



TOWN AND COUNTRY PLANNING DECISION NOTICE

TOWN AND COUNTRY PLANNING ACT 1990

THE APPLICATION

Applicant:
Mr John Townsend
Brocklehead Farm
Roman Road
Eccles Hill
Darwen
BB3 3PJ

Agent:
Mr Robert Mackenzie
P Wilson and Company
Burlington House
Ribblesdale
Preston
PR1 3NA

Variation/Removal of Condition/Minor Material Amendment

FOR:

Variation of Condition No.11 pursuant to planning application 10/15/0305 - to incorporate new hipped roof to allow the room adjoining bedroom No.1 to be more useable.

AT:

Brocklehead Farm
Roman Road
Eccles Hill
Darwen
BB3 3PJ

APPLICATION REFERENCE NUMBER: **10/18/0163**

The application was received: **14/02/2018**

THE DECISION

Date of Decision: 23/04/2018

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 the original planning permission (10/15/305) approved 26 November 2015

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

2. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working at Brocklehead Farm Roman Road, Darwen, or a widow or widower of such a person, and to any resident dependants.

REASON: The Local Planning Authority would not permit the erection of houses on this site unconnected with the use of the adjoining land for agriculture or similar purposes in accordance with saved Policy RA11 of the adopted Blackburn with Darwen Borough Council Local Plan, emerging Policy 23 of the Local Plan Part 2, and NPPF.

3. Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, no development of the type specified in Classes A, B, C, D, E, F, G of Part 1 of that Schedule shall be carried out unless planning permission has been granted first.

REASON: Due to the restricted nature of the site, whilst the dwelling as approved is acceptable, any further extensions or alterations normally permitted under the above provisions may in this case conflict with the interests of adjacent properties or the amenity of the area generally in accordance with saved Policy H8 of the adopted Blackburn with Darwen Borough Council Local Plan.

4. 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 soakaway must be designed in accordance with BRE Digest 365. The approved drainage scheme shall be implemented in accordance with the approved details, prior to the occupation of the approved development and retained thereafter.

REASON: To ensure a safe form of development that poses no unacceptable risk of pollution to water resources or human health in accordance with Policy ENV1 of the Blackburn With Darwen Borough Local Plan.

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

- (i) A scheme outlining the scope of intrusive site investigation regarding the coal mining legacy at the application site.
- (ii) A report identifying the findings of the site investigation work regarding the coal mining legacy at the application site. Where required

the report will identify a remedial options appraisal and detailed remediation scheme which must be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that all reasonable steps have been taken to identify the risks of historic coal mining at the site in accordance with Policy CS16 of the adopted Core Strategy.

Prior to occupation of the development hereby approved, two copies of a comprehensive Coal Mining Legacy Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate implementation of the remediation works approved by the discharge of condition 5. All the installed remediation must be retained for the duration of the approved development.

REASON: To ensure that all reasonable steps have been taken to remediate the risks of historic coal mining at the site in accordance with Policy CS16 of the adopted Core Strategy.

6. Prior to commencement of the development hereby approved, a scheme for the provision of bat and bird boxes within the development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of the dwelling and retained thereafter.

REASON: In the interests of protected species, in accordance with saved Policy LNC9 of the adopted Blackburn with Darwen Borough Council Local plan.

7. Prior to commencement of the development hereby approved, a scheme detailing the height and appearance of boundary treatment to the dwellings curtilage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision of dry stone walling, be implemented and retained thereafter.

REASON: To ensure an appropriate visual appearance to the site, in accordance with saved Policy RA12 of the adopted Blackburn with Darwen Borough Council Local Plan.

8. Notwithstanding the submitted details, the external walling and roofing materials to be used in the construction of the building hereby permitted shall match those used in the construction of the original barn (random natural stone and slate).

REASON: To ensure that the external appearance of the development is satisfactory in accordance with saved Policy RA12 of the adopted Blackburn with Darwen Borough Council Local Plan.

9. 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 ENV3 of the Blackburn with Darwen Borough

Local Plan.

10. This approval refers to the submitted information received 30th March 2015 and the following amended drawing no 14 received 14th February 2018, and to any subsequent amendment 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, 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

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: £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 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. 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

7. This decision relates to an amendment of planning approval 10/15/0305. On that basis there is no requirement to formally apply to discharge any planning condition that has been previously discharged under approved application 10/15/0305.

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.