

## **DEPARTMENT OF GROWTH & PROSPERITY**

**ORIGINATING SECTION: Planning.**

**REPORT TO: Planning & Highways Committee on Thursday  
16<sup>th</sup> June 2016.**

**TITLE: Petition regarding Full Planning Application  
(Retrospective) for Change of use of no. 53  
from retail to cafe and installation of 3 No. Air  
Con units to rear; Installation of ventilation  
duct at no. 51, new shop fronts to both  
properties. at 51 - 53 Whalley Range,  
Blackburn, BB1 6EA**

**(Ref: 10/15/1402)**

**Applicant: Mr FAISAL AKBAR**

**Ward: Bastwell**

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<b>Councillor Parwaiz Akhtar</b>	
<b>Councillor Iftakhar Hussain</b>	
<b>Councillor Shaukat Hussain</b>	

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### **1.0 PURPOSE OF REPORT**

1.1 To inform Members of the receipt of a petition, a copy of which is available in Democratic Services.

### **2.0 BACKGROUND AND DETAILS**

2.1 Planning application reference 10/15/1402 was submitted to the Planning Authority on 3<sup>rd</sup> November 2015. Retrospective consent is sought for change of use of no. 53 from retail to cafe and installation of 3 No. Air Con units to rear; Installation of ventilation duct at no. 51, new shop fronts to both properties.

2.2 Public consultation letters were issued on 17<sup>th</sup> June 2015.

2.3 A 20 named petition objecting to the proposed development was received on 10<sup>th</sup> December 2015. A further 21 named petition was received on 16<sup>th</sup> February 2016 objecting to the proposal which reads:

I refer to your letter of 29 January 2016.

I believe this application is similar to a previous application submitted.

The objections that I and many local residents voiced in respect of the current and future activities of the applicant's tenant, Le Glacier, have previously been exhaustively provided to you.

These concerns remain and with every passing day they continue to become worse.

I and neighbouring tenants hereby formally reject the above application and request this is withdrawn and any further applications are now automatically rejected. The applicant is appearing to re-submit multiple applications which centre around the same work but in different guises. These applications are simply a means for the anti-social and barbaric behaviour of applicant's tenants' customers to continue and worsen. As an example of the shambolic behaviour of the customers to Le Glacier, please see attached photograph. This was on 6 February 2016 at 10:17 pm. I and local residents couldn't sleep and couldn't believe these were customers. I assumed it was a mini riot not customers ordering food. Need we say any more. Before matters are taken into our own hands, and believe me the local residents are at breaking point, we urge you in a peaceful and diplomatic way to stop the applicant firing off any further applications and to actually consider closure action against the applicant's tenant as they have absolutely no regard for the law or local residents!

Petition received 10<sup>th</sup> December stated:

We refer to your letter of 20 November 2015.

This planning application has previously been submitted by the same applicant under Application Number 10/15/0516. This was then withdrawn on the basis of my refusal to accept this application as per my letter of 23 July 2015, copy enclosed for ease of reference.

It appears the applicant has once again re-submitted the same application but under a different number.

This application was previously dealt with by Helen Holland.

The grounds of refusal remain the same and as per the enclosed letter.

There is certainly no way this application can proceed.

The business housed in property (Le Glacier) has caused untold nuisance and damage to our community. Every evening there significant numbers of cars driven by people who don't resident in this area whom simply ignore the double yellow lines and park at will on a busy Whalley Range road. Their behaviour is then deemed anti social and in fact since my last letter of 23 July 2015, the anti social and disruptive nature of the clients for the applicants shop have simply exacerbated and the situation can only be described as out of control.

The level of noise and intrusion into my personal life and those of the neighbouring properties will be untold should the application proceed. This is a residential area and a first floor dining area is simply a gross invasion of our privacy.

## Previous petition stated:

We refer to your letter dated 8 July 2015.

We note a planning application numbered 10/15/0516 has been submitted by a Mr Faisal Akbar in connection with 51 & 53 Whalley Range, Blackburn.

The aforementioned application refers to change of use in respect of 53 Whalley Range and installation of 3 No. AC Units and installation of ventilation duct at 51 Whalley Range and new shop fronts to both properties.

We would firstly like to express our disappointment at the above application. As you will be aware the neighbouring properties house several generations of residential families and the area cannot be considered commercial in its entirety. We as local residents both on the adjacent, rear and neighbouring side to 51 & 53 Whalley Range have experienced a significant increase in commercial activity in the last 2 years. The shop known as La Glacier has created an explosion of commercial activity to a predominantly residential area which has had a significant impact on the lives of the local residents. The premises is surrounded by local residents some housing 3 generations of the same family. This area is at a crucial juncture to Whalley Range and the speed and volume of traffic prior to La Glacier's opening was already at saturation point. However subsequent to the opening of the business the volume of traffic has exploded resulting in a sharp increase of noise, antisocial behaviour and indeed severe pollution of the local streets causing physical and environmental damage.

We as local residents are continuously fighting against what is an avalanche of social and traffic problems. The anti social behaviour continues to the late hours of the morning and we have requested the police intervene on a number of occasions. This despite our

repeated requests to the business owners and indeed local enforcement authorities, which included Janet White, Senior Public Protection officer and Public Services, has had no impact of the level of traffic and anti social nature of the activities associated with the business. Shall we remind all people that the business is located on a busy main road which has double yellow lines on both sides of the street. The aforementioned application confirms that the existing parking arrangements will remain in situ. There are no parking arrangements! We are faced with an increasingly large number of vehicles which ignore the parking restrictions and simply park on a busy road, on footpaths, around neighbouring properties and in fact in the middle of busy street if they are allowed to. How can this be upheld by you? The existing parking and traffic problems are simply going to be exasperated by the new application. No consideration appears to have been given to the fact that this is a densely residential area which is already saturated with cars and families, why are further business opportunities being granted at the detriment of the local residents.

The change of use requires La Glacier to serve food from the upstairs of their building. This effectively means that a busy takeaway and restaurant will be overlooking residential properties. In fact the proprietor of 100 Whalleyrange has noted that new seating / dining area of La Glacier will look into their young daughters bedroom also 60 Brookhouse Lane has noted that this new seating area will look directly into his mother's bedroom and their living room. This is a ghastly invasion of their privacy and completely at odds with their human rights. The local residents have had the privacy severely eroded in the last few years and this new application will only serve to further breach their right to life and right to privacy and equality of living standards for all neighbouring and adjacent properties. There is a serious erosion of the local residents human rights and indeed should this application succeed then local residents have a potential claim for breach of privacy, breach of trust and breach of fair living standards against the proprietor of La Glacier and indeed the Blackburn with Darwen Borough Council in the European Human rights court based in Strasbourg, France. Has any consideration been given to the potential fall out of this application proceeding?

As you are aware the local residents are predominantly of a conservative Muslim background. At present the anti social behaviours has had a significant impact on the right of these residents to live in peace and quiet and with the moral bounds of their religion. The proposed application will further deteriorate all moral and religious boundaries of the local residents indeed it has been noted by a local resident that the new seating area will look directly into the bedroom of a young child. Surely this evasion of privacy cannot proceed? The local residents have been placed on notice that the anti social behaviour of the consumers to La Glacier and the proposed application will have a detrimental impact on the value of their respective properties. Indeed, if this application proceeds unchecked then this area of Whalley Range will effectively become the centre focal point for young adults and families to congregate and socialise. The new social meeting point will put a further drain on limited parking and space and the value of properties will simply nosedive. There is a potential claim for local residents against the proprietor of La Glacier for the fall in property values. Does the council also wish to be

subject to such potential claims should it approve and allow this application to proceed? There are a number of social, humanitarian and economic issues as a result of this application which simply have not been addressed by any member of the council. It appears that your ignorance to these issues will simply cause a legal confrontation which may result in thousands of pounds spent in unnecessary litigation. Have these issues been addressed by, discussed with and ratified by your legal team? What discussions and dialogue have you entered into with the local residents? There has been no approach to the local residents and no dialogue has been opened to allay our fears. This despite our repeated request for you to consider the sheer anti social impact this business has on a number of people on a daily basis. Generations of the same family have had their lives blighted by this one business and this application will serve to further alienate a desperate group of local residents. This application cannot proceed and we strongly urge you to take this letter as our formal letter to object to application number 10/15/0516. Should this application proceed then the legal and financial fall out will be detrimental to all concerned.

At the time of writing, the local residents had noted that works to change the property in accordance with the above application have already begun and indeed in relation to the shop fascia, and rear ac units and chimney have already been completed. This is a gross breach of due process in that it appears Mr Akbar is above the law given that the application has not yet been formally approved and yet Mr Akbar has almost completed all works listed therein. This needs to be addressed immediately and all works need to cease as a matter of urgency. Indeed all works which have been completed especially the grand fascia of the shop need to be reversed as a matter of urgency. Failing which this will of course be illegal and a matter which can be taken up in the local courts and indeed at a national level with our local MP and with the government. There have been allegations that the Mr Akbar has been working closely with members of the local council in cahoots with his proposals. We trust this is incorrect and trust Mr Akbar does not yield such power but your written confirmation on this is required.

In relation to transparency and retrospective action, the local residents have noted that La Glacier remains open until the early hours of the morning which is a flagrant abuse of the planning permitted hours it can operate under. Despite repeated requests for this to be addressed to a Mr Nick Blackledge, nothing appears to have been done and we would urgently request that a senior member of the Council's planning team look into this matter and assure us local residents that Le Glacier will no longer be permitted to remain open past the times it is authorised to do so.

We trust this letter will serve to have all continuing works stopped. All works which have been illegally completed will need to be reversed and indeed we require confirmation of this in writing within 7 days together with confirmation that Application Number 10/15/0516 has been unsuccessful.

We await hearing from you. Yours faithfully Residents of the local Properties affected by the above application.

2.4 The application is currently being assessed and further information has been requested. Once the amended information has been received, the application will be referred to the chair of Planning and Highways Committee to make a decision on whether the application will be determined by the Planning and Highways Committee or by using the Councils adopted Scheme of Delegation.

### 3.0 **RECOMMENDATION**

3.1 It is recommended that the Committee note the petition, that the issues raised inform assessment of the proposal and that the lead petitioner be informed of the decision once made.

4.0 **BACKGROUND PAPERS**

4.1 None.

5.0 **CONTACT OFFICER** – Nazia Ali Rizvi (585344)

6.0 **DATE PREPARED** – 1<sup>st</sup> June 2016