

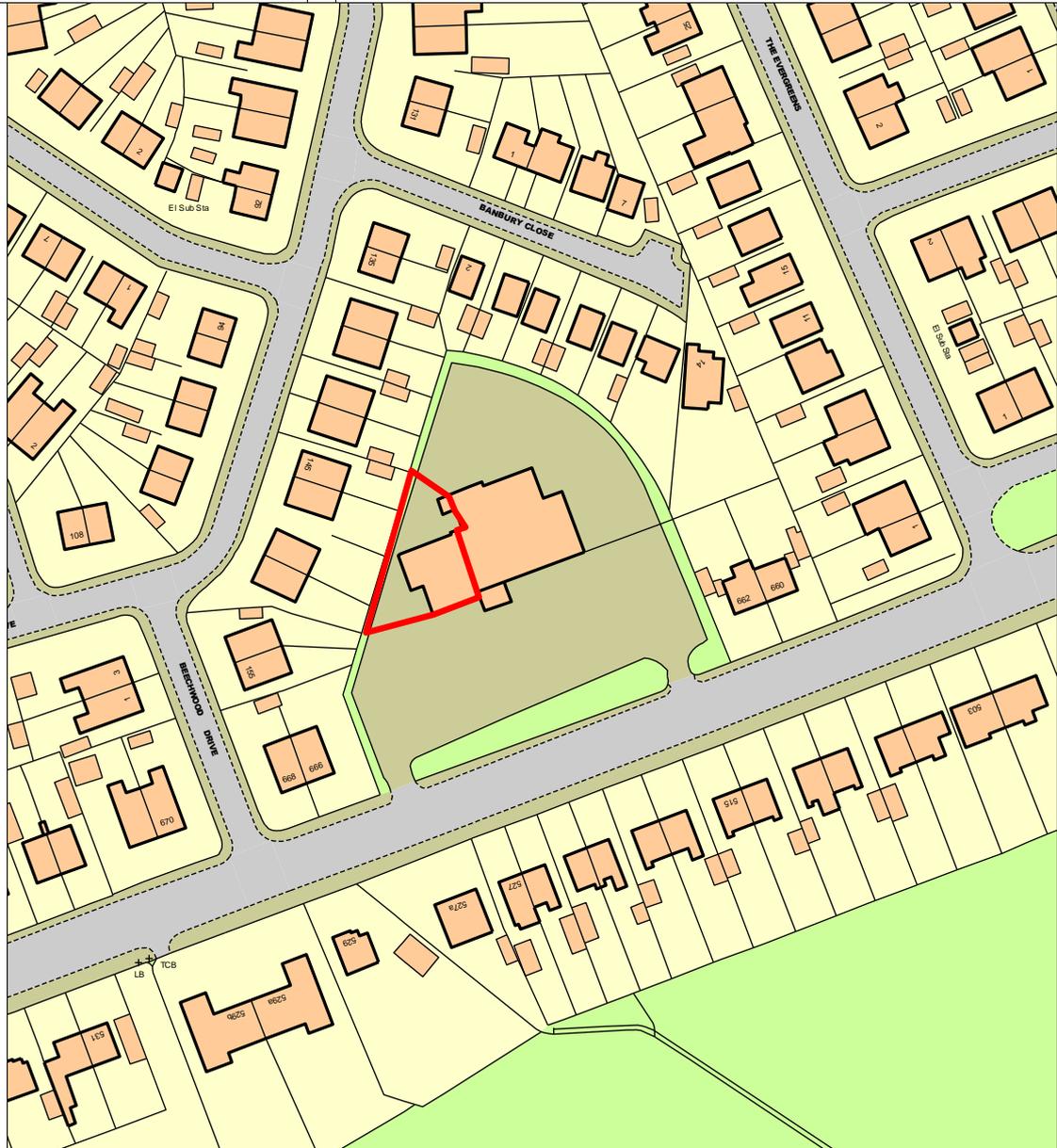
Proposed development: Full Planning Application for Proposed single storey side and rear extension of existing unit to form three self-contained commercial units (use class A1)

Site address: Unit 2, Livesey Branch Road, Blackburn, BB2 5DX

Applicant: Mr M Ali

Ward: Livesey With Pleasington

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|---------------------------------|--|
| Councillor Alan Cottam | |
| Councillor Derek Hardman | |
| Councillor John Pearson | |



1.0 Details of Application:

- 1.1 This application is before the Committee due to the receipt of objections from members of the public.
- 1.2 The application relates to Unit 2 of the small group of shop that occupy the former site of the Oak Tree Public House, Livesey Branch Road. The application site comprises the existing A1 pharmacy building (Unit 2) and a roughly triangular parcel of land to the side of the building.
- 1.3 Following the receipt of amended plans, 10th November 2015, planning approval is sought for;
- Subdivision of the existing A1 pharmacy to provide 2no. A1 units. Whilst the principle of this sub-division to form 2 smaller A1 units doesn't require planning consent, the provision of a new shop frontage and single storey mono-pitch extension to the rear of the premises does require approval. The new shop front will have a powder coated aluminium frame and will be similar in proportion and design to the existing pharmacy frontage. The rear extension will project 3m from the existing rear wall and will be constructed in brick and concrete roof tile
 - Construction of a new A1 retail unit to the side of the existing pharmacy. The new store will be of single store construction and have a gross floor area of 85m². The building is to be constructed in brick and concrete roof tile; with a fully glazed, aluminium frame, frontage.

2.0 Development Plan

- 2.1 The site is identified as being within the urban boundary as defined within the Blackburn with Darwen Core Strategy, though has no formal land use designation. The following development plan policies are of particular relevance to the determination of this application;

Core Strategy:

CS11: Facilities and Services

CS12: Retail Development

Local Plan Part 2 (LPP2):

Policy 7: Sustainable and Viable Development

Policy 8: Development and People

Policy 10: Accessibility and Transport

Policy 11: Design

Policy 32: Local and Convenience Shops

- 2.2 Due consideration must also be given to the requirements of the NPPF

3.0 Planning History:

- 3.1 10/15/0103 – Proposed single storey side and rear extension to provide (A1) retail unit and a restaurant (A3) (Refused under delegated powers, March 2015)
- 3.2 10/11/0969 – Use as a physiotherapy and sports rehabilitation clinic (D1) with associated car parking (Approved Planning & Highways Committee, October 2011).
- 3.3 10/06/1123 – Physical alterations to existing building to allow for retail use (Approved Planning & Highways Committee, February 2007)
- 3.4 In addition there are numerous earlier applications relating to the former public house use on the site. None are deemed relevant to the assessment of the current application

4.0 Consultations:

- 4.1 Public Consultation: Upon receipt of the initial application – which set out a proposal to sub-divide the existing A1 pharmacy to form 2no. A1 units and construct an A3 restaurant - 42 neighbouring properties were individually consulted by letter and a site notice was erected. 7 letters of objection were received.

Following the receipt of amended details 10th November 2015 - which removed the earlier intention to construct a restaurant and instead build an 85m² A1 retail shop – the consultation process was repeated. 1 letter of objection has been received. (see section 7 for summary of objections)

- 4.2 Livesey Parish Council: Objects to the original submission on the following grounds;

- The scheme is too close to local housing
- There will be additional noise generated in the area
- The area is well served by numerous similar outlets
- Noise from additional traffic/parking issues

The Parish Council has been reconsulted on the amended scheme received 10th November 2015, though no additional comments have been received.

- 4.3 Head of Public Protection: No objection to the application subject to the following conditions;

- Construction hours restriction (Monday to Friday 8am to 6pm; Saturday 9am to 1pm; no work Sunday or Bank Holidays)
- Unforeseen land contamination condition
- Hours of operation and delivery restriction (Monday to Saturday 9am to 6pm, Sundays and Bank Holidays 10am to 5pm)

4.4 Capita Highways: Awaiting response to amended scheme received 10th November 2015 – see update report

5.0 Issues/Comments

5.1 When determining this application the principle issues for Members to consider are;

- Whether the principle of the proposed retail use can be supported in this location
- Whether the proposed development will unduly affect the amenity of surrounding residents
- Whether the proposed access, servicing and parking arrangements are satisfactory
- Whether the design of the proposed building and extensions are satisfactory

5.2 Principle of Development: Section 1 of LPP2, Policy 7: *Sustainable and Viable Development* indicate that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Moreover, it will work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions. Section 2 of Policy 7 indicates that planning applications supported by all necessary information will be approved without delay unless material considerations indicate otherwise. Members are encouraged to proceed on that basis.

5.3 The applicant has amended the scheme to remove the proposed construction of an A3 restaurant and replace it with an A1 retail unit. Consequently the main principle to consider is whether the provision of additional 85m² of retail floor space can be supported. Given the site does not lay within an existing defined retail centre the principle policy assessments are set out in Core Strategy Policy CS12: *Retail Development* and LPP2 Policy 32: *Local and Convenience Shops*.

5.4 Policy CS12 provides a hierarchy of sites to direct new retail development; firstly to the town centres, then district centres, then local centres or small parades. The application site is within and adjoining an existing retail hub considered to fall within the local centre/small parade definition. Policy CS12 indicates that retail development will be supported in such locations “where it is a scale and kind which meets local needs only and where it is demonstrated that there will be no unacceptable impact on existing centres”. This position is supplemented by LPP2 Policy 32 which indicates that local shops outside of defined centres will be supported where all the following criteria are met;

- i) *The proposal caters for local needs only and individual units do not exceed a maximum of 250m² in gross floor area*
- ii) *There are no vacant existing shops within reasonable walking distance, typically 500m, which would be capable of accommodating the development*
- iii) *Either the development is within or immediately adjacent to an existing group of shops, or there are no other shopping facilities providing for local need within a reasonable walking distance*

5.5 Members are advised that the proposed site is consistent with the retail hierarchy set out in CS12 and, importantly, all the specific criteria detailed within LPP2 Policy 32 can be met. The unit at 85m² falls well below the 250m² threshold. There are no alternative vacant shop sites within the defined search area. The unit is within an existing group of local shops. Accordingly the principle of the retail development at the site can be agreed

5.6 Residential Amenity: Many of the public objections relate to the potential for loss of amenity. Although the concerns relating to cooking odours and food waste can be dismissed given the proposal now no longer includes a restaurant, issues relating to noise and activity at the site and loss of amenity due to overlooking and dominance from the new building do need to be addressed. LPP2 Policy 8: *Development and People* provides the principle policy assessment.

5.7 Policy 8, amongst other criteria, advises that development will be permitted where it can be demonstrated that; It will secure a satisfactory level of amenity and safety for surrounding uses with reference to noise, vibration, odour, light, dust, other pollution, privacy/overlooking, and the relationship between buildings.

5.8 The proposed retail function does not provide an obvious conflict with surrounding uses with reference to vibration, odour, dust and pollution. The most obvious possible conflict would arise from noise, particularly noise at anti-social hours. Members may wish to note that the applicants proposed hours of operation are; 9am to 6pm Monday to Friday, 9am to 5pm Saturday and 10am to 5pm on Sundays and Bank Holidays. Those hours have been supported by the Head of Public Protection (indeed with a wider allowance of 9am to 6pm on Saturday) and it is considered that subject to a suitably worded condition the proposal would not be likely to affect neighbouring amenity due to noise and activity at the site.

5.8 The proposed new retail shop and extensions to the existing retail pharmacy unit would result in a number of small windows within the rear elevation, which would serve ancillary staff toilets and kitchens. The windows would face properties on Beechwood Drive with a minimum separation of approximately 17m, albeit at an oblique angle. The Council does not have a formally adopted separation distance between windows of commercial premises and those of residential

units, but if the residential space standard between habitable rooms would be applied then a 21m separation would be necessary if the windows directly faced. Given this context and having considered the oblique angle between the windows it is felt the current proposal can be supported. An additional safeguard can be provided by adding a requirement that the new windows were all constructed with obscure glazing. A suitably worded condition can secure this matter.

- 5.9 Similar to the overlooking concerns, assessment must be given to the likely loss of light/dominance from the new building towards the closest affected properties no's 145 to 155 Beechwood Drive. The Council does not have an adopted standard between commercial development and habitable windows of residential properties. Again it is felt most appropriate to revert to the adopted standard for this scenario as set out in Policy RES 2G of the Council's Residential Design Guide, which sets a threshold of 13.5m between a blank gable and the windows of habitable rooms. Members should note that the nearest residential unit is in excess of 15m from the new build part of the development. Furthermore, the proposed building is only single storey and not directly facing the two closest dwellings. Given these factors it would appear reasonable to conclude that the development would be unlikely to lead to significant harm to adjacent residents through loss of light or dominance.
- 5.10 Having given full consideration to LLP2 Policy 8 and applied suitable assessment criteria where no specific separation requirement has been set out within the policy, Members are advised that the proposal would not unacceptably affect the amenity of neighbouring residents. On that basis the development can be supported.
- 5.11 Highway Issues: See update report
- 5.12 Design: The main policy assessment for the appearance of development is set out in LLP2 Policy 11: *Design*. The core requirement of the policy is that all new development will be expected to demonstrate an understanding of the wider context and make a positive contribution to the area. This is achieved through reference to detailed assessment in relation to; character, townscape, public realm, movement and legibility, sustainability, diversity and materials.
- 5.12 The proposal seeks the addition of a single storey building to the side of the existing pharmacy. The proposal will share the same build line as the other shops in the row and incorporates large display windows resulting in a predominantly glazed frontage. The unit is to be constructed in brick and concrete roof tile. In addition, a single storey, mono-pitch roof, extension to the rear of the existing pharmacy is also proposed. Finally, a new shop front is proposed to the existing A1 pharmacy unit in order to facilitate it's sub-division. The new shop front is consistent with that on the existing building in terms of size and general design.

5.13 The proposals are considered to represent sympathetic additions to the existing group of buildings and the locality in general. The shared front build line, matching materials and consistent appearance of the new shop fronts all serve to ensure the proposal harmonises with the existing group. The position of the unit, set back circa 40m from Livesey Branch Road, also serves to ensure the impact upon the wider street scene is nominal. Subject to the application of the standard condition requiring materials to be submitted, Members are advised that the proposal meets the requirements of LLP2 Policy 11

6.0 Recommendation

6.1 APPROVE subject to the following conditions;

- Materials to be submitted
- Hours of use restriction (Monday to Saturday 9am to 6pm, Sundays and Bank Holidays 10am to 5pm)
- Hours of construction (Monday to Friday 8am to 6pm, Saturday 9am to 1pm, No work Sunday or Bank Holidays)
- Car park plan to be agreed
- Construction methods statement to be agreed
- Obscure glazing to rear windows of Units 1, 2 and 3
- Unforeseen land contamination

6.0 Summary of Representations

155 Beechwood Drive,
Feniscowles,
Blackburn,
BB2 5AX.

17th June, 2015.

Dear Sir,

Please be aware of our household's comments with regard to **Application Reference: 10/15/0332**. Proposed single storey side and rear extension to of existing unit to form three self-contained commercial units.

We strongly object to this development for the following reasons:

Our property directly backs onto the location of this proposed Retail Unit and Restaurant and therefore our quality of life will be negatively affected should it be approved. It will undoubtedly lead to increased litter, odours, traffic noise, exhaust emissions and disturbance created by customers using the retail unit and restaurant and as such will have a damaging effect on our lives.

The plot of land already has a large shop which sells a very extensive range of goods of all types and therefore another shop is not needed. The local area is well serviced by restaurants and takeaways selling all the various types of food commonly found therefore there is no need for another restaurant.

I would like to correct the applicants' statement regarding the high level of ambient noise created by activity from nearby Hollytree Shopping Parade and St Bede's High School. We experience no noise here from either of these places as they are too far away. Our biggest worry is that the shop in particular could become a meeting place for local youths who will hang around outside it and create disturbance especially during the evening. We have suffered from anti-social behaviour over the last few years carried out by youths who have damaged our property on numerous occasions. The attacks got so frequent and sustained that we had to get the police involved but they openly admitted they had very little chance of catching the perpetrators. As such we know that should we suffer from further anti-social behaviour we will be left to fend for ourselves with no way of stopping the abuse occurring.

Please put yourself in our position when reviewing this application and consider the effect it would have on your lives should it be approved.

Regards,

Amanda Farnworth.

513 Liversay Branch Road
BLACKBURN

4 June 2015

Dear Sir,

PLANNING APPLICATION 10/15/0332
UNIT 2, LIVERSAY BRANCH ROAD, BLACKBURN

I am writing to object to the above mentioned planning application on the following grounds:-

- 1) The letter sent to adjoining properties doesn't give correct information. The application is for 2 A1 classification, + 1 A3, the A3 being cafe/restaurant. People with no internet access, or be able to get to the town hall, have been misinformed, and not given the full facts, this needs to be addressed.
- 2) Last week planning permission was granted for the Gip Lane project, the Sappi site lower down Liversay Branch Road will no doubt be given the go ahead in the near future. The extra traffic these development will bring to Liversay Branch Road and the Tesco car park is a grave concern, any further development is not needed.
- 3) As I do not know what the 2 A1 commercial units will be used for, but will create more traffic, I can only comment on the cafe/restaurant. Tesco already sell take away food, within approx. 400 metres down the road is the Oyster + Other restaurant, within 300 metres the other way are a Chinese restaurant, fish and chip shop, sandwich shop, also the Gip Lane project has been granted permission for a cafe. The new proposed unit will probably be a fast food outlet, though

details not known, and will bring the usual problems of smells and litter with it.

- 4) As a further safety issue, there are 2 existing schools on Liversy Branch Road, and a further one planned on the Gib Lane project, child safety must be a priority.

There has already been one accident at the entrance to the Tesco car park earlier this year, the evidence can still be seen.

Any further development which brings extra traffic is not needed.

RECEIVED
RECEIVED
19 JUN 2015

'SILLOTA HOUSE'
660 LIVESY BRANCH RD
LIVESY BLACKBURN
BB2 5DX
5 JUNE 2015

OBJECTIONS TO THE PLANNING APPLICATION
FOR THREE SELF CONTAINED COMMERCIAL UNITS
AT UNIT 2 LIVESY BRANCH RD BLACKBURN

APPLICATION REFERENCE 10/15/0332

- ① CLOSENESS TO RESIDENTIAL HOUSING
- ② PARKING ON THE TESCO / MAJOR PHARMACY SITE AT CERTAIN TIMES IS AT FULL CAPACITY THESE UNITS WOULD ONLY ADD TO THIS PROBLEM
- ③ PROBABILITY OF CARS AND OR DELIVERY VEHICLES PARKING ON LIVESY BRANCH ROAD WHICH IS CERTAIN TO OBSCURE VISION FOR DRIVERS ENTERING AND LEAVING THE ALREADY BUSY SITE THE ADDITION OF COMMERCIALS UNITS WILL OBVIOUSLY INCREASE TRAFFIC FLOW INTO AND OUT OF THE ~~THE~~ ALREADY BUSY SITE
- ④ PEOPLE ON FOOT WALKING ON THE FOOTPATH ON LIVESY BRANCH ROAD ARE OFTEN IN DANGER OF BEING RUN DOWN BY VEHICLES ENTERING AND LEAVING THE ALREADY BUSY SITE ADDITION OF COMMERCIAL UNITS WILL OBVIOUSLY INCREASE TRAFFIC FLOW INTO AND OUT OF THE SITE
- ⑤ NOISE POLLUTION TO THE AREA WHICH CAN AT TIMES BE UNPLEASANT WILL BY THE ADDITION OF THESE UNITS WILL ~~INCREASE~~ INCREASE.

- ⑥ PROBABILITY OF MORE LITTER WILL INCREASE WE ALREADY HAVE A LITTER PROBLEM. BOTH FOOD CONTAINERS AND GENERAL WASTE I KNOW THIS FOR A FACT I VERY OFTEN HAVE ON A DAILY BASIS TO PICK UP LITTER THAT IS DEPOSITED ON THE ROAD AND IN THE GARDEN AND ON THE GRASS VERGES. SPEAKING TO LOCAL COUNSELLORS AS PROVED TO BE A WASTE OF TIME
- ⑦ THIS IS A RESIDENTIAL AREA WHICH IS ALREADY BEING SLOWLY BUT SURELY SPOILED BY VARIOUS LOCAL AUTHORITY PLANS TO BUILD LARGE HOUSING COMPLEXES AND THE INFRASTRUCTURE TO SUPPORT THESE SCHEMES WE AS COUNCIL TAX PAYING RESIDENTS OBJECT IN THE STRONGEST TERMS POSSIBLE TO THIS PROPOSED PLANNING APPLICATION
- ⑧ THE PROBABILITY THAT IN THE EVENT THAT PLANNING PERMISSION IS GRANTED THAT SOMETIME WATER, THAT A CHANGE OF USE APPLICATION COULD OR WOULD BE APPLIED FOR ALLOWING THE UNITS OR UNIT TO BE USED AS A RESTAURANT/ FOOD OUTLET

THIS IS A ISSUE OF REAL CONCERN TO ALL THE RESIDENTS IN THIS AREA, AND I CALL UPON THOSE WHO ARE ON THE PLANNING COMMITTEE TO, PUT THIS APPLICATION WHERE IT BELONGS IN THE WASTE PAPER BIN.

Frank Parker

145 Beechwood Drive
Feniscowles
Blackburn
BB2 5AX
17/06/2015

Frank Rogers

Re: Application Reference: 10/15/0332
Unit 2 Livesey Branch Road Feniscowles Blackburn BB2 5DX

Proposed Single Storey Side And Rear Extension Of Existing Unit To Form. Three Self
Contained Commercial Units

I Strongly Object To This Development For The Following Reasons

Nothing as changed regarding concerning loss of amenity due to appearance and design loss of privacy noise and disturbance refuse and litter traffic and parking considerations and non-compliance with government planning policy, Blackburn with Darwen Core Strategy (POLICY CS12), NPPF and Planning Guidelines

There is no access for the collection of waste to the rear of the property other than through TESCOs we will be plagued with litter from overspill from the waste bins and vermin which we have seen since TESCO have started trading If this planning application was to be passed would a restriction be placed on the property restricting a change of use to any eating establishment or take away?

We have suffered for to long with loud noise litter being thrown into our gardens and abusive behaviour There is also the problem of parking for cars as parking is very limited in the area of the proposed development and we would again be having cars parked in the front of our properties

Mr & Mrs Jones

3 Old Swan Road

Walsworth

Birmingham

BB 25 AA

Dear Sir, Mr Brian Bailey

This is a Residential Area. to Allow
Commercial Units to this Area would be
Outrageous I personally had shown the
my Neighbors can't believe you as a
Planning Director would even consider
it. was object to this plan. and what.
Yours, Respectfully.

Mrs K Cottam

149 Beechwood Drive
Blackburn
BB2 5AX

June 15th 2015

Dear Sirs

re- Planning application at unit 2 Livesey Branch Road Blackburn BB2 5DX
Reference 10/15/0332

I can see no significant changes from the first application Reference 10/15/0103 which was refused.

The comments that I made then still apply and I enclose a copy of my letter dated March 4th 2015.

The proposed side and rear extensions are still too close to surrounding residential properties.

149 Beechwood Drive
Blackburn
BB2 5AX

The new building to house a restaurant (A3) would be in very close proximity to the rear of our properties, as shown on the plans submitted.

The building, although single story, would be higher than our bungalows as the land level is lower than that of the proposed restaurant. This would impinge on our privacy, being so close to the rear gardens and overlooking bedrooms.

In Summer the restaurant kitchen, which is quite small, would need to have the door and window open. The noise of a busy kitchen along with the smell of cooking would make it very unpleasant in our rear gardens.

Siting of the three large waste bins, also very close to our properties, creates a big worry that we could have a problem with rats as the waste would be mainly food.

Our properties suffer from a certain amount of flooding in the rear gardens when there is a heavy downpour of rain. Rainwater from the roof of the restaurant could make this worse as water from the gutters and downspouts could channel directly towards our rear gardens. Currently when it does rain there is a lake from the Chemist Shop across to the edge of the hard standing.

There are two restaurants in this area, neither of which is built so close to residential properties.

Mrs K Cottam
149 Beechwood Drive

Mr M Abbott
147 Beechwood Drive

Pauline Walton

151 Beechwood Drive
Feniscowles
Blackburn
BB2 5AX

13th November 2016

Once again I find it necessary to strongly object to this application for the following reasons and any others in previous objection letters:

1. Bad design of building caused mainly by restrictions due to adjacent building and minimal amount of space available for development. The proposed building looks like a lean-to just stuck on the end of the existing building and would detract from the existing look of the building which is in breach of local plan policies.
2. Impact on traffic – there is already a problem with vehicles accessing and leaving the site as both entry and exit crosses a pedestrian walkway. Vehicles on entry have to cross traffic to access site which has caused problems in the past especially when pedestrians are crossing the entrance at the same time and pedestrians have been abused by motorists in this connection. Also vehicles are always using the exit opening to access the site which has also caused problems for pedestrians and there have been a few altercations between motorists when this happens. Exiting from the site is also a problem as vehicles have to pull onto the pavement to see if there is any traffic coming. Any increase in business would only exacerbate these existing problems.
3. Car parking – This application proposes two additional units but there is insufficient capacity on the car park to support any further development of the site. The application shows 12 car park spaces for use by the new units but these spaces are already in use by existing visitors to the site. At busy times the car park is full to capacity, in fact today when I visited the site cars and vans were parked in the centre of the car park as all existing spaces were taken. Further development of this site could only increase this parking problem which would result in cars being parked on the already busy highway thereby causing an obstruction, this has already happened on occasion.
4. Overdevelopment of the site – This site is already at its full capacity and cannot support any further development. Any building design has spatial restrictions due to the small amount of space available and there is no proposed increase of car parking spaces to

support the additional units as the existing spaces are already being used by existing visitors to the site.

5. Loss of privacy of amenity due to closeness of proposed building right up to boundary – Due to proposed building with windows and door overlooking bedrooms of adjacent bungalows. Noise coming from this building which will be much closer to existing properties will cause a nuisance to the neighbouring residents. We already have problems with noise in this area and only a few weeks ago the chemist drivers' van nearly came through the fence when he drove over the edge of the car park ending up only inches away from the dividing fence. Coming and going noises at the back of the existing building is also currently causing a problem for residents. Also teenage lads being allowed to play football on the car park is also causing a nuisance. And the council is already aware of noise problems for deliveries at the Tesco side and any development at this side will also create further noise and nuisance for residents at this side.

Road access and visibility: Problems already identified under impact on traffic. Drivers exiting this site have to come onto footpath in order to be able to see if any traffic is coming as there is no visibility of road from car park. Also it has been noted that motorists drive on wrong side of road to drive to Beechwood Drive when exiting from car park, it saves them crossing traffic twice.

I contend that any further development of this site would be an overdevelopment as there is no scope for any decent building of good design to be erected and there is no possibility of increasing car parking spaces.

I therefore sincerely hope that this application is finally refused as it is in breach of local planning policies.

151 Beechwood Drive
Feniscowles
Blackburn
BB2 5AX

18th June 2015

Pauline Walton

Re: Application Reference: 10/15/0103
Unit 2 Livesey Branch Road Feniscowles Blackburn BB2 5DX

Proposed single storey side and rear extension to existing unit to form three self contained commercial units

ACCORDING TO STATEMENT – 1 RETAIL UNIT (A1) AND 1 RESTAURANT (A3)

I strongly object to this development for the following reasons:

This area does not need another restaurant/café with take away facility. Within walking distance we already have a large restaurant on Livesey Branch Road (Oyster and Otter) and at the Holly Tree Parade of shops we have a Chinese restaurant, a fish and chip shop, a pizza and kebab takeaway and a sandwich shop. That is quite sufficient for local need. This site is developed sufficiently and any further development would be too dense for the site within this residential area.

Loss of amenity due to appearance and design, loss of privacy, noise and disturbance, smells, odours and fumes, refuse and litter and traffic and parking considerations and non-compliance with Government Planning Policy, Blackburn with Darwen Core Strategy (POLICY CS12), NPPF and Planning Guidelines, destabilising of residents land. Apart from the design of the building it is obvious that the appearance, car parking, safety and other considerations have still not been addressed.

Council Guidance Notes for Residential Development Blackburn with Darwen Council View, according to Core Strategy, is that the following principles should be followed when considering development in residential areas:

- 1. Freedom from intensive and intrusive activities.**
- 2. Minimal disturbance from noise**
- 3. Freedom from other sources of disturbance, such as, vibration, smell, fumes or dust**
- 4. Freedom from inappropriate levels of traffic**

Extending local retail role of community shops to provide for more than local need would be likely to create amenity issues.

This development will not comply with Blackburn with Darwen Core Strategy (CS12) which states:

Retail development outside Town Centres will be permitted where it is of a scale and kind which meets **“LOCAL NEEDS ONLY AND WHERE IT IS DEMONSTRATED THAT THERE WILL BE NO UNACCEPTABLE IMPACT ON EXISTING CENTRES.** The applicant states that he is aware that this development does not comply with this Council strategy and adds that the development will increase competition.

The site in question is surrounded by residential properties in a mainly residential area. The design of the one building on the site is complimentary to the area and the surrounding properties and has been on this site since the 1960's. It is sited back to back with neighbouring properties but it was built set well back away from its residential neighbours. There are restrictions in the deeds of this property which

state that “ prohibits any extension which would “affect the free access to light and air and that nothing shall be permitted or suffered on the land that shall be a nuisance or annoyance to the owners or occupiers of any neighbouring land”. There is also a covenant which states: “will not permit or suffer any disagreeable noise or smell or anything which may be considered noisy noisome or detrimental to the neighbourhood”. The building is currently divided into two shops – a Tesco convenience store and a Pharmacy. Above the Pharmacy is a residential flat which has been occupied by a tenant for approximately twelve months. The proposed extension is oversized for the size of the land and would affect neighbouring properties creating more noise etc than we already have to suffer. Extension keeping to the original footprint of the building would be more acceptable and would still allow for three commercial units.

1. PLANNING HISTORY OF THIS SITE

10/79/2491 Extend existing public bar by taking in disused off-licence and side entrance.

This was a very small extension (at the left side of the property) compared with the proposed development, but it was **REFUSED** by the Council for the following reasons:

- 1. The proposed development would cause loss of privacy to neighbouring properties.**
- 2. The proposed development would cause loss of amenity to neighbouring residents by reason of noise and disturbance.**

The decision of the Council was upheld on appeal.

10/84/0222 – Provision of restaurant/carvery and new entrance porch to front elevation.

However this was approved for the other side of the property which is set well back from residential properties.

Approved March 1984

10/06/1123

Physical alterations to EXISTING building to allow for retail use at the former Oak Tree Livesey Branch Road Feniscowles Blackburn BB2 5DX

Permitted February 2007

10/15/0103 – Proposed single storey and rear extension to provide an additional (A1) Retail Unit and a Restaurant (A3)

REFUSED 31.3.2015 FOR FOLLOWING REASONS:

1. The proposal, by virtue of the design and appearance, would have an unacceptable impact upon the host building and the surrounding area, creating an incongruous and poorly designed addition, contrary to saved Policy HD1 of the adopted Blackburn with Darwen Local Plan

2. The proposal does not provide adequate car parking provision, resulting in an unacceptable impact upon the safe, convenient and efficient movement of all highway users, contrary to saved Policies T9 and R17 of the adopted Blackburn with Darwen Borough Plan.

3. Insufficient information has been submitted with the application to support the highways assessment of the proposal. No servicing details have been received, nor have any details been received relating to the parking of cycles and powered two wheelers.

4. 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 endeavoured to work proactively with the applicant in trying to resolve all the issues raised by the proposals. The Local Planning Authority has considered the application. The possibility of either the imposition of planning conditions and/or the making of reasonable amendments to the application have been explored in order to deliver a sustainable form of development in accordance with the NPPF.

APPEARANCE AND DESIGN/LOSS OF PRIVACY

Planning law dictates that proposed development in residential areas should not have an adverse impact on the character of the neighbourhood or residential amenity of neighbours and the scale of the proposal, design and appearance must be considered in relationship to adjoining buildings and surrounding areas and that unacceptable visual impact is not acceptable.

As stated earlier in previous refused application, the original building was built in context and design to blend in with and compliment the existing residential properties and so enhance the appearance of the area. The proposed appearance and design of this development will increase the size of the current building considerably. Design has been dictated by the restricted amount of land available and the close proximity of the development to the neighbouring properties. Despite amendments being made to the design, the appearance of the extension would still detract from the appearance of the building. Despite plans attempting to make both sides look alike this not the case. Nothing has changed with the actual design of the building which is shown as a lean-to stuck on the side and squashed into a small space at the side of the existing building. There were reasons why the existing building was placed central to the site – for best appearance in relation to neighbourhood and to avoid unnecessary problems being created for the

neighbouring properties. Due to the elevated position of this development at the rear, it would look more the height of a two storey building than a one storey, towering over adjacent residential properties, which are much lower, and causing loss of privacy to neighbouring users. There are windows and doors to the rear of this development which would overlook the bedrooms of the neighbouring properties, particularly the ones with dormers plus another window on the side elevation. Light emanating from these windows would shine directly into the bedrooms of neighbouring properties. There would be very little natural light getting into the development due to the close proximity of the neighbouring residential boundary. Overall this is a bad design in the wrong place and should be refused.

2. NOISE AND DISTURBANCE

Firstly I would like to correct the applicants' statement regarding the high level of ambient noise created by activity from nearby Hollytree Shopping Parade and St Bedes High School. We experience no noise here from either of these places as they are too far away.

Noise emanating from this development must be a consideration on deciding this application. Planning advice states that noise associated with restaurants, cafes, bars and fast food outlets emanates from a variety of sources and can be a significant problem where such users are in close proximity to residential premises. Noise from vehicles coming and going, customer and staff actions e.g. talking and shouting loudly, open windows and doors, laughing and shouting both inside and outside - with the additional problem now being found of smokers standing outside together with ensuing noise they create, refrigeration and odour prevention units. No mention of these on plans. As there will be ten windows and three doors at the rear of this property plus one window and door on the side elevation of the proposed development, noise is inevitable, particularly in summer all windows and doors will be open. Despite the applicant stating that we get along with Tesco, I know that the Council is involved and aware of the existing and ongoing problems with this store, one of them being noise and disturbance – delivery vehicles turning up at all hours of the day and night including Sundays. At the left side of the property there are problems with the noise made by the tenants' dog, which is barking at all hours of day and night, customers dogs barking when being left in cars or tied up outside, car doors slamming, loud music coming from parked cars and cars screeching off the car park. It has also been necessary to involve the police when skateboarders were using the site as a skateboard park after midnight.

It is stated in Planning Guidance that careful consideration should be given at the planning stage to noise during late evening, as neighbours and local residents have a legitimate expectation to peace and quiet. It is inevitable that increased noise, disturbance and nuisance will impact on the residents if this application is permitted and so due to the above considerations planning permission should be refused.

3. SMELLS AND ODOURS

DCAN4 – Locals Councils have a reactive role to play and have extensive regulatory controls of restaurants and cafes. Development Control Advice No 6 (Restaurants and Cafes) 1983 suggests that when a new restaurant is built in a residential area an Environmental Impact Test should be shown to prove that this development would not adversely affect the amenity of the surrounding area. No mention is made by the applicant of the impact on the local community and residents. Planning guidelines state that careful consideration should be given to a restaurant in a residential area because if the wrong decision is made, the Council could create a problem that wasn't there before.

It is stated in planning guidance that residual odours from restaurants and cafes prove detrimental to residential amenity particularly if located in close proximity to residential areas. This potential impact is likely to be a consideration in determining their overall unacceptability. This development is so close to the residential properties that it is impossible for them not to be affected by smells and odours. We were told that there would be no smells from Tesco but that just is not the case. On a daily basis there is the smell of bread baking, granted this is a pleasant smell and only in the early hours, but a smell nonetheless. Odours emanating from the proposed development would be very unpleasant and for most of the day and night, if their opening hours are as stated. It is shown on the plans that the external refuse bins associated with this development will be situated right next to the neighbouring fence. These bins will certainly give off offensive smells, odours and possibly dangerous fumes particularly in the summer months, possibly causing a health hazard to neighbouring properties. As there is a tenant living in the first floor flat above this proposed restaurant, consideration needs to be given to the smells and odours which will inevitably permeate into the flat itself. Overall, it is obvious that this is not the correct site for a restaurant and planning permission should be refused.

4. REFUSE AND LITTER

Refuse and litter around retail and commercial properties will always be a problem. Since the Tesco store opened, this neighbourhood has been inundated with litter and refuse. You only have to walk round and you will see cans and bottles stuck in residents' hedges, food containers e.g. sandwich boxes, bottles and cans, paper bags, paper, carrier bags and much more have all appeared in our gardens, on our drives and by the side of the road. Food and drink stolen from Tesco has been thrown over the fence into neighbouring gardens, piled in neighbours gardens at the front of their property, behind their walls, against the fence near the pharmacy, – all to be collected later by the thieves. Tesco hand baskets, used to carry stolen food and drink, have been left in gardens, hedges and on driveways. As a result we now have a problem with rats, something that has never happened before in this area. Due to the insecurity of the back of this site people have been spotted routing through the Tesco bins to find disposed food etc. that they may make use of, no doubt throwing refuse onto the ground as they go. Planning permission was granted subject to the rear of the site being closed off, this is no longer a closed off area from either side of the building and the residents security is being put at risk. Any further development of this site, particularly by another food outlet, is only going to

exacerbate ever increasing problems. I would also point out at this stage that faeces from the tenants' dog are all over the back of the site, this is also a health hazard. Residents and Tesco have complained about this on numerous occasions but nothing gets done. Litter is always down the side of the fence between the site and the residents' gardens. Refuse collections cannot access the rear of the proposed restaurant directly and so must go through the Tesco loading bay at the other side of the site. I can only see that any further development of this site would be a grave error and should be refused.

5. TRAFFIC AND PARKING

Firstly I note that the applicant appreciates that there is already an existing high level of commercial, private car and pedestrian traffic around this site. The applicant states that there are 13 car parking spaces for use by customers of the development i.e. 2 shops and a restaurant. They state that the current parking provision is adequate for the size of the units being proposed, offering 13 spaces. So they are only going to have 13 customers between 2 shops and a restaurant. **That is not feasible and the restaurant will not last long with so small a clientele.** Should these places be full they say they will use Tesco spaces. This is a recipe for disaster. What about when there are no Tesco spaces. I don't know when the car park was observed to be rarely used to its maximum capacity, but I live here and I can say this it is used heavily on most days. Last Thursday morning, 11am, (not a busy time you would think) but the car park was three quarters full. Evenings and weekends are the busiest times particularly at weekend when the car park is indeed full and cars have actually been parked on the road when this happens. I assume that this would also be the restaurants busiest time. Any resident living around here when there was a public house which served food can confirm that parking was a nightmare. Cars were parked on the main road and surrounding roads, blocking drives, banging doors, tooting horns and a general nuisance was experienced by residents all of the time. Customers parking at Tesco or the Pharmacy are parked for a very short time but cars parked at a restaurant could be there for a couple of hours, therefore blocking spaces for Tesco and other shops customers. An existing problem which I am sure would be made worse by a restaurant at the left of the site is the actual access to the restaurant for cars. Even now cars invariably use the exit access when coming onto the site. I have experienced this personally, as have many other local residents, when you are walking onto the site and a car comes up behind you because it has come in the wrong way. This happens on a daily basis. It has also been noted that when cars exit the site they drive along the wrong side of the road when going into Beechwood Drive. Crossing the access points can also sometimes be a 'take your life in your hands' situation. This is already a very busy car park on a very busy road and any further development on this site would increase the problems we already have. Given all these considerations this application should be refused.

6. DRAINS

It is a recognised fact that restaurants, cafes and food outlets allow a lot of fat and foodstuff to go down their drains and in this area this causes problems for the neighbouring properties with blocked sewerage drains and escaping effluent. I have been told that the sewerage pipes in this area are very narrow.

7. RETAINING WALL

A landowner has a legally enforceable right to lateral support from an adjoining landowner. Due to the elevation of the site and close proximity of this development to the surrounding residential properties, I have been advised that it could be necessary for the applicant to build a retaining wall in order to avoid lateral support damage to adjacent gardens..

When the public house was on this site and had eating facilities the neighbouring properties suffered from constantly blocked sewerage drains, with the result that effluent would back up and overflow into the gardens, which is a health hazard. The residents were constantly having to either use drain rods themselves to unblock the drains or when it was really bad we had to get a specialists company to do it for us e.g. (Dynarod). Since the public house went we have had no more problems with our drains. So if this site is once again allowed to be used for the service of food, drains are also once again going to become a problem for the neighbours, along with the inevitable health hazard.

In summation, I state that this site is already developed to its best potential for its size and that the application for this large extension should be refused. The applicant agrees that the development is not in compliance with Core Strategy where development should be for **LOCAL NEED ONLY** and where other shops would not be affected, in fact the applicant wants competition, I think that the area already has all the competition it needs, particularly food outlets. The restaurant shown in this application is obviously planning to attract people from outside of the area, which would mean more cars, which in turn would create the same traffic and parking problems which this area has experienced in the past. In size the development is of a scale which would harm the amenity of the local residents and of an unsuitable design which would detract from the current ambiance and appearance of the site as well as being out of character with the neighbourhood. Neighbouring properties would suffer increased levels of noise and disturbance, smells, odours and fumes, refuse and litter, possible parking and increased traffic issues and once again issues with our drains.

Until recently the Government encouraged high density development within existing centres but last year the Government stated that objections based on density of proposed development may once again be used as persuasive arguments against such proposals. (Government National Planning Policy) 2014.

I look forward to seeing the Planning departments' response to this application and its recommendation to the Planning Committee.

Rory Needham
Clerk to Livesey Parish Council

At the June 2015 meeting of Livesey Parish Council members voted unanimously to object to planning application 10/15/0332. The Scheme proposes a single storey side and rear extension of existing unit to form three self contained commercial units at Unit 2, Livesey Branch Road, Livesey, Blackburn, Lancs. BB2 5DX.

Members objected on the following grounds:

- 1) The scheme is too close to local housing.
- 2) There will be additional noise generated in the area.
- 3) The area is well served by numerous similar outlets.
- 4) Noise from additional traffic/ parking issues.

Can you please bring the objections of the Parish Council to the attention of the Planning Committee.
