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Planning and Highways Committee

Thursday, 24th May, 2018

6.30 pm

Meeting Room A, Blackburn Town Hall

AGENDA

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**
Minutes 19th April 2018 **2 - 3**
3. **Declaration of Interest**
Declaration of Interest Form **4**

PLANNING MATTERS

- MATERIAL CONSIDERATIONS** **5 - 6**
4. **Planning Application Summary**
Planning Application Summary **7**
 - 4.1 **Planning Application 10/18/0336 - Land Adjacent to BCC
Citroen Dealership, Throstle Street, Blackburn**
Planning Application 10_18_0336 **8 - 14**
 - 4.2 **Planning Application 10/18/0405 - Gorse Street,
Blackburn**
Planning Application 10-18_0405 **15 - 18**

Date Published: Wednesday, 16 May 2018
Harry Catherall, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE 19th APRIL 2018

PRESENT – Councillors; Dave Smith (in the Chair), Ali, Brookfield, Casey, Groves, Hardman, Hussain I, Jan-Virmani, Khan Z, Khonat, Murray, Nuttall, Oates, Riley, and Slater Ja.

OFFICERS – Gavin Prescott (Development Manager), Safina Alam (Highways Development Control Engineer), Rabia Saghir (Legal) and Wendy Bridson (Democratic Services).

RESOLUTIONS

61 Welcome and Apologies

The Chair welcomed everyone to the meeting and expressed his thanks to everyone for their participation and contributions to the Committee throughout the municipal year.

62 Minutes of the last Meeting held on 15th March 2018

RESOLVED – That the minutes of the last meeting held on 15th March 2018 were confirmed and signed as a correct record.

63 Declarations of Interest

There were no declarations of interest received.

64 Planning Applications

The Committee considered reports of the Director of Growth and Development detailing the planning applications listed overleaf.

In considering the applications, the Committee took into account representations or submissions provided by individuals with the officers answering points raised during discussion thereon.

RESOLVED – (1) That the following decisions be made on the applications set out overleaf:

<u>Applicati on No.</u>	<u>Applicant</u>	<u>Location and Description</u>	<u>Decision under Town and Country Planning Acts and Regulations</u>
10-18-0132	Mr M Hales	The Butlers Arms Victoria Road Pleasington BB2 5JH	Approved subject to the conditions as detailed in the Director's Report.

		Variation of condition for minor material amendment: Variation of Condition No 3 pursuant to planning application 10/17/062; to allow for timber pergola and extension of decking to outside seating area.	
10-17-1435	IGP Investment Ltd	Former Pioneer Mill Site New Wellington Street Blackburn BB2 4PG Full Planning Application for Erection of building for the purposes of food retail (A1 use) with associated car parking	Approved subject to the conditions highlighted in the Director's Report.

65 Letter to Secretary of State for Housing, Communities & Local Government regarding fees relating to retrospective planning applications

The Committee were informed of the response received from the Ministry of Housing, Communities and Local Government to the letter sent by the Council dated 19th February 2018.

The response from the Ministry of Housing, Communities and Local Government was received on the 9th March and welcomed the views made by the Council. However, they stated that a higher fee was not charged for retrospective planning applications as the costs to process those applications was not considered to significantly differ to justify a higher charge.

RESOLVED – That the Committee note the content of the letter from the Ministry of Housing, Communities and Local Government

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

Material Consideration

“Material Considerations” are not limited to matters relating to amenity and can cover a range of considerations, in regard to public or private interests, provided that there is some relationship to the use and development of land.

Where it is decided that a consideration is material to the determination of a planning application the courts have held that the assessment of weight is a matter for planning judgement by the planning authority, rather than the court. Materiality is a matter of law for the Court, weight is for the decision maker. Accordingly it is for the Committee to assess the weight to be attached to each material consideration, but if a Council does not take account of a material consideration or takes account of an immaterial consideration then the decision is vulnerable to challenge in the courts.

By section 38(6) of the Planning & Compensation Act 2004 Act every planning decision must be taken in accordance with the development plan (taken as a whole) **unless material considerations indicate otherwise**. The policies and guidance contained in the hierarchy of planning documents are important material considerations and the starting point for the Committee in its assessment of development proposals and most decisions are usually taken in line with them.

However, the Committee is legally obliged to consider all material matters in determining a planning application and this means that some decisions will not follow published policy or guidance. In other words, the Committee may occasionally depart from published policy when it considers this is outweighed by other factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Committee must exercise its judgement in determining the balance of considerations

The following provides a broad guide of what may and may not be material, though as with any broad guidance there will on occasions be exceptions

MATERIAL:	NOT MATERIAL:
Policy (national, regional & local)	The identity of the applicant
development plans in course of preparation	Superceded development plans and withdrawn guidance
Views of consultees	Land ownership
Design	Private Rights (e.g. access)
Visual impact	Restrictive covenants
Privacy/overbearing/amenity impacts	Property value
Daylight/sunlight	Competition (save where it promotes a vital and viable town centre)
Noise, smell, pollution	Loss of a private view
Access/traffic/accessibility	“moral issues”
Health and safety	“Better” site or use”
Ecology, landscape	Change from previous scheme
Fear of Crime	Enforcement issues
Economic impact & general economic conditions	The need for the development (in most circumstances)
Planning history/related decisions	

Cumulative impact	
Need (in some circumstances – e.g. green belt)	
Impacts upon and provision of open/amenity space	
existing use/permitted development rights/fall back	
retention of existing use/heritage issues	
fear of setting a precedent	
composite or related developments	
Off-site benefits which are related to or are connected with the development	
In exceptional circumstances the availability of alternative sites	
Human Rights Act 1998 & Equality	

Before deciding a planning application members need to carefully consider an application against the provisions of the Human Rights Act 1998.

Protocol 1 of Article 1, and Article 8 confer(s) a right of respect for a person's private and family life, their possessions, home, other land; and business assets.

Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their representation, and comments,

In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning and Transport has concluded that some rights conferred by these Articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is proportionate, in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. Furthermore he believes that any restriction on these rights posed by the approval of an application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Other duties have to be taken into account in determining planning applications for example the promotion of measures to reduce crime, the obligation not to act in a discriminatory manner and promote equality etc.

NB: Members should also be aware that each proposal is treated on its own merits!

Reasons for Decision

If members decide to go against officer recommendations then it is their responsibility to clearly set out their reasons for doing so, otherwise members should ask for the application to be deferred in order that a further report is presented setting out the background to the report, clarifying the reasons put forward in the debate for overriding the officer recommendation; the implications of the decision and the effect on policy; what conditions or agreements may be needed; or just to seek further information.

If Members move a motion contrary to the recommendations then members must give reasons before voting upon the motion. Alternatively members may seek to defer the application for a further report. However, if Members move a motion to follow the recommendation but the motion is lost. In these circumstances then members should be asked to state clearly their reasons for not following the recommendations or ask that a further report be presented to the next meeting



BwD Council - Development Control

General Reporting

REPORT NAME: Committee Agenda.

REPORT OF THE DIRECTOR OF GROWTH & DEVELOPMENT



LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

There is a file for each planning application containing application forms, consultations, representations, Case Officer notes and other supporting information.
Gavin Prescott, Development Manager – Ext 5694.

NEIGHBOUR NOTIFICATION: The extent of neighbour notification is shown on the location plans which accompany each report. Where neighbours are notified by individual letter, their properties are marked with a dot. Where a site notice has been posted, its position is shown with a cross.

PLANNING APPLICATIONS FOR DETERMINATION Date: 24/05/2018

Application No	Applicant	Site Address	Ward	Application Type
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10/18/0336

BBC Citroen Blackburn C/O Agent	Land Adjacent to BCC Citroen Dealership Throstle Street Blackburn BB2 1QT	Wensley Fold		
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Regulation 3 for Change of use of grass verge to part of car dealership premises

RECOMMENDATION: Permits

10/18/0405

Blackburn With Darwen Borough Council Co/Agent	Gorse Street Blackburn	Audley Shadsworth With Whitebirk		
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Regulation 4 for Variation of Condition No.21 pursuant to planning application 10/12/0694 to allow for highway alignment and alteration to roundabout size, new 40mph speed limit, new side roads to be opened up for new development sites - "New Link road. walk comprising new roundabout, link road connecting the proposed roundabout to existing roundabout. New segregated bus and cycle lanes westbound from burnley road to burnley close. New signalised junction at burnley street/burnley close with bus priority. New access to allotments."

RECOMMENDATION: Permits

REPORT OF THE DIRECTOR

Plan No: 10/18/0336

Proposed development: Change of use of grass verge to part of car dealership premises

**Site address:
Land Adjacent to
BCC Citroen Dealership
Throstle Street
Blackburn
BB2 1QT**

Applicant: BBC Citroen Blackburn

Ward: Wensley Fold

**Councillor Mohammed Khan
Councillor David Harling
Councillor Quesir Mahmood**



1.0 SUMMARY OF RECOMMENDATION

1.1 The planning application is **recommended to be approved** planning permission, subject to application of the conditions set out in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 The application is presented to Committee under the Chair Referral Process; in accordance with the Scheme of Delegation.

2.2 The proposed change of use of the grass verge seeks to incorporate additional land into the car dealership confines, to supplement the existing vehicle sale display area, through provision of a tarmacked surface and relocation of existing low level powder coated metal hoops, as a redefined boundary treatment.

2.3 The key issues to be addressed are as follows:

- Principle of the development
- Impact of the development on the character and appearance of the area
- Drainage
- Highway and transportation impact.

2.4 Careful consideration has been applied to the principle of the development; its impact on the character and appearance of the area, relative to the value of the green space that will be lost; appropriate drainage measures and highway / transportation impact on the surrounding network, balanced against the overall benefits.

2.5 It is acknowledged that a single Horse Chestnut tree has recently been felled to accommodate the development. It was not, however, protected by a Preservation Order. The applicant submits that the remaining tree stump and its root system will be removed.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site relates to a piece of unallocated landscaped verge to the immediate south of the BCC Citroen Dealership, which is located at the junction of Bank Top and Throstle Street, Blackburn. The verge extends 10m along its eastern flank and 5m along its western flank, towards Bank Top; amounting to 550 square metres. An existing landscaped area of similar proportion will be maintained from the edge of the application site up to the public highway along Bank Top, including the length of existing trees, save for the aforementioned Horse Chestnut tree. A larger expanse of verge extends

along Bank Top to the west, up to Garden Street, along frontages to adjacent commercial units.

3.1.2 The area is general characterised as commercial, accommodating a range of uses along Bank Top, relative to the application site, Throstle Street to the east and Dixon Street to the north.

3.1.3 The entirety of the site is within the ownership of the applicant; as confirmed by Capita land management colleagues. The adjacent to be retained as grass verge is Council owned.

3.2 Proposed Development

3.2.1 Full planning permission is sought for a change of use of grass verge to part of the car dealership premises, to be used for the display of vehicles for sale. The land will be tarmacked and maintained at its existing level with appropriate drainage provision; as set out in the submitted drawings.

3.3 Development Plan

3.3.1 In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy and the adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal the following are considered to be the most relevant policies:

3.3.3 Core Strategy

- CS1 – A Targeted Growth Strategy
- CS11 – Facilities and Services
- CS16 – Form and Design of New Development

3.3.4 Local Plan Part 2

- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 15 – Secondary Employment Areas

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework).

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both

plan making and decision taking. For decision making, this means approving development proposals that accord with the development plan without delay (paragraph14). Paragraphs 21 and 56 are also relevant in requiring proactive planning to ensure a strong and competitive economy and good design, respectively.

3.5 Assessment

3.5.1 The principle of the development is guided by Core Strategy Policies and Local Plan Part 2 - Policy 15, which relates to allocated Secondary Employment Areas, within which the application site is located. As a proposed expansion of the pre-existing use, contained entirely within the allocation, the principle of the proposal is accepted; in accordance with The Framework's sustainable development principles.

3.5.2 Amenity Impact

Local Plan Part 2, Policy 8 requires development to contribute positively to the overall physical, social, environmental and economic character of the area and secure satisfactory levels of amenity for surrounding uses.

3.5.3 The development will increase the currently available vehicle sale display area and provide additional customer parking within the existing confines of the site. In doing so, it will help sustain the business in its current location, ensuring a positive contribution to the economic character of the commercial area.

3.5.4 It is considered that no excessive intensification of the existing use will occur; ensuring appropriate levels of amenity for surrounding uses are maintained.

3.5.5 Compliance with Policy 8 is achieved.

3.5.6 Environmental Impact

Local Plan Part 2, Policy 9 requires that development has no unacceptable impact on environmental assets or interests, including but not limited to flood risk, trees and efficient use of land.

3.5.7 The loss of the aforementioned tree, whilst recognised, is not considered to carry sufficient material weight to hinder support of the application, as it is not protected by Preservation Order, as confirmed by the Council's Arboricultural Manager. Moreover, remaining trees along the Bank Top frontage will be retained.

3.5.8 Appropriate drainage mitigation is proposed in the form a soakaway along the length of the application site adjoining the existing showroom and external display area, which, together with the natural topography of the site, will ensure no additional surface run-off onto the public highway.

3.5.9 Compliance with Policy 9 is achieved.

3.5.10 Accessibility and Transport

Local Plan Part 2 Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for vehicular access, off-street servicing and parking.

3.5.11 Existing access / egress arrangements onto Throstle Street to the east will remain and additional customer parking will be provided within the site, along a section of the northern perimeter. As the site is currently congested, the problem of significant overspill parking is experienced along both sides of Throstle Street. It is envisaged that the proposal will assist in alleviating this issue.

3.5.12 Compliance with Policy 10 is achieved.

3.5.13 Design / Character and Appearance

Local Plan Part 2 Policy 11 requires development design to be of a good standard, to demonstrate an understanding of the wider context and make a positive contribution to the area.

3.5.14 The site forms part of a wider section of landscaped green space to the north of Bank Top, which serves as an important break between the frontages of commercial buildings and the public highway. The proposal will result in the loss of this section, giving way to a tarmacked surface that will host a vehicle display area. Although the value of the green space in this prominent location and introduction of a replacement commercial space utilitarian in appearance is acknowledged, the impact when considered against the commercial context, together with retention of a significant section of green space, including trees abutting Bank Top, is not considered to excessively erode the character and appearance of the area. As a compensatory measure, a landscaping scheme is recommended, to be secured through application of an appropriately worded condition.

3.5.15 Moreover, the sites allocation as a Secondary Employment Area and absence of protection afforded to the green space, aligned with the aforementioned economic and highway benefits of the development, should be afforded significant weight in the assessment.

3.5.16 Accordingly, on balance, the proposal is considered compliant with Policy 11.

4.0 **RECOMMENDATION**

4.1 **APPROVE** subject to the following conditions:

- Development to be commenced within 3 years of approval.
- Submission of a landscaping scheme.
- Development to be carried out in accordance with approved drawings.

5.0 PLANNING HISTORY

5.1.1 No planning history exists

6.0 CONSULTATIONS

6.1.1 2 neighbouring premises were consulted by letter and a site notice was displayed. 3 Ward Councillors were also consulted - 2 objected; the material issue raised is summarised as follows:

- Loss of green space and resultant impact on the character and appearance of the area.

6.1.2 Highways Officer – no objection.

6.1.3 Arboricultural Manager – no objection.

6.1.4 Drainage – no objection.

7.0 CONTACT OFFICER: Nick Blackledge, Planner.

8.0 DATE PREPARED: 11th May 2018.

9.0 SUMMARY OF REPRESENTATIONS

Objection Cllr Dave Harling, Wensley Fold Ward

In am concerned about the proposal as it will alter the visual appearance of the street scene significantly. I appreciate that the site is tight for parking and this would improve the situation, but I wonder if this is too much. The shape of the increase mean the impact is greater as it sticks out further on the Throstle St end of the site – this will be visible along the whole length of the site, but if it was reduced so it was a parallel strip this impact would be lessened.

Regards, Dave

Cllr Dave Harling,
Wensley Fold Ward

Objection Cllr Mohammed Khan, Wensley Fold Ward

I fully support the views express by Cllr Dave Harling.
Regards
Come M.Khan.

REPORT OF THE DIRECTOR

Plan No: 10/18/0405

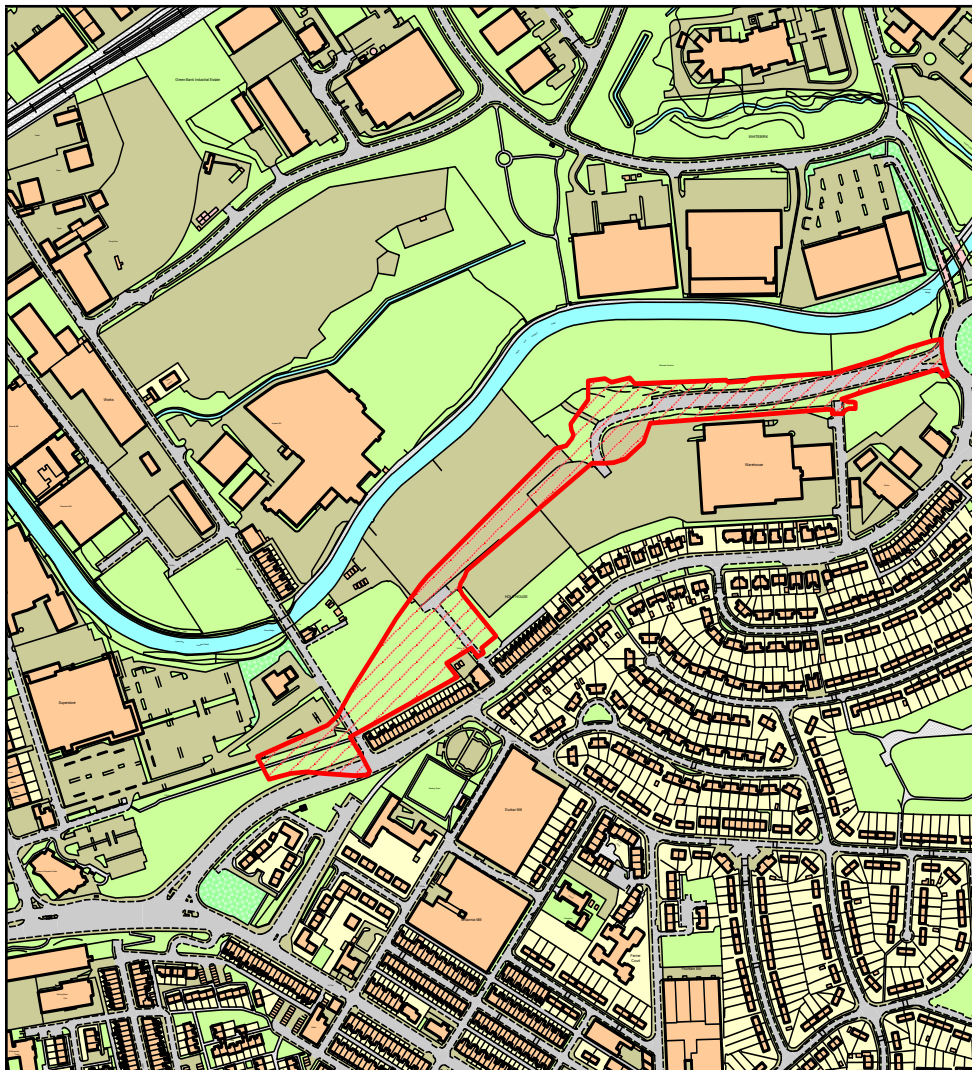
Proposed development: Variation of Condition No.21 pursuant to planning application 10/12/0694 to allow for highway alignment and alteration to roundabout size, new 40mph speed limit, new side roads to be opened up for new development sites - New Link road. Walk comprising new roundabout, link road connecting the proposed roundabout to existing roundabout. New segregated bus and cycle lanes westbound from Burnley Road to Burnley Close. New signalised junction at Burnley Street/Burnley Close with bus priority. New access to allotments."

Site address: Gorse Street, Blackburn

Applicant: Blackburn with Darwen Borough Council

Ward: Audley & Queens Park and Little Harwood and Whitebirk

Councillor Maryam Batan
Councillor Yusuf Jan-Virmani
Councillor Salim Sadat
Councillor Pat Mcfall
Councillor Abdul Samad Patel
Councillor Naushad Surve



1.0 SUMMARY OF RECOMMENDATION

1.1 The planning application is **recommended to be approved** planning permission, subject to application of the conditions as stated in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 The planning application, submitted under Section 73 of the Town and Country Planning Act 1990, is presented to Committee, as a proposed amendment to a development previously approved by the Committee in September 2012.

2.2 The amendment is seeking the alignment and alteration to the roundabout size, new 40mph speed limit, new side roads to be opened up for new development sites, link road connecting the proposed roundabout to existing roundabout. New segregated bus and cycle lanes westbound from Burnley Road. New signalised junction at Burnley Street/Burnley Close with bus priority. New access to allotments.

2.3 The key issue to be addressed is as follows:

- Highways and transportation impact

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site amendments are linear and extend from Burnley Close at the west to the Red Lion roundabout at the east. The proposed amendments form part of the Furthergate link road. The Furthergate link road was originally approved in 2009 with the main line of the route leading to the east of Gorse Street. It then runs parallel to the canal and Burnley road, approximately half way between the two.

3.2 Proposed Development

3.2.1 An amendment is sought to planning permission previously granted under application 10/12/0694 for the alignment and alteration to the roundabout size, new 40mph speed limit, new side roads to be opened up for new development sites, link road connecting the proposed roundabout to existing roundabout. New segregated bus and cycle lanes westbound from Burnley Road to Burnley Close. New signalised junction at Burnley Street/Burnley Close with bus priority. New access to allotments; as set out in the submitted drawings.

3.3 Development Plan

3.3.1 In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy and the adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal the following are considered to be the most relevant policies:

3.3.3 Core Strategy

- CS1 – A Targeted Growth Strategy

3.3.4 Local Plan Part 2

- Policy 10 – Accessibility and Transport

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework).

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. For decision making, this means approving development proposals that accord with the development plan without delay (paragraph14)

3.5 Assessment

3.5.1 Principle

The principle of the proposal is established through the previously approved 2012 application 10/12/0647. The proposed works are considered minor amendments to the approved scheme and as such, the principle of this application is considered to be in accordance with the Council's adopted Development Plan Policies and the National Planning Policy Framework, which emphasises provision of appropriate infrastructure in assisting in building a strong, responsive and competitive economy.

3.5.8 Accessibility and Transport

Local Plan Part 2 Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for vehicular access, off-street servicing and parking.

3.5.9 The Council's Highways Team has reviewed the accompanying documents and drawings and offers no objection to the scheme given the minor nature of the works proposed noting, the development is broadly consistent with that approved as part of original development.

3.5.10 Accordingly, it is considered that the development will not prejudice the safe and efficient movement of vehicular traffic or pedestrian movement; in compliance with Local Plan Part 2, Policy 10.

4 RECOMMENDATION

4.1 **APPROVE** subject to conditions previously approved under application 10/12/0694.

5 PLANNING HISTORY

5.1.1 10/12/0694 - Full Planning Application for New link road. Work comprising new roundabout, link road connecting the proposed roundabout to existing roundabout. New segregated bus and cycle lanes westbound from Burnley Road to Burnley Close. New signalised junction at Burnley Street/Burnley Close with bus priority. New access to allotments

6 CONSULTATIONS

6.1.1 46 neighbouring properties were consulted by letter and 3 site notices erected. No responses were received.

6.1.3 Highways Officer – no objection

7 **CONTACT OFFICER: Alec Hickey, Senior Planner.**

8 **DATE PREPARED: 11th May 2018.**