



## TOWN AND COUNTRY PLANNING DECISION NOTICE

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TOWN AND COUNTRY PLANNING ACT 1990

### THE APPLICATION

Applicant:  
Mr Naqashbandiyya Aslamiyya  
78 Pringle Street  
Blackburn  
BB1 1SA

Agent:  
Mr Aadil Patel  
Faum Architecture  
Studio 2, First Floor  
610 Leeds Road  
Bradford  
BD3 9TY

### Variation/Removal of Condition/Minor Material Amendment

FOR:

Variation of Condition No.2 pursuant to planning application 10/16/0592 to state: "No development shall occur, excluding site preparation and demolition, until samples of all external walling, roofing materials, and their colour to be used in the construction of the building work has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details."

AT:

Land off Whitendale Crescent  
Blackburn

APPLICATION REFERENCE NUMBER: **10/18/0042**

The application was received: **11/01/2018**

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### THE DECISION

Date of Decision: 05/04/2018

In pursuance of their powers under the above Act, the  
Council

### PERMITS

The above development in accordance with the details given on the application form and submitted plans. Permission is given subject to the following CONDITIONS:

**1.** The development hereby permitted shall be begun before the expiration of three years from the 28th March 2017 (the date of planning permission 10/16/0592).

REASON: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**2.** No development shall occur, excluding site preparation and demolition, until samples of all external walling, roofing materials and their colour to be used in construction of the building work has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan, and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

**3.** Prior to the first use of the development hereby approved, a management plan detailing measures to control vehicular and pedestrian movements to and from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved management plan shall be implemented for the duration of the use of the building unless an alternative approach is agreed in writing by the Local Planning Authority.

REASON: In the interests of highway safety and to promote the use of sustainable modes of transport, in accordance with the requirements of Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

**4.** Foul and surface water shall be drained on separate systems.

REASON: To 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

**5.** Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed in accordance with the approved details.

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.

**6.** Prior to the commencement 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. The arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a management company; and
- b. Arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the sustainable drainage system (including mechanical components) and will

include elements such as ongoing inspections relating to performance and asset condition assessments, operation costs, regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements 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 manage flooding and pollution and to ensure that a managing body is in place for the sustainable drainage system and there is funding and maintenance mechanism for the lifetime of the development, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

**7.** Prior to the commencement of development hereby approved, an outdoor lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The agreed lighting scheme shall be implemented before the development is brought into use and retained thereafter.

REASON: To ensure the creation of a safe environment and to minimise potential light pollution affecting residents in the vicinity of the site, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan.

**8.** Prior to commencement of the development hereby approved, an obscured glazing sample shall be submitted to and approved in writing by the Local Planning Authority. The approved glazing shall be installed in the first and second floor windows of the west facing elevation prior to occupation and permanently retained thereafter.

REASON: To protect the privacy and amenity of neighbouring properties in compliance with saved Policy H8 of the Blackburn with Darwen Borough Local Plan.

REASON: To protect the privacy and amenity of neighbouring properties in compliance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

**9.** Prior to commencement of the development hereby approved, a Construction Method Statement shall be submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- I) the parking of vehicles of site operatives and visitors
- II) loading and unloading of plant and materials
- III) storage of plant and materials used in constructing the development
- IV) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- V) wheel washing facilities
- VI) measures to control the emission of dust and dirt during construction
- VII) a scheme for recycling/disposing of waste resulting from demolition and construction works

REASON: In order to safeguard highway safety, and to protect the amenity of the occupiers of the adjacent properties and the visual amenities of the locality generally, in accordance with the requirements of Policies 8, 10 and 11 of the Blackburn with Darwen Borough Local Plan Part 2.

**10.** Prior to the commencement of development hereby approved a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Trees and shrubs shall be planted on the site in accordance with the landscaping scheme during the first available planting season. The scheme shall include details of materials to be used for hard surfaces, and details of species to be planted, with their siting and planting distances,

and shall be implemented during the first available planting season after the commencement of development. Trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

REASON: To ensure that there is a well laid scheme in the interests of amenity in accordance with Policies 9 and 11 of the Blackburn With Darwen Borough Local Plan Part 2

**11.** Prior to the commencement of development hereby approved a scheme for the control of cooking odours and fan noise from the premises shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter retained.

REASON: To prevent adverse amenity to occupiers of neighbouring premises from cooking odours and/or extraction system noise in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

**12.** There shall be no external amplified call to prayer from the premises.

REASON: To safeguard the amenity of neighbouring residents and the locality generally, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

**13.** Prior to the first occupation of the development hereby approved, the car parking spaces identified on the amended plans received 7th October 2016 (drawing reference: 15084-P-02-A) shall be implemented and thereafter retained.

REASON: To ensure that off-street parking is maintained for the safe, efficient and convenient movement of all highway users in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2

**14.** Prior to the commencement of development, a scheme detailing the appearance and specification of an acoustic barrier to the western boundary of the ground floor car park, as detailed on drawing 15084-P-02-A, received 7th October 2017, shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barrier shall be at least 2.5m high and have a minimum superficial mass of 18Kg/m<sup>2</sup>. The approved details shall be implemented prior to first occupation of the development and hereafter retained.

REASON: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

**15.** The commencement of the development shall not take place until a scheme employing the best practicable means for the suppression of dust during the period of demolition/construction has been submitted to and approved in writing by the Planning Authority. The approved measures shall be employed throughout this period of development unless any variation has been approved in writing by the Planning Authority.

REASON: To safeguard the amenity of adjacent residents, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

**16.** Fixed plant and equipment associated with the development hereby approved shall not give rise to noise at the boundary of any residential premises in excess of Noise Rating NR25 db, determined in accordance with BS 8233:2014.

REASON: To ensure that noise from the development does not give rise to a loss of residential amenity at nearby residential premises, in accordance with the requirements of Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

**17.** Prior to the commencement of development hereby approved, the developer must submit to the Local Planning Authority for written approval:

(i) Two copies of a comprehensive desk study report, including a preliminary conceptual site model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM.

(ii) Two copies of the findings of the approved site investigation work (where necessary), 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). 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 9 of the adopted Blackburn with Darwen Borough Local Plan Part 2

**18.** 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 9 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

**19.** Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the LPA 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 LPA. No deviation shall be made from this scheme without the written express agreement of the LPA.

REASON: To protect the health of future occupiers of the site in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2

**20.** Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height greater than 1 metre above the crown level of the adjacent highway.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

**21.** No later than 3 months from the first occupation of the building hereby approved, a green travel plan shall be submitted to and approved in writing by the local planning authority. It shall describe the means by which users of the development will normally travel to and from the site and by which they are encouraged to travel by means other than by private car. The plan shall be implemented as approved and monitored and reviewed annually by the applicant.

REASON: To ensure that non-car transport modes are encouraged and implemented in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2

**22.** The construction of the development hereby permitted shall only take place during the following hours;

Monday to Friday - 08:00 and 18:00  
Saturday - 09:00 and 13:00

Sundays and Bank Holidays - No site operations

REASON: To safeguard the amenities of the adjoining premises and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2

**23.** This consent relates to the submitted details marked received 8th June 2016, the amended drawing received 7th October 2016 (drawing reference: 15084-P-02-rev A), the acoustic report submitted 5th December 2016 (document reference: J2547: 01.12.2016), as updated by plans received 11th January 2018 (drawing number 15084-P-01) and to any subsequent amendments approved in writing by the Local Planning Authority.

REASON: To clarify the terms of this consent.

## **REASONS FOR GRANTING PLANNING PERMISSION:**

**1.** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal is of appropriate design and appearance and would not be detrimental to the residential amenity for occupiers of the dwelling or neighbouring dwellings or compromise highway safety in accordance with Policies 8, 9, 10 and 11 of the Blackburn with Darwen Local Plan Part 2 (December 2015).

**2.** The Local Planning Authority operates a pre-planning application advice service. All applicants are encouraged to engage with the Local Planning Authority at pre-planning application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant ensuring all the issues have been resolved. The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance the NPPF.

Your attention is drawn to the NOTES attached and to the following:

**1.** A process has been introduced by The Department for Communities and Local Government for dealing with material and non-material amendments to planning permissions. For more information please contact the case officer or consult the Planning Portal website [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

**2.** This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other Enactment, Byelaw, Order or Regulation. Before commencing development you are advised to check the requirements of the Building Regulations. Section 31 of the County of Lancashire Act 1984 (access for the Fire Brigade) also applies. For information please contact the Building Surveyors, telephone 01254 505022. Additionally, if you wish to carry out building work which involves work along a party boundary the Party Wall Etc Act 1996 comes into force. You must find out whether your works falls within the Act by contacting your Solicitor, and if it does, you must notify all affected neighbours.

**3.** The Construction (Design & Management) Regulations 2015

The development hereby approved may be subject to the Construction (Design and Management) Regulations 2015 which govern health and safety through all stages of a construction project. The Regulations require clients (i.e. those, including developers, who commission construction projects) to appoint a planning supervisor and principal contractor who are competent and adequately resourced to carry out their health and safety responsibilities. Clients have further obligations. Your designer will tell you about these and

your planning supervisor can assist you in fulfilling them. Further information is available from the Health and Safety Executive Infoline 0845 345 0055.

**4.** This consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.

If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:

(a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.

(b) In addition if a condition precedent is breached, the development is unauthorised and the only way to rectify the development is the submission of a new application. If any other type of condition is breached then you will be liable to a breach of condition notice.

**5.** There are fees associated with the discharge of planning conditions. These fees apply to all requests for (1) the discharge of one or more conditions on the same permission, or (2) the written confirmation of compliance with a condition or conditions. Any number of conditions may be included on a single request. Fees are: £28 for householder developments, and £97 for all other developments. There is no fee relating to the discharge of conditions imposed on Listed Building applications. Please send your fee with your request, as requests that are received without the appropriate fee will be returned unanswered. To request a discharge of condition please use the forms on [www.blackburn.gov.uk](http://www.blackburn.gov.uk) or apply to the Council in writing. Please ensure that your letter or form clearly identifies the relevant permission and the condition(s) concerned. Local Planning Authorities have to deal with all requests within 8 weeks. Fees will be refunded if a response is not sent within 12 weeks from the date of receipt.

**6.** When determining the likely residential amenity impact of fixed plant and equipment noise reference shall be made to British Standard (BS) 4142:2014 'Methods for rating and assessing industrial and commercial sound'.

**7.** In determining an appropriate scheme the Local Authority will refer to the DEFRA guidance document entitled 'Guidance for the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' available at :

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69280/pb10527-kitchen-exhaust-0105.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69280/pb10527-kitchen-exhaust-0105.pdf)

To assist you with your odour and noise control scheme the Public Protection Service can provide a step-by-step guide, please contact Andy White (Env Protection Officer) tel: 01254 267634 for further details and advice.

**8.** When assessing potential loss of amenity the Local Authority shall make reference to the lighting levels provided in 'Guidance Notes for the Reduction of Obtrusive Light' GN01 produced by The Institution of Lighting Professionals, available at:

<https://www.theilp.org.uk/documents/obtrusive-light/>

NB: The proposed development is within an E3: Medium district brightness area.

**9.** " All reports shall be prepared in accordance with BS10175:2001, CLR 11 and any other relevant, appropriate and authoritative publications.

" The Local Planning Authority will not accept any liability for remediation works.

" The responsibility for the safe development and occupancy of the site, at all times, rests with the developer.

" Failure to comply with above condition may result in enforcement action being taken by the Local Authority under the Environmental Protection Act 1990.

" You are strongly advised to contact the Environmental Protection Team of the Public Protection Service to discuss the requirements of the Contaminated Land Condition (Karen Huddart tel: 01254 267632 or David Johnson tel: 01254 267631).

" The guidance documents entitled 'Contaminated Land Planning Guidance' & 'Validation Policy Document' should be read before you investigate the site. This guidance is available on the Council web site. These hyperlinks will give you direct access :

[www.blackburn.gov.uk/upload/pdf/Contaminated\\_Land\\_Guidance.pdf](http://www.blackburn.gov.uk/upload/pdf/Contaminated_Land_Guidance.pdf)

[www.blackburn.gov.uk/upload/pdf/Validation\\_Policy\\_Document\\_FINAL.pdf](http://www.blackburn.gov.uk/upload/pdf/Validation_Policy_Document_FINAL.pdf)

" A suitably qualified, competent & impartial person shall fulfil the requirements of the condition.

**10.** The granting of planning permission does not entitle a developer to obstruct, move, or disturb the surface of any public footpath, bridleway, byway open to all traffic or a road used as a public path. Any proposed stopping-up or diversion of a public right of way should be the subject of an Order under the appropriate Act. Failure to comply with the above may render the developer liable to action by the Highway Authority.

**11.** The granting of planning permission does not entitle a developer to obstruct, move, or disturb the surface of any public footpath, bridleway, byway open to all traffic or a road used as a public path. Any proposed stopping-up or diversion of a public right of way should be the subject of an Order under the appropriate Act. Failure to comply with the above may render the developer liable to action by the Highway Authority.

**12.** This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980, Section 184, the Highway Authority must specify the works to be carried out. Only the Highway Authority or its appointed agent can carry out these works, and therefore, before any access works can start, you must contact the Highway Authority by telephoning 01254 273487, or by writing to the Capita Property Consultancy Section, Highways & Transportation, Capita Blackburn Business Centre, Castleway House, 17 Preston New Road, Blackburn BB2 1AU quoting the planning application number above.

PLEASE NOTE:

Town and Country Planning (Written Representations) Regulations 1987

In accordance with the provisions of these Regulations, in the event of an appeal, the Local Authority's copy of the completed appeal form should be sent to:

The Director of Growth & Development, Blackburn with Darwen Borough Council, Town Hall, Blackburn. BB1 7DY



Ian Richardson,  
Director of Growth & Development  
Blackburn with Darwen Borough Council.