

## **Application Recommended for Approve with Conditions FUL/2020/0015 Daneshouse With Stoneyholme**

Town and Country Planning Act 1990

Demolition of existing nursery building to make way for a purpose built warehouse building housing 7 individual units for B1/B2/B8 with associated on-site parking provision for 17 cars

Elm Street Nursery School New Hall Street Burnley Lancashire

### **Background:**

The application site is situated off New Hall Street on the corner of Elm Street within the defined settlement boundary as designated in Burnley's adopted Local Plan. There are no other identified local plan constraints to the site, although the site is adjacent to but not within a Biological Heritage Site (policy NE1) and also adjacent to but not within an area of Protected Open Space (policy NE2).

The site currently consists of a single storey children's nursery (footprint 92.2sqm) with an existing vehicular access point from New Hall Street. The site is enclosed by a 2.5m high mesh fence and has an approximate site area of 1,433sqm and has little change in gradient across the site.

The surrounding context to the site is very mixed in nature. To the north are existing workshop units which have direct access from New Hall Street. The gable of No. 62 Elm Street faces the site, approximately 11m from the boundary fence of the site. To the east is a traditional terraced row along Elm Street, approximately 10m from the boundary of the site to the front elevation of the row. To the south is a car park associated with Northbridge commercial premises further to the south. The Leeds and Liverpool Canal lies to the east of the site approximately 6m away, the gap consists of a landscape strip including some mature and semi mature trees. Access can be gained from New Hall Street to the canal tow path.



**Photo 1** Corner of the site taken from the Canal



**Photo 2:** New Hall Street commercial premises on the left of the photo, existing nurse site located to the right of the photo



**Photo 3:** gable of No. 62 Elm St to the right



**Photo 4** frontage along Elm St to the east



**Photo 5:** [www.google.co.uk](http://www.google.co.uk) showing the junction of Elm Street and New Hall Street

## Proposal

The application seeks consent for the erection of 7, B1/B2/B8 uses with access from New Hall St. The units would be arranged in a parallel block alongside New Hall St,

and will be pushed right upto the southern boundary with the existing car park which serves Northbridge business centre.

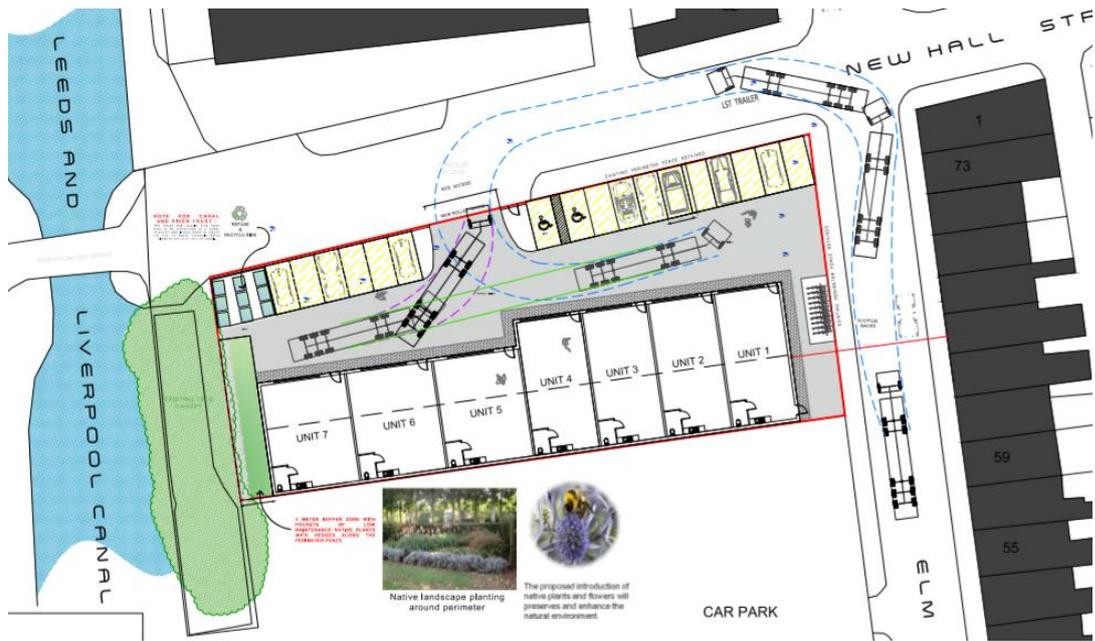
The application has been supported with the following documents:

Coal Mining Risk Assessment and Mining Report  
Design and Access Statement  
Demolition Method Statement  
Planning Statement  
Noise Assessment

The scheme has altered twice since the original submission with an overall reduction in the number of units from 9 units to 7. Amended plans were received on the 16<sup>th</sup> March, with consultees and neighbours given an additional 14 days in which to make comment. Further amendments were received on the 7<sup>th</sup> June 2020 showing a reduced drop in the eaves and ridge height of the proposed units and change in use of materials to include a stone plinth to the units.

The amended scheme consists of the following; the units will measure 50m in length, 13m in width and 6.7m to the ridge (the existing nursery ridge height is 3.7m). Proposed materials will be a Kingspan wall panels (dark grey), double glazed windows and doors and grey kingspan roofing panels and a stone plint around the north and eastern elevation which are visible. Each unit will have its own up and over roller shutter door together a pedestrian doorway and higher level window openings to the southern elevation.

A total of 17 car parking spaces will be provided for the site including 2 accessible spaces. A bike stand for 10 bikes will also be provided along the eastern boundary of the site. An area for refuse and recycling will be situated at the north western corner of the site. A landscape strip upto 3m will be created to the western boundary with low maintenance native plants. The existing perimeter fence will remain. Proposed operation hours are 9am – 6pm Monday – Saturday.



**Extract Plan 1:** not to scale, taken from revised site layout plan received 3/4/20



**Extract plan:** Proposed elevation received 7/6/20

Burnley Local Plan

- SP1 – Achieving Sustainable Development
- SP3 – Employment Land Requirement 2012 - 2032
- SP4 – Development Strategy
- SP5 – Development Quality and Sustainability
- EMP3 - Supporting Employment Development
- IC3 – Car parking standards

National Planning Policy Framework 2019

## **Site History:**

PRE/2019/0415 – Pre application for creation of commercial units

APP/2009/0526 - Proposed change of use of former nurse's into office space and extension plus alteration to car park Approved with conditions 16/10/09

NOT/2004/0123 - Erection of 2.4m high security for 3D security fencing to the school site  
Granted 26/2/04

## **Consultation Responses:**

**Lancashire Fire & Rescue** – a range of comments relating to building regulations which would need addressing

**Health and Safety Executive** – HSE does not advise on safety grounds against the granting of planning permission.

**Environmental Health** - no objection subject to conditions

I do not consider that the proposed development is unsuitable in terms of noise impact. However, I would ask that if the development is granted planning permission, each of the undernoted conditions are made

**Environmental Health:** Contamination standard conditions

## **LCC Highways - no objection**

There is still some concern regarding this site with respect to the access, however following the reduction in the number of units and the increase in the availability of, off street parking earlier concerns regarding this matter have been resolved.

It is noted from the swept path produced for a refuse collection vehicle that it relies on there being no parked vehicles on New Hall Street at and opposite the gable of 62 Elm Street. In order to facilitate the collection of the refuse from the site and other deliveries from large vehicles we would look for the implementation of some a traffic Regulation Order to provide a Single Yellow Line at the gable of 62 Elm Street and a Double Yellow Line adjacent to the new units, there are approximately 15m and 30m in length respectively. The footway adjacent to the new units will also need to be extended to meet the gated access to the site. It is expected that the above will form part of the expected Section 278 agreement.

**Lancashire Fire Service** – no objection several suggestions which relate to building regulations

## **United Utilities**

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority.

## Canal & Rivers Trust

Works in proximity to the canal could also expose the water to pollutants from dust exposure or the unintentional runoff of silty waters. In line with the aims of paragraph 170 (part e) of the NPPF we advise that measures should be adopted to prevent the exposure of the water environment to such pollutants.

To address the above concerns, we request a construction method statement should be provided to outline the proposed works to ensure that the works will not result in an increased risk towards land instability or pollution towards the canal. This could be reserved through the use of an appropriately worded condition.

## Coal Authority

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application 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.

The Coal Authority therefore has **no objection** to the proposed development **subject to the imposition of the conditions to secure the above**. *This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.*

**Publicity** - There have been 2 rounds of consultation of this application, 30<sup>th</sup> Jan – 20<sup>th</sup> Feb (31 letters received) and after submitted plans were received on the amended plans a further 14 days of consultation ran from the 17<sup>th</sup> March until the 31<sup>st</sup> March (10 letters) The following comments on a summary of the objections which have been raised, full details of the comments are contained within the application:

The majority of the objections from local residents was in relation to parking and highway safety of the site.

- Parking is already limited, the development will put further constraints on the surrounding area
- Concern over the use of HGV's and the safety of residents with in the area
- Conflict with the site and the use for pedestrians to access the Leeds and Liverpool Canal
- Dangerous for children who play in the area
- Narrow streets will not be suitable for HGV's
- Loss of resident parking
- Lighting of the building at night and impact for surrounding residents
- Concerns over comments from the Coal Authority

## **Councillor comments – 1 letter of support**

It will complement the North Bridge Business Centre and will provide further opportunities for businesses to develop or relocate

## **Planning and Environmental Considerations:**

### **The principle of development**

Policy SP1 states that when considering development proposals, Burnley Borough Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the NPPF. Furthermore, Policy EMP3 of the Local Plan supports the expansion and upgrading of businesses where they do not have an unacceptable negative impact on surrounding uses, residential amenity or the environment, or have an unacceptable impact on the townscape.

### **Main issues**

The main issues in the consideration of this application are;

- design and appearance
- the impact of the development on residential amenity
- traffic/parking

### Design and Appearance

Paragraph 124 of the NPPF states 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 to live and work and helps make development acceptable to communities.

The context to the site is mixed in nature with residential properties and business premises. The existing nursery building has a low profile and with the boundary treatment including low level shrubs and trees the building does not have a major impact on the street scene.

The proposed units will have a larger footprint to the existing building and the roofline will be higher so there will be more of visible impact from the street scene. During the consideration of the application, the scale and appearance of the proposed building has altered with an overall reduction in the number of units, the height (reduction in 2m across the site) and a more complimentary use of materials.

The alterations to the scheme have improved the proposals. Whilst the building will have a presence when viewed along Elm St and New Hall Street, given the area already has a mix of uses with a variation in design and scale, then it is not considered that the proposals are inappropriate in terms of design and appearance. The latest amendments show a stone plinth around the visible east and north elevations which assists in complimenting the surrounding use of stone in the residential properties.

The proposed new building is not considered to cause any harm, and as such will be in accordance with policy SP5 and NE5 of the adopted Local Plan.

## Residential Amenity

Policy SP5 of the adopted Local Plan seeks to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking.

The eastern elevation will be positioned approximately 15m from the front elevation of properties along Elm Street. The initial scheme showed a shorter distance of 13m with the location of refuse and recycling facing the residential properties. This has also been altered so with refuse now being located to the north west corner of the site away from any residential properties.

From the front elevation of the units (northern elevation), a separation distance of 24m is achieved with the gable elevation of No. 62 Elm Street. There are a series of windows on the gable elevation, but this is not the principle elevation and given the distance it is not considered there to be any issues of loss of light or over looking.

Conditions have been placed on the application to safeguard the amenity of the surrounding residents including hours of operation (including deliveries and use of machinery), external lighting scheme and noise level restrictions.

On balance it is considered that there will be no detrimental impact on the amenity of surrounding residents and appropriate conditions have been attached to ensure that the operations are controlled.

## Traffic and Parking

Paragraph 32 of the NPPF states that planning decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

LCC highways have provided comments on the application and do not object to the principle of development. The submitted plans show incurtilage parking space for 17 vehicles, together with secure and accessible refuse collection storage.

There are a range of highways conditions which have been placed in order to ensure that the site does not have any significant impact on the surrounding area. A condition on the implementation of a TRA (Traffic Regulation Order) has been attached which will be subject to its own consultation with LCC. It is recognised that currently there are no restrictions for on street parking, and although I have no evidence, at peak times on street parking may be difficult. The scheme puts forward 17 incurtilage parking spaces and promotes sustainable travel with the provision of secure cycle storage.

The Council are guided by LCC highways comments, and with this application they do not object to the principle of development subject to appropriate conditions which are attached.

## Conclusion

The site is within a mixed use area with existing commercial premises adjacent. The concerns from the surrounding residential properties with regards to highways are valid, but LCC highways have recommended appropriate conditions. Whilst there may be some impacts from the development, it is not considered that these impacts will have a significant impact on the surrounding area.

On balance the application is recommending for approval 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. The development shall be carried out in accordance with the approved plans listed on this notice below.

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

3. All materials to be used in the approved scheme shall be as stated on the application form and amended drawings received 7/6/20 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

## **Coal Mining**

4. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

Reason: The undertaking of intrusive site investigation is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the NPPF.

5. Where the findings of the intrusive site investigations (required by condition 5 above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Reason: The undertaking of intrusive site investigation is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the NPPF.

6. Following implementation and completion of the approved remediation scheme (required by condition 6 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

Reason: The undertaking of intrusive site investigation is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the NPPF.

### **Highways**

7. The development shall not be occupied until the car parking areas to serve the development have been laid out and hard surfaced in accordance with approved drawings and made available for use and retained as such thereafter.

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

8. 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 and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To prevent stones and mud being carried onto the public highway to the detriment of road safety in accordance with policies IC3 and SP5 of Burnley's adopted Local Plan

9. No part of the development hereby approved shall commence 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.

Reasons: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users, in accordance with policies IC3 and SP5 of Burnley's adopted Local Plan

10. Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public 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.

Reason: To safeguard the amenities of nearby residents in accordance with policy SP5 of Burnley's adopted Local Plan.

11. Prior to development taking place, including any works of demolition, a construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
  - i) The parking of vehicles of site operatives and visitors
  - ii) The loading and unloading of plant and materials
  - iii) The storage of plant and materials used in constructing the development
  - iv) The erection and maintenance of security hoarding
  - v) Routing of delivery vehicles to/from site

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

### **Drainage**

12. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution in accordance with policy CC5 of Burnley's adopted Local Plan.

13. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme 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; (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); and (iii) A timetable for its implementation.

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

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policy CC5 of Burnley's adopted Local Plan.

### **Environmental Health**

14. All external plant and machinery at the development hereby permitted shall be designed so that the rating levels for cumulative noise shall not exceed the existing background noise level (LA90) when measured as an LAeq,15min in any one third octave band at the external façade of the nearest noise-sensitive premises, as assessed in accordance with British Standard 4142 (2014), or any subsequent replacement national standards. Alternative levels and monitoring locations may be used subject to the prior written approval of the Local Planning Authority.

Reason: To ensure there is no adverse effect on the health and quality of life of the occupiers of noise-sensitive premises and to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with policies policy NE5 and SP5 of Burnley's adopted Local Plan.

15. No development shall start until a scheme and programme for the lighting of the external area has been submitted to, and approved in writing by, the Local Planning Authority. The scheme and programme shall include details of:
- a) Location, type and intensity of lights.
  - b) Types of masking or baffle at head.
  - c) Type, height and colour of lighting columns.
  - d) Number and size of lighting units per column.
  - e) Light spread diagrams showing lux levels at the site boundary and calculation of the impact of these on nearby properties.

The lighting shall only be provided in accordance with the approved scheme and programme.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners in accordance with policy NE5 of Burnley's adopted Local Plan.

16. The refuse and recycling store as shown on plan 20 – P 02 rev shall be provided before the start of the use and thereafter permanently retained.

Reason: To provide satisfactory refuse storage provision in the interests of the appearance of the site and locality and to ensure compliance with policy SP5 of Burnley's adopted Local Plan.

17. No process shall be carried on, including the sounding of horns and vehicle repairs, which creates a nuisance to nearby residents as a result of noise, vibration, smell, fumes or smoke.

Reason: To safeguard the amenities of the nearby residential area, in accordance with policy NE5 of Burnley's adopted Local Plan

18. No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times; 8am - 5pm Monday to Friday and 8am – 1pm Saturdays none at any time on Sundays, Bank or Public Holidays

Reason: To satisfactorily protect the residential amenities of nearby occupiers in accordance with policy NE5 of Burnley's adopted Local Plan

19. Before the development hereby approved is brought into operation, a noise control scheme shall be submitted to and approved in writing by the Local Planning Authority and thereafter the noise control scheme shall be fully implemented in accordance with the approved scheme at all times.

Reason: In the interests of the amenity of nearby occupiers in accordance with policy NE5 of Burnley's adopted Local Plan

20. Audible alarms to any commercial vehicle associated with the development hereby approved, including forklift trucks, shall not be used at any time.

Reason: In the interests of residential amenity in accordance with policy SP5 of the adopted Local Plan.

### **Contamination**

21. The development shall not begin until:

a. A strategy for investigating contamination present on the site has been submitted to and approved in writing by the local planning authority;

b. An investigation has been carried out in accordance with the approved strategy;

c. A written report, detailing the findings of the investigation, assessing the risk posed to receptors by contamination and proposing a remediation scheme, including a programme for implementation, has been submitted to and approved in writing by the local planning authority.

Remediation work shall be carried out in accordance with the approved remediation scheme and programme. Remediation work on contamination not identified on the initial investigation but found during construction work shall be

carried out in accordance with details approved in writing by the local planning authority subsequent to its discovery. Evidence verifying that all remediation work has been carried out in accordance with the approved scheme shall be submitted to and approved in writing by the local planning authority before any part of the development is brought into use.

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

22. No development shall take place unless a Construction Method Statement outlining the construction of foundations and landscaping works in proximity to the Leeds & Liverpool Canal have been submitted to and approved in writing by the Local Planning Authority. The details shall:

- Include the design, depth and means of construction of the foundations of the proposed development together with any other proposed earth moving and excavation works required in connection with the development;

Indicate the location of plant, equipment and stockpiles on site; and

- Include details of any protective fencing, including measures to limit the runoff of silty water from the site, to be erected to safeguard the waterway infrastructure during construction;
- Include details of dust suppression measures to be used during the demolition and construction phases of the development

The development shall thereafter be carried out in strict accordance with the agreed details”

Reason: In the interests of safeguarding land stability adjacent to the canal and the water quality of the canal in accordance with the aims of paragraphs 178, 180 and 170 (part e) of the National Planning Policy Framework.