

PLANNING COMMITTEE

MEETING, 20th NOVEMBER, 2014

Present – Councillors Darvesh (Chairman), Kellett (Vice-Chairman), Ashcroft (as deputy for Councillor J. Walsh), C. Burrows, Connell, Critchley, Cunliffe, Dean, Hall (as deputy for Councillor Allen), Iqbal (as deputy for Councillor Ayub), Kay, Martin, Mistry, Morris (as deputy for Councillor L. Byrne), Peel, Richardson, Sherrington, Mrs Thomas and Watters.

Apologies for absence were submitted on behalf of Councillors Allen, Ayub, L. Byrne, A. Walsh and J. Walsh

Councillor Darvesh in the Chair.

18. MINUTES

The minutes of the proceedings of the meeting of the Committee held on 23rd October, 2014 were submitted and signed as a correct record.

19. PLANNING APPLICATIONS

Under the approved delegation arrangements, the Committee considered certain applications, as set out in the report submitted by the Director of Development and Regeneration, for permission to undertake developments, in accordance with the Town and Country Planning Act.

The Committee visited the site of application 92436/14

Members of the public addressed the Committee in relation to the following applications:-

91779/14
92843/14
91676/14

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The following Councillors declared interests in the following items of business:-

Member	Application Number	Nature of Interest
Councillor C. Burrows	91981/14	She knows the Agent
Councillor Darvesh	91779/14	He knows the applicant
Councillor Ashcroft	92447/14	He is a member of Westhoughton Town Council
Councillor Cunliffe	Proposed Modification Order to Amend the Line of Public Footpath Blackrod 18 (item 8)	She is a member of Blackrod Town Council

Resolved – That the various planning applications submitted by the Director of Development and Regeneration be dealt with as follows:-

Application Number	Proposal and Location	Decision
91676/14	Reserved matters application for erection of two storey dwelling at 63 Chapeltown Road, Bromley Cross	Approved, subject to conditions, as recommended in the report.
91779/14	Substitution of house type at 49 Regent Road, Lostock	Approved, subject to conditions, as recommended in the report, and the removal of condition 7
91981/14	Change of use from nursery (Class D1) to martial arts centre	Approved, subject to conditions, as

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	and gymnasium (Class D2) together with new access and car parking (retrospective) at St Germain Nursery School, St Germain Street, Farnworth	recommended in the report.
92436/14	Erection of two storey extensions at front and rear at 6 Garfield Grove	Refused, as recommended in the report.
92447/14	Outline application for demolition of existing workshop with the erection of two bedroom bungalow to the rear of property (access, layout and scale details only) on land to the rear of 92-96 Wigan Road, Westhoughton	Approved, subject to conditions, as recommended in the report.
92665/14	Listed Building Consent to infill light well over Central Library to create additional floor space at second floor level to provide an external exhibition area including installation of lift and stairway together with other extensive refurbishment works both external and internal which include works to flat roof, copings, stonework and skylights at Bolton Library and Museum Services, Bolton Civic Centre, Le Mans Crescent	That the decision be referred to the Secretary of State for approval

92690/14	Infilling of light well over Central Library to create additional floor space at second floor level to provide an external exhibition area including installation of lift and stairway access together with other extensive refurbishment works both internal and external at Bolton Library and Museum Services, Bolton Civic Centre, Le Mans Crescent	That the decision be referred to the Secretary of State for approval.
92763/14	Increase of additional car park spaces on site at Castle Hill Centre, Castleton Street	Approved, subject to conditions, as recommended in the report.
92771/14	Outline application for the demolition of industrial units and erection of 22 dwellings (access, appearance, layout and scale details only) at Shepherd Cross Street Industrial Estate, Shepherd Cross Street	That the decision be delegated to the Director of Development and Regeneration for approval.
92843/14	Erection of two storey side extension and part single/part two storey extension to rear at 19 Brook Hey Avenue	Deferred for further information
92858/14	Erection of three storey dwelling at 690 Tonge Moor Road	Approved, subject to conditions, as recommended in the report.
92874/14	Erection of six three bedroomed terraced dwellings on land at Winter Street	Approved, subject to conditions, as recommended in the report.

92875/14	Demolition of existing mill and erection of 15 no. industrial units (Class B1) at Halliwell Industrial Estate, Rossini Street	Approved, subject to conditions, as recommended in the report.
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20. APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER FOR LAND OFF LEIGH ROAD, WESTHOUGHTON

The Director of Environmental Services submitted a report which provided details of an application received by Bolton Council to make and advertise an Order under Section 53 of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by the addition of a footpath at land between 233 and 235 Leigh Road, Westhoughton.

By way of background information, the report advised that the Council was the surveying Authority for the purposes of Section 53 of the Wildlife and Countryside Act 1981 and was required by law to keep the Definitive Map and Statement under continuous review and make any modifications necessary by Order as a result of the occurrence of certain events.

The report went on to outline the main details of the application which had been received on 12th June, 2014 and sought to add a footpath to the Definitive Map. The application did not show evidence demonstrating use of the way by the public but relied on documentary evidence.

A copy of the full application was provided at Appendix 4 to the report and photographs showing the site were attached at Appendix 3.

In this regard, the report went on to summarise the main findings of the Public Rights of Way Officer which in brief, were as follows:

- the terms of grant dated 1910, 1911, 1976, 1977 and 1994 indicated that the route between properties 233-235

Leigh Road was not considered to be public at those times;

- no historical evidence of a public right of way was found;
- no evidence of use had been submitted by other members of the public; and
- no new evidence had been discovered since the claim made for a public right of way along the route between properties 233-235 Leigh Road was rejected by Judge Pelling QC (Wall vs Collins 2006).

Appendix 1 to the report provided full details of the Investigation Report prepared by the Public Rights of Way Officer. Guidance on decision making in respect of Definitive Map modification orders was attached to the report at Appendix 2.

The report therefore concluded that, on the basis of the available documentary evidence, the event needed to make a Modification Order on the basis that it was reasonable to allege on the balance of probabilities that a public right of way subsisted, had therefore not occurred.

Resolved – (i) That, on the basis that the available documentary evidence does not demonstrate that it is reasonable to allege on the balance of probabilities that a right of way subsists, and in accordance with the findings of the Public Right of Way Officer's Report, this Committee declines to make a Modification Order in respect of land off Leigh Road, Westhoughton; and

(ii) That officers be requested to write to the applicant explaining the decision and informing that there is a right of appeal to the Secretary of State against the refusal to make the Order.

21. PROPOSED MODIFICATION ORDER TO AMEND THE LINE OF PUBLIC FOOTPATH BLACKROD 18

The Director of Environmental Services submitted a report which sought approval to request the Borough Solicitor to make and advertise an Order under Section 53(3)(c)(i) and (iii) of the

Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by deleting the incorrectly recorded route of public footpath Blackrod 018 and adding the correct route of public footpath Blackrod 018.

The report advised that the Council was the surveying Authority for the purposes of Section 53 of the Wildlife and Countryside Act 1981 and was required by law to keep the Definitive Map and Statement under continuous review and make any modifications necessary by Order as a result of the occurrence of certain events.

By way of background information, the report advised that an anomaly had been identified in 2003 between the Definitive Map and Statement in relation to Footpath 18 Blackrod which led over land situated to the North of Manchester Road within the vicinity of Popes Farm, Scot Lane, Blackrod.

Following a claim that the legal line of the footpath was obstructed by means of a stable development, the Public Rights of Way Team had investigated the recording of its legal line and carried out an internal investigation using the relevant documentary sources held in the Public Rights of Way offices. No documentary or user evidence had been provided.

The investigation had revealed that the Definitive Map conflicted with the Definitive Statement. Plan One at Appendix 2 to the report showed an incorrectly recorded section of the footpath as shown by a black solid line. The correct route of the footpath was shown by a blacked dashed line.

In this regard, the report concluded that an error had been made when transferring data onto Borough maps following reorganisation of the authorities in the 1970s, and sought the views of the Committee on the following options:

- to authorise officers to make a Definitive Map Modification Order to amend the Definitive Line; or
- decline to make an Order and not amend the Definitive Line.

The report recommended that the Definitive Map be amended in order to accurately reflect the historical situation and that the correction be made in accordance with Section 53 (3) of the Wildlife and Countryside Act 1981, as follows:

-based on the discovery of the Authority of evidence which, when considered with all other relevant evidence, shows:

- that a right of way, which is not shown on the Map and Statement, subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which the Part applies; and
- that there is no public right of way over land shown in the Map and Statement as a highway of any description, or any other particulars contained in the Map and Statement required modification.

Resolved – (i) That this Committee authorises officers to request the Borough Solicitor to make and advertise an Order under Section 53(c)(i) and (iii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by deleting the incorrectly recorded route of Public Footpath Blackrod 018 and adding the correct route of Public Footpath Blackrod 018 and that the requisite notice of the making of an Order be given; and

(ii) That the Director of Environmental Services be authorised to take any action considered necessary in respect of the confirmation of the Order hereby authorised to make.

(The meeting started at 2.00pm and finished at 3.45pm)