

# PLANNING AND HIGHWAYS COMMITTEE

## Thursday, 14 December 2023

**PRESENT** – Councillors, David Smith (Chair), Casey, Khan, Marrow, Baldwin, Imtiaz, Mahmood, McCaughran, Jackson, Patel, Shorrocks, Desai (substitute for Khonat) and Hardman (substitute for Jac Slater).

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

### RESOLUTIONS

#### 47 **Welcome and Apologies**

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Suleman Khonat and was substituted by Cllr Mustafa Desai and Cllr Jacquie Slater who was substituted by Cllr Derek Hardman.

#### 48 **Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the previous meeting held on 16<sup>th</sup> November 2023 were signed and agreed as a correct record.

#### 49 **Declaration of Interest**

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

#### 50 **Committee Agenda**

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.

#### 50.1 **Planning Application 22/1145**

*Speaker* – Katie Lewis-Pierpoint (Agent)

**Applicant** – Mr & Mrs Schofield

**Location and Proposed Development** – Entwisle Hall Barn, Entwistle Hall Lane, Edgworth, Bolton, BL7 0LR

Full Planning Application for Demolition of existing detached garage and replacement with proposed two storey extension, incorporating recessed first floor terrace area, and first floor link.

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

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

**50.2 Planning Application 23/0479**

**Applicant** – Bayt Muhammad Academy

**Location and Proposed Development** – Land corner of Eleanor Street and Higher Audley Street, Blackburn

Construction of a new two-storey religious education seminary – Use Class F1(a), formation of new access point, and associated parking and landscaping.

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

**RESOLVED** – Approved subject to the conditions highlighted in the Director’s Report and the amended wording of the following recommendations:

Delegated authority is given to the Strategic Director of Growth and Development and Deputy Chief Executive to approve planning permission, subject to an agreement under Section 106 of the Town and Country Planning Act (1990) relating to the payment of £40,000 towards off-site highway works relating to a new pedestrian crossing, together with the following conditions and informative note:

Should the Section 106 agreement not be completed within 6 months of the date of Committee resolution, the Strategic Director of Growth and Development will have delegated powers to refuse the application.

(condition 5.5) An error is contained within the operating hours times prescribed within the condition. A closing time of 22:00 should have been included within the condition, as per the comments provided by BwD Public Protection. Therefore, it is recommended that the wording of the condition is amended to the following;

The development hereby approved shall only operate between the hours of 8:00 – 22:00.

**REASON:** To minimise the potential for disruptions to be caused for neighbours from comings and goings, in the interests of residential amenity, and to comply with the requirements of Policy 8 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

(condition 5.11) Additional wording is recommended to the condition in order to increase its precision.

The development hereby approve shall only be used by registered students and supporting members of staff. No public prayers or gatherings of any type shall be conducted from the site whatsoever following the development being brought into use. Social functions, wedding receptions and funerals are also not permitted.

**REASON:** To prevent general use of the site by members of the public, in the interests of highway safety, and to comply with the requirements of Policy 10 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

### 50.3 **Planning Application 23/0809**

**Applicant** – Blackburn Youth Zone

**Location and Proposed Development** – Blackburn Youth Zone, Jubilee Street, Blackburn, BB1 1EP

Remodelling and landscaping of the external entrance of the Youth Zone, including the provision of an enclosed lobby, green living wall, metal canopies, bicycle storage and 2 no. electric vehicle charging points for existing accessible parking spaces, alongside the restoration and enhancement of the external facade and internal reconfigurations to the Fuse Box building.

#### **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:

#### **Additional Condition**

(6) The development hereby approved shall be implemented and operated in strict accordance with all the mitigation measures detailed within the submitted Flood Risk Assessment, prepared by LCH Engineering and dated 24 th November 2023.

**REASON:** In order to minimise the flood vulnerability of the development, in the interests of securing sustainable development, and to comply with the requirements of Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

An informative note should also be added to any approvals issued raising awareness to the requirements of the Environmental Permitting (England and Wales) Regulations 2016.

#### **Additional Informative Note**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

#### **50.4 Planning Application 23/0896**

**Applicant** – Mr Grant Mizon

**Location and Proposed Development** – BVSMNT (former Darwen Windows Ltd), The Old Co-Op Building, Borough Road, Darwen, BB3 2FT

Variation of Condition No.6 "opening hours" pursuant to planning application 10/22/0758 "Proposed change of use of lower ground floor from vacant mill to a Live Music Venue (Sui Generis use) and removal of a section of link building. " - to amend opening hours to: Monday to Thursday open from 18:30 - 23:00, Friday open from 17:00 - 23:00; Saturday open from 16:00 until 23:00, and Sunday/Bank Holidays open 16:00 until 22:00.

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

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

#### **51 Proposed Stopping Up of No Longer Necessary Highway at Bolton's Court and Swallow Drive, Blackburn**

A report was submitted to seek committee approval to progress an Order for the Stopping Up of sections of highway at Bolton's Court and Swallow Drive, Blackburn which are no longer necessary. It is requested that Members authorise the Deputy Director, Legal & Governance to progress the necessary legal order and to apply to the Magistrates' Court to confirm the stopping ups.

The council have recently progressed two highway schemes to the north of Blackburn town centre; a new link road from the Mall Car Park through to Barbara Castle Way and a new car park at Blakewater Lodge, Whalley Range.

The new link road from the Mall car park was constructed along the line of the existing footpaths at Bolton's Court which were subsumed into the scheme. The new link road is dedicated as new adopted highway and the stopping up of these footpaths can be viewed as an administrative exercise to clear up the adoption records.

Planning approval was given in 2018 for the demolition of the Blakewater Lodge Rest Home on Swallow Drive. This was subsequently carried out and the council have recently constructed the Blakewater Lodge Car Park on the site to serve the adjacent Whalley Range shopping area. The vehicular access road to the front and pedestrian access path to the rear of the former care home were both adopted highways which were not stopped up as part of the demolition scheme. These have now been incorporated along with three other

small adopted areas into the new car park scheme and therefore require to be legally stopped up as they are no longer available as highway.

**RESOLVED** – The committee authorised the proceedings to progress with the closure of the highways as set out in the report.

## **52 Appeals Monitoring Report**

Members were presented with an update of recently decided appeals since the last monitoring report in April 2023.

It was noted that 12 no appeals in total were determined during the period 7 th April 2023 to 1st December 2023, this included one enforcement appeal. 11 no appeals were dismissed, and 1 appeal was allowed.

With regards to the National performance benchmarking in terms of appeals allowed against the number of applications determined, Blackburn With Darwen Borough Council were performing very well. The latest published figures by the Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government for the period October 2020 to September 2022 (appeal decisions up to September 2022), show the Council in 18th place out of 330 local planning authorities.

**RESOLVED** – That the report be noted and the officers be thanked for their continuous good work

## **53 Infrastructure Funding Statement 2022/23**

Members were presented with an updated on the latest Infrastructure Funding Statement (IFS) for 2022/23, for Blackburn With Darwen Borough Council, that was presented to the Executive Board on the 7th December 2023, for approval to publish the statement.

Under section 106 (s106) of the Town and Country Planning Act 1990, a Local Planning Authority (LPA) can seek obligations, both physically on-site and contributions for off-site, when it is considered that a development will have negative impacts that cannot be dealt with through conditions in the planning permission.

The obligations may be provided by the developers “in kind” – that is, where the developer builds or provides directly the matters necessary to fulfil the obligation. This might be to build a certain number of affordable homes on-site, for example. Alternatively, planning obligations can be met in the form of financial payments to the Council to provide off-site infrastructure works or contributions towards providing affordable housing elsewhere in the borough. In some cases, it can be a combination of both on-site provision and off-site financial contributions.

The types of infrastructure the Council funds wholly or in part by developer contributions include, but are not limited to:

- Affordable housing;
- Education provision, which can be school extensions or new schools;
- Transport and travel improvements;

- Highways infrastructure;
- Health infrastructure;
- Community facilities;
- Open space, public realm and leisure;
- Flood defence and water management;
- Biodiversity net gain and environmental improvements;
- Carbon reductions, including decentralised energy;
- Digital infrastructure

Regulations state that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Unless specific circumstances apply, the Council will only request s106 planning obligations for major planning applications, as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015. 2.6 The Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019 requires authorities to prepare an Infrastructure Funding Statement (IFS) each year to set out their annual income and expenditure relating to section 106 agreements. Blackburn with Darwen's 2022-23 IFS provides a summary of financial contributions the Council has secured through section 106 agreements from new developments for off-site infrastructure works and affordable housing, in addition to highway works completed as part of new developments through section 278 agreements within the 2022-23 monitoring period. It also includes information on the infrastructure works funded through s106 contributions.

In summary, the report provides:

- An overview of s106 and s278 agreements;
- The Council's internal process relating to s106 contributions;
- The s106 contributions paid to the Council in the 2022/23 monitoring period
- S106 contributions and s278 works estimated for future years;
- Projects delivered in the borough via s106 and s278 agreements in the 2022/23 monitoring period; and
- Information on monitoring fees and inflation applied to s106 agreements.

Some of the key details from the 2022/23 are summarised below:

- As at March 2023, a net total of £6,053,479 was available to fund public open space, education, highways and affordable housing projects in the borough;
- A total of £3,883,516 in s106 monies were received in the 2022/23 period;
- A total of £2,326,216 s106 monies were spent in the 2022/23 period - £501,113 funding highway works in the borough, £421,610 spent on improving existing or creating new open spaces and £1,394,867 spent on providing additional school places; and

- A total of £8,626 was collected in monitoring fees in 2022/23. Monitoring fees are added to s106 agreements to cover the cost of the monitoring and reporting on delivery of the agreements.

**RESOLVED** – That the report be noted.

#### **54 National Planning Application Fee Increase**

Members were informed of the proposed national increase to planning application fees following debates in Parliament, and the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023, being made on the 8 th November, and that came into force on the 6th December 2023.

At the Planning and Highways Committee on 20th April 2023 it was discussed that the Government’s consultation on the 28th February 2023, which focussed on increasing the national planning application fees. The consultation ended on the 25th April 2023. The Committee approved the consultation responses for the Council to the 21 questions set in the consultation, with the aim of providing a more effective and efficient service through additional financing and resources.

The draft regulations relating to the proposed increase to fees, were laid in Parliament before the summer recess, and will come into force 28 days after the day on which they are made. The Statutory Instrument [2023 No.1197] was made on the 8th November 2023, which means the fee increase, will come into force on Wednesday 6th December 2023.

The regulations do the following:

- Increase planning applications fees by 35% for applications for major development and 25% for all other applications. Introduce an annual indexation of planning application fees, capped at 10%, from 1st April 2025.
- Remove the fee exemption for repeat applications (the ‘free go’). An applicant will still be able to benefit from a free-go if their application was withdrawn or refused in the preceding 12 months, subject to all other conditions for the free-go being met. This means the application must either be submitted or determined on or before the 5th December 2023.
- Reduce the Planning Guarantee for non-major planning applications from 26 to 16 weeks. Regulation 9A states that where a decision has not been made within 26 weeks of a valid planning application being received, a refund should be paid to the applicant/agent, unless there has been an agreed extension of time made between both the LPA and the applicant/agent [para 2 (a)].
- Introduce a new prior approval fee of £120 for applications for prior approval for development by the Crown on closed defence sites

The regulations show the maximum fee for major applications will therefore rise to £405,000, while the fee for householder applications will increase from £206 to £258. Applications fees will also be adjusted annually from the 1st April 2025 based on the Consumer Prices Index (CPI) from the previous September, with any annual fee increases capped at 10%.

The consultation looked to introduced higher fees i.e doubling, for retrospective planning applications. Various respondents to the consultation raised issues, such as whether retrospective fees for householder applications should be doubled and whether doubling retrospective fees would result in an increase in unauthorised development. The Government in view of these responses determined this required further consideration. In order to not delay the national fees increase, the Government are continuing to develop proposals to double fees for retrospective applications for delivery through regulations at the next available opportunity.

The consultation also looked at ring-fencing the additional income for spending within the local authority planning department. There was strong support for this in the responses to the consultation (88%). However, the Government has decided to not take this measure forward, stating: “We want to ensure that the fee increase results in additional funds being available to local authority planning departments, but we will not take ring-fencing forward through legislation as this would impose a restriction on local authorities when they are best placed to make decisions about funding local services, including planning departments. However, we would expect local planning authorities to protect at least the income from the planning fee increase for direct investment in planning service.” [Department for Levelling Up, Housing and Communities (DLUHC) response to the consultation “Stronger performance of local planning authorities supported through an increase in planning fees”, dated 25th July 2023].

**RESOLVED** – That the report be noted.

## **55 Revised Validation Checklist for Planning Application Submissions**

A report was submitted to brief the Committee on the proposed changes to the LVC and to ensure that quality planning applications submissions are received and to provide certainty for applicants, agents and Officers alike on the validation requirements of planning applications.

Since 2008 Local Planning Authorities have been required to adopt and publish local validation requirements - a local list, which sets out what information, over and above the national requirements (i.e. application form, plans, fee, ownership certificate etc.), is necessary to accompany a planning application before it is registered by the Council as “valid”. The Council’s first Local List was adopted in 2008 and was last reviewed and updated in 2020.

In addition to the National Validation Requirements laid down by the Government, paragraph 44 of the National Planning Policy Framework (NPPF, 2023) states that ‘Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local Planning Authorities should only request supporting information that is relevant, necessary and material to the application in question.’ The combined use of the National and Local Validation Requirements provides both the authority and applicant with more certainty over the type of information required from the start of the process and helps to make sure that the



information requested is proportionate to the type and scale of application being made.

The Town and Country Planning (Development Management Procedure) (England) Order 2015 details in Part 3, Article 11 (3) that Local Planning Authorities will only to be able to request information based upon a local validations requirement list produced within two years of the date of an application being submitted. This means the local validation requirements list will need to be revisited, revised and readopted prior to December 2025.

**RESOLVED –**

- I. That the consultation responses be noted
- II. That the committee noted the content and issues outlined in the report
- III. That the Local List of criteria for the validation of planning applications, as set out in the Appendix to this report, be endorsed and adopted by the Council.

**56 Enforcement Update**

A report was presented to Members with an overview of Planning Enforcement matters. The list of cases included within the report are in the main list of cases where formal enforcement action was being taken and was not a list of every case, complaint or enquiry being dealt with.

**RESOLVED –** That the report be noted.

Signed: .....

Date: .....

Chair of the meeting  
at which the minutes were confirmed