than damage caused to the display structure itself or damage reasonably caused from removing the structure.

## **Discontinuance Notice**

Where an advert does not require consent the Authority can serve a Discontinuance Notice requiring its removal if it considers that the advert causes a substantial injury to the amenity of the locality or is a danger to members of the public. There is a right of appeal to the Secretary of State against a Discontinuance Notice.

## **13. Listed Buildings**

Listed Building Consent is required for the demolition of a listed building or for alteration or extension to the building in a manner which would affect its character as a building of special architectural or historic interest. It is an offence to carry out such works without the necessary authorisation and the maximum penalty on conviction is 6 month's imprisonment, an unlimited fine, or both, in the Magistrates Court, and up to 2 years imprisonment, an unlimited fine, or both, in the Crown Court.

The Council can either prosecute an offender or serve a Listed Building Enforcement Notice requiring the unauthorised work to be remedied. There are no time limits for taking enforcement action in respect of listed buildings. In deciding whether to serve a listed building Enforcement Notice, or to prosecute an owner, the Council will take into consideration the length of time that has passed since the work took place and who was responsible for carrying out the unauthorised work. However, even where a property has changed hands since work took place, the current owner is still responsible for carrying out remedial works and liable for prosecution if these are not carried out.

However, prosecution will only take place as a last resort, in cases where the law has been deliberately flouted or a Listed Building Enforcement Notice has not been complied with.

The Council's first priority will be to negotiate a satisfactory solution with the owners. A retrospective application for Listed Building Consent may be necessary at this stage. If negotiations fail, then the Council may serve a Listed



Building Enforcement Notice. As with a general Enforcement Notice, this will set out the steps required and the timescales in which work must be carried out and there is a right of appeal to the Secretary of State. Failure to comply with a Listed Building Enforcement Notice is an offence and penalties are the same as those for a general Enforcement Notice.

#### **14. Demolition in Conservation Areas**

The demolition of an unlisted building in a conservation area requires planning permission. This can either be applied for in conjunction with a planning application for redevelopment of a site, or a separate application for 'relevant demolition' can be made. It is an 'offence for a person to carry out or cause or permit to be carried out the demolition of an unlisted building within a conservation area without the required planning permission. Similarly it is also an offence for a person to fail to comply with any condition or limitation subject to which planning permission for relevant demolition is granted. The maximum penalty for this offence is an unlimited fine and/or 12 months imprisonment

**Please note: All fines referred to in this document are the current levels at 30<sup>th</sup> April 2015 and are subject to change.**

#### **15. What to do if you are not satisfied with our service**

We make every effort to provide good customer service and to follow correct procedures at all times. However, if you have a complaint, you should initially contact the Development Control Manager by email: [planning@burnley.gov.uk](mailto:planning@burnley.gov.uk) who will try to resolve your enquiry informally in the first instance.

If you are not satisfied and wish to pursue the complaint, it will then be dealt with under the Council's formal complaints procedure. Details of this are set out at the following link:

<http://www.burnley.gov.uk/about-council/other-information/complaining-about-council-service/how-we-deal-complaints>

If, having gone through the formal complaints procedure, you remain dissatisfied, you may refer your complaint to the Local Government Ombudsman. Details of how to do this are on the Council's website at the link above, or on the Ombudsman's website [www.lgo.org.uk](http://www.lgo.org.uk).

For enquiries relating to planning enforcement, please contact:

Planning Enforcement  
Development Control Team  
Housing & Development Control  
Town Hall  
Manchester Road  
Burnley  
Tel: 01282 425011  
Email: [planningenforcement@burnley.gov.uk](mailto:planningenforcement@burnley.gov.uk)

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