

PLANNING AND HIGHWAYS COMMITTEE

Thursday, 15 February 2024

PRESENT – Councillors, Councillor David Smith (Chair), Casey, Marrow, Baldwin, Imtiaz, Mahmood, McCaughran, Jackson, Patel S, Khonat, Shorrocks and Hardman (substitute for Slater Jacq).

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

RESOLUTIONS

63 **Welcome and Apologies**

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Zamir Khan and Cllr Jacquie Slater and was substituted by Cllr Derek Hardman.

64 **Minutes of the Previous Meeting**

RESOLVED – That the minutes of the previous meeting held on 18th January 2024 be approved and signed as a correct record.

65 **Declaration of Interest**

RESOLVED – There were no Declarations of Interest received.

66 **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.

66.1 **Planning Application 10-23-0346 & 10-23-0353**

Applicant – Mrs Caer Butler

Location and Proposed Development – Former Cotton Exchange/Apollo Cinema, 71-73 King William Street, Blackburn, BB1 7DT

Full planning permission and Listed Building Consent: Refurbishment of the former Cotton Exchange/Apollo Cinema including elevational and roof alterations to create a mixed-use community and performance space (sui generis), partial demolition of the 1920's block roof, external lighting and other associated works.

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Directors report and the amended wording of the following conditions in the update report:

(5.1.5) The development hereby approved shall only be open to members of the public between the hours of 8:00 – 00:00.

REASON: In order to minimise noise impacts associated with the development, in the interests of residential amenity, and to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

(5.1.7) Prior to their installation, a scheme detailing biodiversity enhancement measures has first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved scheme and shall not be brought into use until the agreed measures have been provided in their entirety.

REASON: In order to ensure ecological enhancement measures are provided in support of the development, in the interests of biodiversity and securing biodiversity net gains, and to comply with the requirements of Policies CP6 and DM15 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

66.2 Planning Application 10-23-0792

Applicant – Countryside Partnerships Ltd

Location and Proposed Development – Land to the South of Whalley Old Road, Blackburn

Discharge of planning condition for Discharge Condition No.17 "off-site highway works scheme " pursuant to planning application 10/20/0716 "Outline planning application with all matters reserved for residential development of up to 165 dwellings"

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Director's report

Abstained: Cllrs Marrow, Baldwin & Hardman

66.3 Planning Application 10-23-0861

Applicant – Blackburn with Darwen Borough Council

Location and Proposed Development – Darwen Youth Centre, Knott Street, Darwen, BB3 3BU

Erection of 2 no. side extensions to provide stair towers up to a new floor level above the existing ground floor, and 1 no. front extension to provide a main entrance, alongside internal reconfigurations, as well as the relocation of the existing MUGA, vehicular parking alterations and landscaping works

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Director’s Report and the amended conditions in the Update Report:

(5.2) 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: Location Plan (P501 – Revision 00), P1200, P1201 – Revision 01, 1202 – Revision 01, P1300 – Revision 00, P1301 – Revision 00, P1400 – Revision 00, P1500 – Revision 00, P1501 – Revision 00, P2100 – Revision 00, P2101 – Revision 00, P2102 – Revision 00, P3100 – Revision 01, P3101 – Revision 01 and P4100 – Revision 00.

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

(5.7) The following aspects of the development hereby approved shall only be open to members of the public between the hours of; a) Youth Centre: 8:00 – 00:00 b) MUGA: 9:00 – 21:00

REASON: In order to minimise noise impacts associated with the development, in the interests of residential amenity, and to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

(5.12) No above ground works shall commence on site unless and until a scheme for the construction of a level pedestrian access from Knott Street has first been submitted to and approved in writing by the Local Planning Authority, unless otherwise agreed in writing. Where relevant, the development shall thereafter be implemented in strict accordance with the approved scheme and shall not be brought into use until the agreed scheme has been implemented in its entirety.

REASON: In order to ensure a level pedestrian access is provided in support of the development, in the interests of improving accessibility, and to comply with the requirements of Policy DM29 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024).

(5.18) Should unexpected contamination be encountered during redevelopment of the site, all works should cease, and the Local Planning Authority should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, and agreed in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the agreed details.

REASON: In order to protect the health of future occupiers of the site, prevent the displacement of pollution and any associated environmental impacts, and to comply with the requirements of Policy DM02 of the Blackburn with Darwen Borough Council Local Plan (adopted 2024)

66.4 Planning Application 10-23-0978

Applicant – Mr A Shorrocks

Location and Proposed Development – Vacant Land off Victoria Buildings, Waterside, Darwen

Variation of Condition No.15: "Upgrading of drainage, sub-surface and surface treatment to the footway and carriageway along the length of Victoria Buildings, from its junction with Johnson Road to the access onto the application site, together with junction improvements to the Victoria Buildings and Johnson Road junction", pursuant to planning application 10/19/0807 "Residential Development of 10 No. detached dwellings including access and associated landscaping."

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Director's Report

66.5 Planning Application 10-23-1013

Applicant – Together Housing Group

Location and Proposed Development – Vacant Land corner of Shadsworth Road / Dunoon Drive / Orkney Close

Variation of Condition / Minor Material Amendment: Variation of Condition No.2 "approved drawings" pursuant to planning application 10/22/0991 "Erection of 3no. 3 bed, 5 person terraced dwellings with six proposed new car parking spaces, together with 6 car parking spaces provided for the existing residents " - to revise layout, parking and elevation details

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Director's Report

66.6 Planning Application 10-23-1018

Applicant – Together Housing Group

Location and Proposed Development – Shadsworth Park - land bounded by Dunoon Drive, Bute Road, and the Shadsworth Hub, Rothesay Road

Full Planning Application (Regulation 4) for Improvements to Shadsworth Park including reinstatement of the play area, refurbishment of multi-use games area with improved surfacing and replacement fencing, improvements to the existing skate area with refurbished skate ramps, a new skate park and pump track, informal seating platforms and associated landscaping

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to the conditions highlighted in the Director’s Report.

67 15 Dukes Brow, Blackburn Tree Preservation Order 2023 (ref: BWD7)

A report was submitted to Committee to endorse the actions of the Council’s Arboricultural Officer/Planning Manager (Development Management) in making and serving 15 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD7) and to confirm 15 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD7) without modification.

On the 24th November 2023, the Council’s Arboricultural Officer was contacted by the owner of No.15 Dukes Brow, who was initially concerned about the safety and common law nuisance relating the house with one particular Lime tree. Further to the site visit, the owner then confirmed they wished to fell two lime trees.

Following a site visit made by the Council’s Arboricultural Officer on the 24th November 2023, it was considered having inspected the wall, which was low and ‘rough built’, the wall appeared to act as a small retaining wall. The wall appears to be exhibiting minor disruption to T2 Lime, and pruning works would suffice. With regards to the wall and the impact towards T1 lime tree, the wall had belled, but appears stable. The Arboricultural Officer considers if there is further disruption to the wall, the wall could be repaired or rebuilt relatively easily without the need to fell the tree.

The Arboricultural officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 24th November 2023. The assessment gave the tree a very high score of 17, which fully warrants a TPO.

The emergency TPO was served on the landowner/freeholder on the 28th November 2023.

The lime tree scored 17 on a TEMPO assessment that fully warrants them worthy of protecting. Therefore, it is considered that the TPO should remain unless a justified reason is presented as evidence in a future application.

RESOLVED – That the Tree Preservation Order be endorsed and is confirmed without modification at 15 Dukes Brow, Blackburn.

68 7 Dukes Brow, Blackburn Tree Preservation Order 2023 (ref: BWD6)

A report was submitted to the committee to endorse the actions of the Council’s Arboricultural Officer/Planning Manager (Development Management)

in making and serving 7 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD6) and to request that the Committee confirm 7 Dukes Brow Blackburn 2023 Tree Preservation Order (TPO) (ref: BWD6) without modification.

On the 1st November 2023, the Council's Arboricultural Officer was contacted by the owner of the adjacent property to No.7 Dukes Brow, Bank House, Adelaide Terrace, who confirmed they were intending to submit a Section 211 Notification for works to trees in a conservation area, to fell a Lime tree, as shown on the location plan (refer to image 4), as they considered it is causing damage to a boundary wall. The owner stated "The Lime tree is elevated on a higher section of land and directly adjacent to the boundary wall. Due to its proximity with the boundary the root morphology cannot develop stability roots on the eastern side. The result of this is that if the tree is ever uprooted it can only go eastward."

Following a site visit made by the Council's Arboricultural Officer on the 9th November 2023 (refer to Images 1-3), it is considered that the damage to the wall referred to above, appears minor and the partially dislodged stones on the top appears minor and potentially could be easily rectified. With regard to anchorage concerns, it is considered the tree is not liable to collapse. The root growth, morphology and architecture will allow adaption of roots (view of the Arboricultural Officer) to provide perfectly acceptable root development and stability, without the risk of the root plate failing. The wall will not create a barrier for root growth and roots will have likely grown and extend beyond the base of the wall.

The tree will have adapted with the development of structural roots with the associated stresses and strains during development from a young tree. The only potential compromise would be if the soil growing medium, mechanical strength (bulk density) was to be inadequate. There is no evidence to indicate this the case and soils typically would be suitable. If required, this could be relatively easily checked with excavations to determine the soil structure and soil texture.

The Arboricultural officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 9 th November 2023. The assessment gave the tree a very high score of 18 as illustrated in image 5, which fully warrants a TPO.

It is considered that the TPO should remain unless a justified reason is presented as evidence in a future application.

RESOLVED -

69 Biodiversity – Supporting the recovery of nature in the Borough

A report was submitted to inform the Committee on the introduction of Biodiversity Net Gain (BNG).

Biodiversity is in alarming decline across the country and the Government has set out their commitments to addressing this biodiversity crisis through a 25-year Environment Plan, with an ambition "to leave our environment in a better

state than we found it". The interventions it plans to take to improve the environment have since been set out through legislation and guidance, including the statutory Environment Act (2021) and the Government's Environmental Improvement Plan (EIP) (2023). The Environment Act (2021) introduced a series of mandatory strategies and interventions to begin to address the biodiversity emergency. This includes Biodiversity Net Gain (BNG).

Biodiversity Net Gain is a new, mandatory requirement for most new development to deliver a 10% net gain in biodiversity, and uses habitats as a proxy for biodiversity. Any habitats lost through new development must be replaced or compensated for, on a like for like basis, and then a further 10% uplift in biodiversity must be provided. Habitats must be provided at the same condition (quality), or higher, as the habitats that are to be lost.

BNG was due to be introduced in November 2024, but government delays now mean that national BNG will take effect from 12 February 2024. Most planning applications will be expected to deliver 10% BNG, although, under transitional arrangements, the requirements only begin for minor applications on 2 April 2024. Some developments, for example householder schemes, small self- or custom-build schemes, or developments with de-minimis areas of habitat, are exempted from the BNG requirements.

Whilst BNG takes effect nationally from February 2024, Local Planning Authorities have, for some time, also been entitled to set their own local net gain requirements. In reflection of the ever-increasing importance of the environment, the Council have set out their own Department of Place, Growth and Development local requirements for BNG in the new Local Plan (2021-2037) through Policy CP6: Natural Environment. Policy CP6 requires most new developments in the borough to deliver a minimum of 10% BNG. The Council adopted the Local Plan on 25 January 2024, and BNG is now a requirement of all planning applications. However, once national BNG takes effect, this will take precedence over local BNG requirements (though both are required to deliver 10% BNG and evidence this in the same way).

It was noted that officer Helen Hatch, Senior Strategic Planner, had dedicated a lot of time and knowledge into BNG and the Committee thanked Helen for her hard work.

RESOLVED – That the report be noted.

70 Diversion of Public Footpath 91 Darwen (part)

A report was submitted to seek approval from the Members of the committee for a public path order under the Highways Act 1980, Section 119 to divert part of Public Footpath 91 Darwen.

The Council is Highway & Surveying Authority for the area within which the public footpath proposed for diversion lies. Each year public rights of way officers survey a random 10% sample of the PROW network to give an indication of the current state of the network. Several years ago, FP91 Darwen was surveyed as part of this process and officers identified an obstruction of the route by gates at the entrance to Lords Hall and a retaining wall structure to the west of the grounds.

The then owner of Lords Hall when approached by officers regarding these obstructions insisted that the definitive line of the footpath was not through the grounds of the house but around the land lying to the south side of the entrance gates to Lords Hall. The Property changed hands in 2016 and, at the time of the purchase, the new owner was made aware of the ongoing issue of obstructions on Footpath 91 Darwen through the Hall's grounds.

Following the change in ownership, negotiations were had with the new owner who accepted the Council's position and, as a result, the Council received an application on the 4th October 2022 requesting the diversion of Footpath 91 Darwen.

This report seeks to address those matters being put before members of the Committee, namely the application for the public path order to divert part of the path as shown on the plan attached to this report. It seeks to advise members of the Committee of the outcome of non-statutory consultations, and an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

The initial application sought to use a route further north of Lords Hall which the applicant felt gave walkers a more pleasant experience. A preliminary consultation on this route was carried out with users/interest groups to which objections were received. The predominant objection was with regard to the steep gradients with little scope for improvement. After further discussions between the officers and the applicant, the diversion route which is the subject of this report was agreed by all parties. The applicant has confirmed that the new path will be provided to a standard that is to the satisfaction of the Highway Authority.

A further preliminary consultation with users/interest groups was undertaken for this new route to which no objections were received. Public Footpath 91 Darwen currently starts on Duckshaw Road at Point A (SD 68480 20250) on the attached plan heading in a generally southerly direction to the access gates to Lords Hall at Point B (SD 68446 20035), through the grounds of the Hall to Point C (SD 68364 20049) and then in a generally westerly direction to via Point D (SD 68289 20146) to join Public Footpath 89 Darwen at Point E (SD 68126 20080).

The proposed diversion seeks to change the direction of the footpath at point B prior to the gates at the entrance to Lords Hall (SD 68446 20035) leaving Duckshaw Road in a southerly direction for some 42m metres south to Point F (SD 68419 20006). The proposed diversion then heads in a north westerly direction for 62m to rejoin the existing line of footpath 91 at Point C (SD 68364 20049)

There is evidence that this route has already been used by walkers during the years when the route through the grounds of Lords Hall has been obstructed.

RESOLVED – That the Committee Promote the Order and authorise the Director of HR, Legal & Governance to progress the necessary legal orders.

71 Enforcement

A report was submitted to obtain authorisation for enforcement action against all persons having an interest in the land at 127 Sough Road, Darwen. Background information including grounds for the request were outlined in the report.

RESOLVED – Authorisation was granted for the enforcement to be undertaken at 127 sough Road, Darwen.

72 **Enforcement**

A report was submitted to obtain authorisation for enforcement action against all persons having an interest in the land at 16 Town Hall Street, Blackburn. Background information including grounds for the request were outlined in the report.

RESOLVED – Authorisation was granted for the enforcement to be undertaken at 16 Town Hall Street, Blackburn.

73 **Update Enforcement**

A report was submitted to update Members on a previous proposed enforcement at 2 Shear Bank Close, Blackburn.

RESOLVED– That the update report be noted.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed