

# PLANNING AND HIGHWAYS COMMITTEE

## Thursday, 26 May 2022

**PRESENT** – Councillors, David Smith (Chair), Akhtar, Casey, Khan, Slater, Browne, Marrow, Baldwin, Desai, Liddle, Imtiaz, Mahmood and McCaughran.

**OFFICERS** – Gavin Prescott, Saf Alam, Rabia Sagir, Shannon Gardiner & Tayyab Mulla

### RESOLUTIONS

#### 1 **Welcome and Apologies**

The Chair welcomed everyone to the first Committee of the Municipal Year and welcomed newly Elected Members.

There were no apologies received.

#### 2 **Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the previous meeting held on 21<sup>st</sup> April 2022 be confirmed and signed as a correct record.

#### 3 **Declaration of Interest**

**RESOLVED** – There were no Declaration of Interest received

#### 4 **Planning Applications for Determination**

The Committee considered reports of the Strategic Director of Place detailing the planning applications.

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

##### 4.1 **Planning Application 21/0428**

**Applicant** – Roundhouse Properties

**Location and Proposed Development** – Land at Haslingden Road, Blackburn

Full Planning Application for Erection of 68 commercial units (use class E (g), B2 and B8) with associated car parking

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the amended condition in the Update Report.

##### 4.2 **Planning Application 21/1263**

*Speakers – Mr Critchton (objector)  
Mr Hoerty (Agent)*

**Applicant** – Mr & Mrs T Spooner

**Location and Proposed Development** – Jennet House Farm, Radfield Road, Darwen, BB3 2PH

Full Planning Application for Demolition of a range of equestrian buildings and the erection of three detached dwellings and garages

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the additional condition in the Update Report:

Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment No.2) (England) Order 2008, no development of the type specified in Classes A-E of Part 1 of that Schedule shall be carried out unless planning permission has been granted first.

**REASON:** Due to the restricted nature of the site, whilst the dwelling as approved is acceptable, any further extensions or alterations normally permitted under the above provisions may in this case conflict with the interests of adjacent properties or the amenity of the area generally in accordance with Policy H8 of the Blackburn With Darwen Borough Local Plan.

#### **4.3 Planning Applications 21/1301 & 21/1306**

**Applicant** – Assura Medical Properties Ltd.

**Location and Proposed Development** – Griffin Lodge, Cavendish Place, Blackburn, BB2 2PN

Restoration, refurbishment and extensions to Griffin Lodge for use as a primary care centre – Use Class E(e), including associated external works, car parking and vehicular and pedestrian access – Full Planning Application (10/21/1301) and Listed Building Consent (10/21/1306)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and amended conditions in the Update Report.

#### **4.4 Planning Application 21/1312**

*Speakers – Mr Hussain (Objector)  
Ms Hussain & Dr Shah (Applicants)*

**Applicant** – Unity Education Trust (UET)

**Location and Proposed Development** – First Floor 49-51 Preston New Road, Blackburn, BB2 6AE

Full Planning Application for: Change of use of first floor from E(G)(i) Offices To F1(a) Educational Class Rooms (retrospective)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the two additional conditions:

*The use hereby permitted shall be discontinued on or before 26th May 2024.*

**REASON:** In order that highway and amenity impacts arising from the development can be assessed during this period, and that any future application can be decided on the basis of this assessment, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

*The use hereby permitted shall take place between the hours of 16:30 and 19:30.*

**REASON:** In the interests of highway safety and efficiency and to safeguard residential amenity, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

**4.5 Planning Application 21/1345**

**Applicant** – Pets Choice Ltd.

**Location and Proposed Development** – Land to South East Lower Phillips Road, Whitebirk Industrial Estate, Blackburn, BB1 5UD

Full Planning Application (Regulation 4) for: Construction of new 120,000 sq ft B2 / B8 warehouse unit with associated external works, car parking and service yards; construction of new dock leveller extension bays to existing warehouse building; change of use of existing 10,550 sq ft production building to form retail unit; construction of access road; and reconfiguration of existing access road.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report.

**4.6 Planning Application 21/1404**

**Applicant** – Mr MD Patel

**Location and Proposed Development** – 8 The Hedgerow, Blackburn, BB2 7QU

Erection of retaining wall and decorative railing, raising of garden levels to rear and creation of hardstanding within garden (Part-Retrospective).

The Committee were made aware of a further representation and concerns received from Mr & Mrs Kirkpatrick.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report.

**4.7 Planning Application 21/1426 Supplemental Committee Report**

**Applicant** – Keepmoat Homes

**Location and Proposed Development** – Land Bounded by Haslingden Road and Fishmoor Reservoir, Haslingden Road, Blackburn

Hybrid planning application comprising - Full permission for the erection of 160 dwellings and 50 affordable, key hospital worker apartments in two blocks together with access roads and landscape treatment (Phase 1); and outline permission for the erection of 100 affordable, key hospital worker apartments in four blocks, with all matters reserved except for access (Phase 2)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to:

Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £1,219,272 including a monitoring fee of 12,072.

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Strategic Director of Place (Growth and Development) Department will have delegated powers to refuse the application.

**4.8 Planning Application 22/0067**

**Applicant** – Inceptum2 Management Limited

**Location and Proposed Development** – Land on Corner of Carl Fogarty Way and Thornley Avenue, Blackburn

Full Planning Application (Regulation 4) for Construction of industrial units, use class B2, B8, E(g) iii including trade counter.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the additional conditions in the Update Report:

*Land Contamination:*

Prior to the commencement of development hereby approved, the developer must:

**A.** submit proposals for additional gas monitoring, according with the gas generational potential of the site and end use, to the Local Planning Authority for written approval;

**B.** once the proposals described at (a) have been approved by the Local Planning Authority, the additional gas monitoring shall be implemented and the findings submitted to the Local Planning Authority for approval, including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas); and

**C.** if unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

**REASON:** To ensure that all reasonable steps have been taken to identify contamination at the site in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

Prior to the occupation of the development hereby approved, two copies of a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated CSM. All the installed remediation must be retained for the duration of the approved use, and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

**REASON:** To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

Following assessment of the applicant's latest drainage strategy, received 29th April 2022, United Utilities consider that two conditions are deemed necessary to ensure the proposal remains consistent with the requirements of Policy 9 of the Development Plan:

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). In the event of surface water discharging to the public surface water sewer, the rate of discharge shall be restricted to 5 l/s;  
(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.

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 promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing.

The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

**REASON:** To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

#### *Highways:*

The applicant provided an amended site plan that addresses the elements set out within suggested Condition 9 of the main report (changes to access arrangements and parking for PTW). The revised details have been assessed by the Highway team and are considered to be acceptable. On that basis condition 9 is no longer necessary and should be omitted, whilst condition 2 should be revised to reflect the latest submission. Condition 2 shall now read as:

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Amended Site Plan, 2297\_2001 revision B, received 18th May 2022 Proposed Elevations, 2297\_2003, received 19th January 2022 Landscape Plan,

PWP.579.001 revision 02, received 19th January 2022 Fencing and Gates, 2297\_2004, received 19th January 2022 Bin Store, 2027\_2005, received 19th January 2022

**REASON:** For the avoidance of doubt and to clarify which plans are relevant to the consent.

#### **4.9 Planning Application 22/0223**

**Applicant** – Cawder Construction

**Location and Proposed Development** – Land at Borrowdale Avenue, Blackburn, BB1 1PZ

Erection of 13 no. bungalows.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the amended condition in the Update Report.

#### **4.10 Planning Application 22/0354**

**Applicant** – Blackburn with Darwen Borough Council

**Location and Proposed Development** – Davy Field Stores, Davy Field Road, Blackburn, BB1 2LX.

Prior Approval - Solar Panels Non-domestic Buildings for Installation of Solar Photo Voltaic (SPV) arrays to roof areas as highlighted within the supporting documentation as part of the Public Sector Decarbonisation Scheme (PSDS)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved

#### **4.11 Planning Application 22/0355**

**Applicant** – Blackburn with Darwen Borough Council

**Location and Proposed Development** – Pleasington Cemetery & Crematorium, Tower Road, Blackburn, BB2 5LE.

Prior Approval - Solar Panels Non-domestic Buildings for Installation of Solar Photo Voltaic (SPV) arrays to roof areas as highlighted within the supporting documentation as part of the Public Sector Decarbonisation Scheme (PSDS)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved

## 5 Confirmation of Tree Preservation Order – 15 Lammack Road Blackburn (C12)

*Speaker – Mr Mahmood (Objector)*

The Committee were requested to endorse the actions of the Council's Arboricultural Officer/Planning Manager (Development Management) in making and serving the 15 Lammack Road Blackburn Tree Preservation Order 2022.

On 29th October 2021, the local planning authority received a formal full planning application (ref: 10/21/1223) to remove the wall at the front of the property in order to create a new access and car parking space in the front garden of No.15 Lammack Road, Blackburn. The proposals were to impact upon three existing mature trees on the eastern boundary of the application site. During the assessment of this enquiry, the Council's Arboricultural Officer, considered the trees in question, were worthy of protection

The Arboricultural Officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 13th January 2022. The assessment gave the tree a high score as illustrated in image 2 in the main report, which fully warrants a TPO. Members are advised that the planning application for the new access and car parking space at No.15 Lammack Road, is still under consideration, and a site meeting was scheduled for the 12th May, with the applicant, and the Council's Arboricultural and Highways Officer, to discuss revisions that would satisfy both concerns relating to the impact on the protected trees, and highway safety.

The trees are situated on the eastern boundary of the property and are all mature in age. A high visual amenity for the area, the trees are approximately 13m in height and average a 'Diameter at Breast Height' of 400mm and a Crown Spread of approximately 8m. The trees are a typical size and age for planting in this area and an integral part of the character of this part of Lammack Road.

The current property owners, where the trees are located, and the ward councillors were informed of the proposed TPO on the 26th January 2022.

An objection was received from the trees' owner, Mr Mahmood, stating a number of issues including: blocked drains, impact upon a gas pipe, trees removed at No.17, and confusion as to the original TPO. Although not formal, an objection in the form of an email from the residents at No.13 Lammack Road was also received on the 10th February 2022, where they simply said; "You will not make this TPO because the leaves make the path slippy". A summary of the representations received are detailed in section 6 of the main report.

In terms of the objections, drains and pipes are not a material consideration when looking to protect trees. All modern drains and pipes are made of a plastic non penetrable material and are usually not compromised by tree roots. With regards to the issues at the neighbouring property No.17, all these issues are being addressed through the appropriate enforcement channels, together with the proposed development approved under application reference 10/21/0885. Members are also advised this is not a material consideration for this site, the subject of the TPO. The confusion with the TPO, as referenced, is

relating to the fact that the trees are already subject to a TPO dated 1991, where the tree species were listed as Elm and not Lime. This is the reason for re-making the order.

The trees are of considerable amenity value and are under threat of removal if the planning proposals, submitted at the time under application reference 10/21/1223, were approved. The emergency Tree Preservation Order was made on the 26th January 2022, and the Council has six months in which to confirm this order. As such, the deadline for confirmation is 26th July 2022, and if the TPO is not confirmed by this date the trees would potentially not be protected due to the issue with the 1991 Order.

The Members of the Committee discussed the report with the officers and heard representations from Mr Mahmood, 15 Lammack Road.

#### **RESOLVED –**

1. That the Tree Preservation Order 2022 be endorsed;
2. That the 15 Lammack Road Blackburn 2022 Tree Preservation Order (C12) is confirmed without modification.

#### **6 Davey Field Road Stopping Up Order**

The report was submitted to Committee to inform Members of the receipt of a request by the Highways Team for the Council to progress an Order for the Stopping Up of a small section of highway which leads off Davy Field Road. This is used as a private car park and belongs to Accrol Papers and we ask Members to authorise the Deputy Director of Legal & Governance to apply to the Magistrates' Court for the necessary Order.

Land which included adopted highway land was sold by the Council to Phoenix Court Blackburn Limited on 11th July 2017 to allow for Accrol Papers to be further developed with an alternative through road and ancillary car parking for their business, utilising this section of highway. It was intended for the new landowner to take forward a stopping up order under Section 247 of the Town and Country Planning Act 1990 (as amended) in concert with the build works. To the best of the Council's knowledge issues arose relating to this closure process and their application was stalled. As the development was completed without the highway being stopped up under Section 247, the Department of Transport formed the view that this legislation no longer applied and they therefore discontinued the application.

The Council has now been approached by the new property owners of the site to formally close the highway under Section 116 of the Highways Act 1980 as this section of land falls within the car park boundary of the site.

It is reasonable to take the view that as this section of land has no role as public highways and has not done so for a number of years already, it therefore qualifies to be Stopped Up under the terms of Section 116 of the Highways Act 1980 on the grounds that it is unnecessary.

The power to make a Stopping Up Order under the Highways Act is vested in the Magistrates' Court, and only the Highway Authority for the road to be stopped up may make the application, although it has the discretion to apply

its powers on the request of third parties as is the case here (Section 117 of Highways Act 1980). Section 116 allows the Magistrates' to make this order if they are satisfied that the Highway is no longer "necessary" or it "can be diverted so as to make it nearer or more commodious to the public", In this instance the applicable reasoning for the proposed closure is on the grounds of lack of necessity. The Court will require evidence that the road is unnecessary and that notices and consultations with all affected and interested parties, in accordance with the requirements of the Act, have been made, and that there are no outstanding objections to the making of the Order.

**RESOLVED** – That the Deputy Director of Legal & Governance is authorised to progress with the closure of that part of the highway and to apply to the Magistrates' Court for the necessary Order.

## **7**      **Enforcement**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 63 Oozehead Lane, Blackburn.

**RESOLVED** – That the Enforcement Report be deferred for further Legal clarification

## **8**      **Enforcement**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land to the South of Kingsley Close, Feniscowles, Blackburn.

Background information including grounds for the request were outlined in the report.

**RESOLVED** - Authorisation was given to the proposed enforcement action at Land to the South of Kingsley Close, Feniscowles.

## **9**      **Enforcement**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at Crowthorn (south of Moorside Road and north of Broadhead Road, Edgworth) BL7 0JR

Background information including grounds for the request were outlined in the report.

**RESOLVED** - Authorisation was given to the proposed enforcement action at land at Crowthorn (south of Moorside Road and north of Broadhead Road, Edgworth) BL7 0JR

Signed: .....

Date: .....

Chair of the meeting  
at which the minutes were confirmed