



## TOWN AND COUNTRY PLANNING DECISION NOTICE

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TOWN AND COUNTRY PLANNING ACT 1990

### THE APPLICATION

Applicant:  
IGP Investment Ltd  
c/o Lea Hough Chartered  
Surveyors

Agent:  
Lea Hough & Co  
Blakewater House  
Phoenix Business Park  
Blackwater Road  
Blackburn  
BB1 5RW

#### Full Planning Application

FOR:

Erection of building for the purposes of food retail (A1 Use) with associated car parking

AT:

Former Pioneer Mill Site  
New Wellington Street  
Blackburn  
BB2 4PG

APPLICATION REFERENCE NUMBER: **10/17/1435**

The application was received: **28/11/2017**

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### THE DECISION

Date of Decision: 20/04/2018

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 date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004

**2.** Prior to the commencement of the development hereby approved, samples of all external walling, roofing materials, and their colour to be used in the construction of the building work 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 ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

**3.** All installed external lighting shall comply with the limits contained within Table 2 of the Institute of Lighting Professional's Guidance Notes for the Reduction of Obtrusive Light (2011).

Reason: To protect surrounding residential uses from a loss of amenity from glare or light intrusion, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2 (December 2015).

**4.** Prior to the first use of the development hereby permitted, the parking spaces identified on the proposed site plan, shall be implemented and thereafter retained, in accordance with approved drawing number BS.17-028.02 rev B.

REASON: To ensure vehicle sales are not displaced from the application site in the interests of highway safety, in accordance with Policy 10 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2 (December 2015).

**5.** The landscaping proposals hereby approved shall be implemented in the first planting season following occupation or use of the development unless otherwise required by the reports above, whether in whole or part and shall be maintained thereafter for a period of not less than 5 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

Reason: To ensure the proposal is satisfactorily landscaped and appropriate to the locality in accordance with Policy 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2 (December 2015).

**6.** 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 Blackburn with Darwen Borough Local Plan Part 2

7. 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.

8. 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 Local Plan Policy 9 and the NPPF.

9. Prior to commencement of the development hereby approved, a foul and surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall ensure that foul and surface water is drained on separate systems. The surface water drainage scheme shall be based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion). 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.

REASON: To ensure a safe form of development that poses no unacceptable risk of flooding and water pollution in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

10. Prior to commencement of development a site investigation shall take place to establish if a culverted watercourse that previously crossed the site is still in existence. Should a culvert be found a remediation strategy for the construction of the development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not restrict the flow of the watercourse and to ensure that the structural stability of the proposed building is not affected and to accord with Blackburn with Darwen Borough Local Plan Part 2 Policies 8 & 9 and the NPPF.

11. The development hereby approved shall not be carried out outside the hours of: 08:00 to 20:00 Monday to Saturday and on Sunday 09:00 to 17:00. Deliveries and waste collection shall also be limited to the specified hours.

REASON: To safeguard the amenities of the nearby residential properties in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

**12.** The proposed hours of construction shall be restricted to the following:  
Monday to Friday: 8:00am to 6:00pm, Saturday: 9am to 1pm, and not at all on Sundays or Bank Holidays.

REASON: To safeguard the amenities of the nearby residential properties in accordance with Policy 8 of the Blackburn With Darwen Borough Local Plan Part 2.

**13.** This consent relates to the submitted planning application form, reports and assessments including supplied updates/addendums and submitted drawing no's BS.17.028.05A, BS.17.028.06, BS.17-028-.01 Rev B, BS.17-028.04 Rev A, BS.1717-028.03 Rev A, BS.17-028.02 Rev B and 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 development or neighbouring dwellings or compromise highway safety in accordance with Policies 8, 10 and 11 of the Blackburn with Darwen Local Plan Part 2 (December 2015) and Residential Design Guide Supplementary Planning Document (as amended September 2012).

**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.co.uk](http://www.planningportal.co.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.** The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling

**5.** 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.

**6.** 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: £34 for householder developments, and £116 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.planningportal.co.uk](http://www.planningportal.co.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.

**7.** All reports shall be prepared in accordance with BS10175:2001, CLR 11, PPS23, 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 the 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 Pollution Control Section of the Environmental Health Division to discuss the requirements of the Contaminated Land Condition by telephoning 01254 222520). 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 and impartial person shall fulfil the requirements of the condition.

**8.** 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 585044 or by writing to the Highways Operation, The Bungalow, Davyfield Road, Blackburn. BB1 2LX quoting the planning application number above.

**9.** 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. All Enquiries to [Highways@blackburn.gov.uk](mailto:Highways@blackburn.gov.uk)

**10.** Carriageways must be constructed in Hot Rolled Asphalt (HRA). Footways must be constructed in 6mm Dense Surface Course. New estate/access roads must be constructed to at least binder course level before any development commences within the site.

**11.** As part of this permission , you are required to ensure that no skips or building materials are placed on the adopted highway which will hinder or inhibit the refuse or recycling collection services. Any building materials that do not cause an obstruction to the collection services and permission is given for temporary storage on the adopted highway whilst work is ongoing must be removed when the work is completed and the area must be cleared and swept, so no remnants of any of the materials are left

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

A handwritten signature in black ink, appearing to read 'I.R.', is centered on the page.

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



## NOTES FOR APPLICANTS

### APPLICATIONS FOR PLANNING PERMISSION REFUSED OR GRANTED WITH CONDITIONS

#### Appeals to the Secretary of State

- If you are aggrieved by the decision of your planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country planning Act 1990
- If you want to appeal against your local planning authority's decision then you must do so within **6 months of the date of this notice, UNLESS**
  - This is a decision to refuse planning permission for a **householder application and/or minor commercial development (shop front)**, in which case appeals must be made within **12 weeks of the date of this notice**.
  - This is a decision to refuse express consent for the display of an advertisement, in which case appeals must be made within **8 weeks of the date of this notice**
  - This is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, in which case appeals must be made within 28 days of this notice.
  - An enforcement notice is served relating to the same or substantially the same land and development as in your application, in which case appeals must be made within 28 days of the service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate> . If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, The Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

#### Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 part V1 of the Town and Country Planning Act 1990



## APPLICATIONS FOR LISTED BUILDING AND CONSERVATION AREA CONSENT

### Appeals to the Secretary of State

- If the applicant is aggrieved by the decision of the Borough Council to refuse listed building consent for the proposed works, or to grant consent subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 within **six months** of the date of this notice.
- Similarly, if the applicant is aggrieved by the decision of the Borough Council to refuse to vary or discharge the conditions attached to a listed building consent or conservation area consent, or to add new conditions following any such variation or discharge, he may also appeal under Sections 20 and 21 of the same Act within **six months** of the date of this notice.
- Any appeal must be made on the appropriate form which is obtainable from Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Bristol, BS1 6PN, Tel: 0303 444 5000. Or online at appeals casework portal.
- The Secretary of State has power to allow a longer period for the giving of a notice of appeal. He will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- An appeal may also be made on the grounds that the building is claimed to be not of special architectural or historic interest and ought to be removed from the list.

### Purchase Notices

If listed building consent is refused, or granted subject to conditions, whether by the Borough Council or by the Secretary of State for the Environment, and the owner of the land may claim that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted.

In these circumstances, the owner may serve on the Council a Listed Building Purchase Notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### Access for the Royal Commission on the Historical Monuments in England

Your attention is drawn to the requirements of Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Notwithstanding any listed building consent conveyed in the attached notice, or by the Secretary of State, you **MUST NOT COMMENCE** work which involves the demolition of the whole or any part of a listed building until you have given thirty days notice to the Royal Commission on the Historical Monuments of England. Form RCHME 1 is enclosed, if relevant, to enable you to notify the Royal Commission.

### Offences

It is an offence for a person to execute or cause to be executed **any works** in relation to a listed building either for its demolition or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised; or which fails to comply with any condition attached to a consent. This includes the removal of interior fittings such as panelling and fireplaces. A person who is found guilty of an offence is liable on summary conviction, imprisonment up to six months or a fine up to £20,000, or both; or on conviction on indictment, to imprisonment for up to two years or a fine, or both.

## APPLICATIONS FOR ADVERTISEMENT CONSENT

### Duration of Consent

- If no time period is specified in a consent to display an advertisement, the consent shall be for five years commencing with the date of the consent notice.
- Except where there is expressly a condition to the contrary, an advertisement may continue to be displayed after the expiry of consent. The Council may, though, exercise its power to take discontinuance action to remove an advertisement or sign following expiry of the consent.

### Offences

- If you display an advertisement in contravention of the Control of Advertisements Regulations (England) 2007, you shall be liable on summary conviction of an offence under Section 224(3) of the Town and Country Planning Act to a fine of an amount not exceeding level 3 on the

standard scale and, in the case of a continuing offence, £100 for each day during which the offence continues after conviction. In 1994, a level 3 fine was £1,000.

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of the Borough Council to refuse consent or to grant consent subject to conditions, you can appeal to the Secretary of State for the Environment under Regulation 15 and Schedule 4 of the Town and Country Planning (Control of Advertisements) Regulations (England) 2007.
- **If you want to appeal, then you must do so within eight weeks of the date you receive this notice**), using a form which you can get from Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Bristol, BS1 6PN, Tel: 0303 444 5000. Or online at appeals casework portal. The Secretary of State is not required to entertain such an appeal if it appears to him, having regard to the provisions of the regulations, that consent for the display of the advertisement(s) could not have been granted by the Local Planning Authority, or could not have been granted by the Local Planning Authority otherwise than subject to the conditions imposed by them.