

DEPARTMENT OF GROWTH AND DEVELOPMENT

ORIGINATING SECTION: Planning (Development Management)

REPORT TO: Planning & Highways Committee on 15th December 2022.

TITLE: Petition objecting to recently approved planning permission for full planning permission for the following development:

Proposed rear balcony with external staircase at Avalon No.69 Manor Road, Darwen BB3 2SN.

WARD: Darwen West

COUNCILLORS: Dave Smith, Stephanie Brookfield, Brian Taylor

1.0 PURPOSE OF THE REPORT

- 1.1 To inform Members of the receipt of a petition objecting to a recently approved planning application relating to full planning application for "Proposed rear balcony with external staircase at Avalon, No 69 Manor Road, Darwen BB3 2SN" (ref: 10/22/0885).
- 1.2 The redacted version of petition is appended to this report at Appendix A. A copy of the petition has also been placed with Democratic Services.

2.0 BACKGROUND AND DETAILS

- 2.1 The planning application – reference 10/22/0885 - was received by the Local Planning Authority (LPA) on 6th September 2022. The adjoining properties Nos 67 and 71 Manor Road were sent neighbour consultation letters on the 9th September 2022. The statutory 21 day consultation period expired on the 30th September 2022.
- 2.2 Three letters of objection were received from the owners/occupiers of Nos 65, 67 and 71 Manor Road, during the consultation period. The application was referred to the Chair of the Committee through the Chair Referral process on the 25th October 2022 to ascertain whether the application is to be determined at officer level or by the Committee in accordance with the Scheme of Delegation. As part of the referral to the Chair, details of the application, objections received and the officer report were included. The Chair confirmed on the 25th October 2022, having assessed the information that the application could be determined under delegated powers. The application was subsequently approved on the same date. A copy of the officer delegated report and decision notice are attached to this report at Appendix B.
- 2.3 Formal complaints through the Council's Corporate Complaints process were received on the 31st October 2022, from Mr and Mrs Bent of No.71 Manor Road,

and Mr and Mrs Nixon of No.67 Manor Road. The complaints relate to the decision making process relating to the planning application 10/22/0885, and the decision to approve the application despite the objections raised by the complainants and the owner/occupiers of No.65 Manor Road.

2.4 During the Stage 1 process of the formal complaint process, the Planning Manager visited the application site accompanied by the case officer and Principal Planning Officer on the 8th November 2022, to assess the issues and objections raised by the complainants in their formal complaints. During this site visit, officers met with the complainants to discuss the formal complaints, and also viewed the approved application from their rear garden areas. It was at this site visit, that the lead petitioners of the petition, Mr and Mrs Nixon hand delivered the petition objecting to the approved planning application.

2.4 The petition contains 26 signatures from residents along Manor Road, Darwen, and states the following:

“Petition for Blackburn With Darwen Borough Council to reverse the planning application for a first floor balcony at the rear of 69 Manor Road, Darwen BB3 2SN due to the lawfulness of the decision based on neighbours privacy and their failure to follow planning procedure.”

2.5 The objections that were raised by the objectors during the consultation period of the planning application, were fully considered as part of the assessment of the application. The officer delegated report at Appendix B demonstrates that due process was followed, and all material considerations as part of the planning application were considered as part of the decision making process.

2.6 During the site visit made by the officers as part of the separate formal complaints process on the 8th November 2022, and a review of the approved drawing (drawing no: TS9185/01 rev A, received 6th September 2022), it was clear that the part structure / staircase that has been erected is not in accordance with the approved details. It was evident from the site inspection that the stairs were not constructed in the approved location. As a result of this, the stairs are 800mm closer to the gable elevation i.e. instead of being 1 metre from the gable elevation, it is 200mm. This has exacerbated the impact towards the adjoining property No.67. A further site meeting was held with the applicants and attended by the Planning Manager and Case Officer/Principal Planner, on the 17th November 2022, to inform them of the unauthorised works carried out, and to confirm that no further works should be undertaken until the issue is resolved i.e. construct the structure in accordance with approved details as shown in Figures 1 and 2 below, or submit a revised planning application, which would be subject to a full reconsultation with the neighbouring properties. Figures 1 and 2 below are an extract of the approved drawing no: TS9185/01 Rev A), and Figure 3 is a site photograph taken on the 8th November 2022, of the part structure erected.

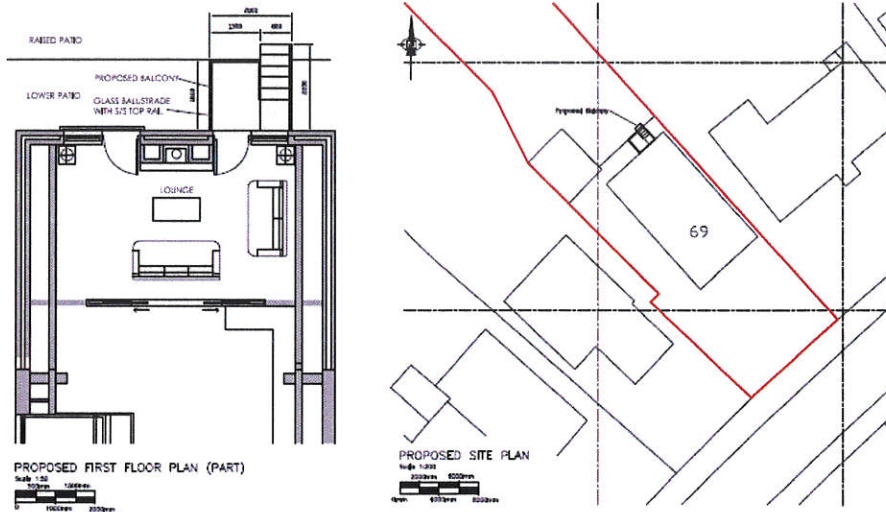


Figure 1: extract from approved drawing No: TS9185/01 Rev A, received on 6th September 2022 pursuant to planning application 10/22/0885 – proposed floor plan and site plan

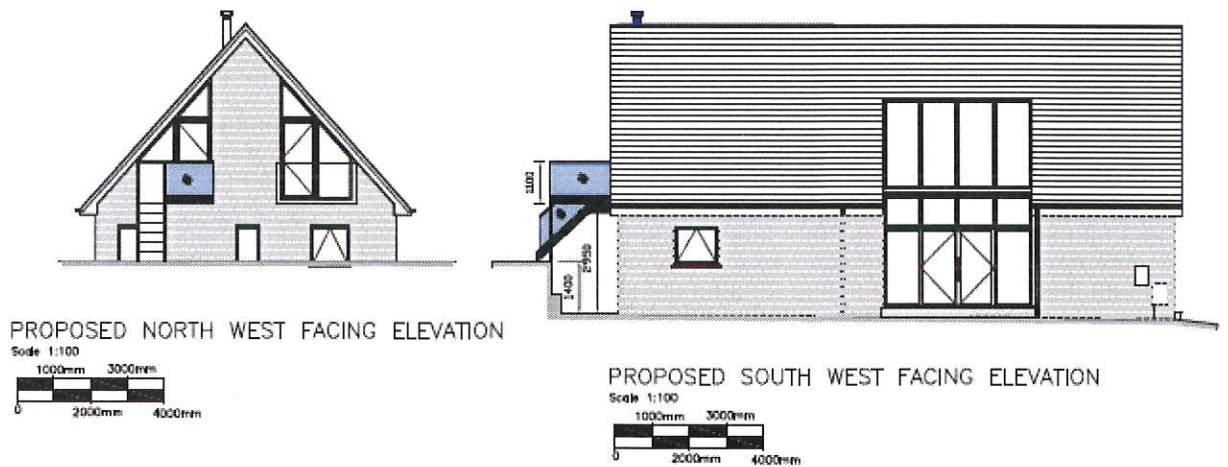


Figure 2: extract from approved drawing No: TS9185/01 Rev A, received on 6th September 2022 pursuant to planning application 10/22/0885 – proposed rear and side elevations.



Figure 3: Site photograph taken 8th November 2022 of unauthorised part constructed frame of balcony/staircase

3.0 RECOMMENDATION

3.1 That the petition be noted by Members and that the lead petitioners be informed of any decision taken.

4.0 BACKGROUND PAPERS

4.1 The petition subject of this report, including signatures, comments and covering letter.

4.2 Planning application 10/22/0885.

5.0 CONTACT OFFICER: Gavin Prescott, Planning Manager/Emily Colebourne,
Assistant Planner

6.0 DATE PREPARED: 30th November 2022.

APPENDIX A

Petition for Blackburn and Darwen Borough Council to reverse the planning application for a first floor balcony at the rear of 69 Manor Road, Darwen BB3 2SN due to the lawfulness of the decision based on neighbours privacy and their failure to follow planning procedure.

Name	Address	Signature
	65 Manor Road	
	65 Manor Road	
	71 MANOR RD	
	71 MANOR RD	
	73 MANOR RD	
	77 MANOR RD	
	77 MANOR RD	
	81 Manor Rd	
	81 Manor Rd	
	83 MANOR ROAD	
	85, Manor Rd	
	87 Manor Rd	
	91 Manor Rd	
	89	
	89	
	93 MANOR RD	
	93 MANOR ROAD	
	95 MANOR ROAD	
	77 Manor Rd	
	77 Manor Rd	
	99 MANOR RD	
	99 MANOR RD	
	99 MANOR RD	
	63 Manor Rd	
	67 Manor Rd	
	" "	

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APPENDIX B

DELEGATED DECISION OFFICER REPORT

Proposed development: Proposed rear balcony with external staircase

Site address:

**Avalon
69 Manor Road
Darwen
BB3 2SN**

Applicant: Mr Phil Wright

Application number: 10/22/0885

Case officer: Emily Colebourne - Planning Officer

Recommendation: APPROVE

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), and the adopted policies of the Blackburn With Darwen Borough's Core Strategy and Local Plan Part 2 "Site Allocations and Development Management Policies", together with other relevant material planning considerations. The policies of the Core Strategy and Local Plan Part 2 that have been used to assess this application are considered to be in accordance with the NPPF, and as such are material planning considerations.

The planning service, in assessing the planning application, has had due regard to the provisions of the Human Rights Act. It is an inherent part of the decision making process to assess the effects that a proposal will have on individuals, and weigh these against the wider public interest in determining whether development should be granted planning permission. In carrying out this balancing exercise, the planning service is satisfied that it has acted proportionately.

PROPOSAL

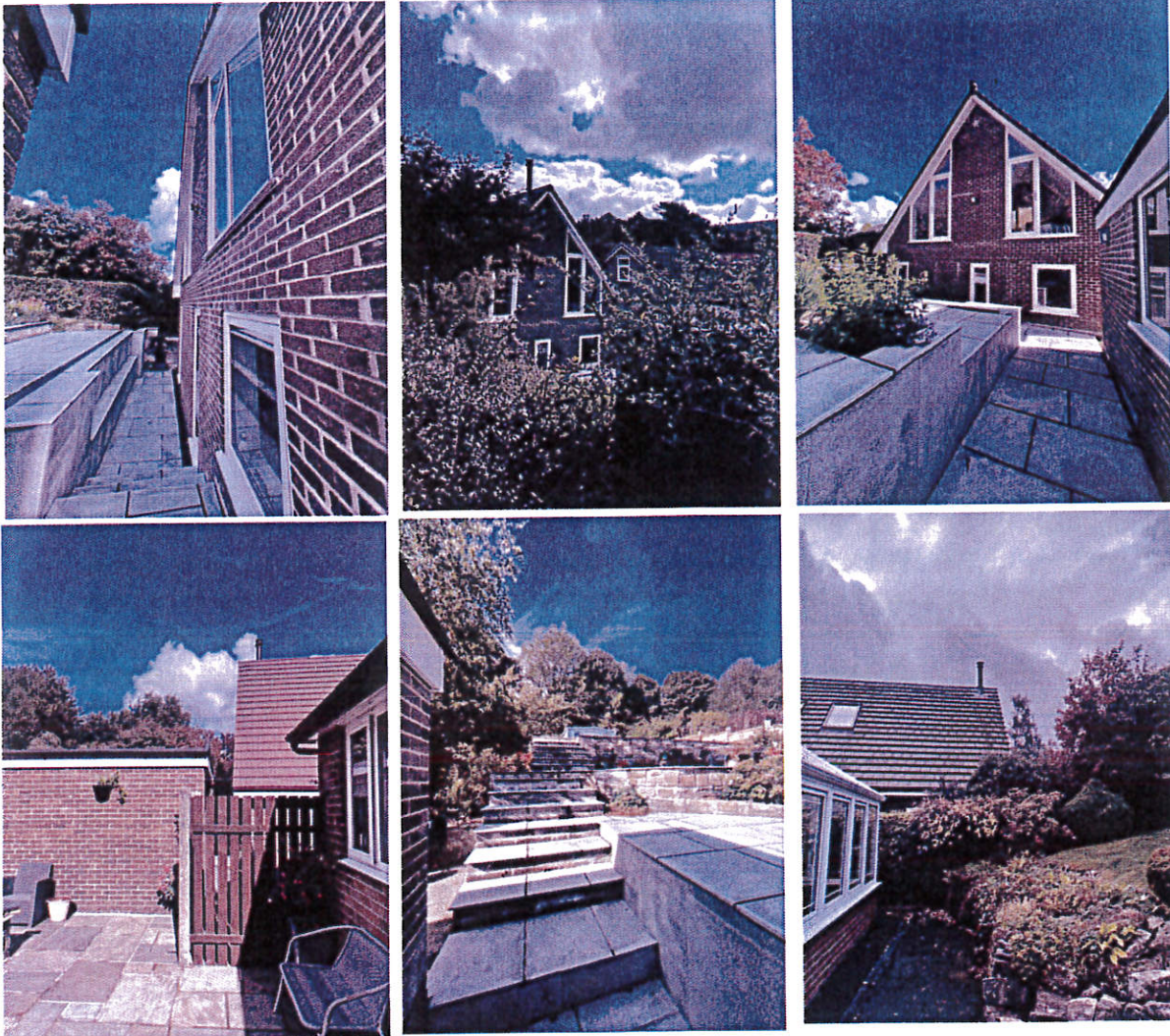
The application site relates to a detached chalet style bungalow located on the north western side of Manor Road.

Planning permission is sought for the erection a rear balcony with external staircase. The proposed balcony will project 1.8m off of the patio doors sited at the boundary with No.67. The balcony will measure 1.3m wide. The proposed external staircase will project 2.2m and measure 800mm wide. The proposed height from ground floor level to balcony level will be 2.9m. The proposed height of the glass balustrade facing towards No.71 will be 1.1m.

Planning permission was approved under application (10/81/0686) for a detached chalet bungalow and garage.

Planning permission has also previously been approved (10/18/0260) for a double storey rear extension at the application site.

Site Photos:



View from the patio doors at the application site in to No.71 Manor Road.



View from the patio doors at the application site in to No.67 Manor Road.



Publicity:

2 neighbours were consulted by letter and the following is a summary of the comments received.

Objections:

The reason for the objection is invasion of privacy. The erection of a balcony that runs parallel to my garden will enable anyone on the balcony to see directly over in to my garden and in direct view of my top patio where we sit out. The balcony will be in close proximity to my conservatory and in winter when the trees and bushes are bare anyone on the balcony will be able to see directly into my conservatory.

I am writing to object to planning application reference 10/22/0885 at Avalon, 69 Manor Road, Darwen, BB3 2SN. This is a planning application for a rear balcony. We object to this application on the basis that it overlooks our rear garden and reduces our privacy.

We object to the erection of a balcony at the rear of the property for invasion of privacy reasons. The balcony would enable anyone to see directly into our garden and directly into the patio area we have created where we sit out the most. A previous application was submitted a few years ago for a similar balcony but was rejected due to the previous owner of number 67 (Moor Park) objecting for reasons of invasion of privacy.

Delegation RELATES TO RED FLAG APPLICATIONS OR OTHER APPLICATIONS REFERRED TO THE CHAIR:

The planning application has been assessed in accordance with the Chair Referral Process of the adopted officer scheme of delegation (Council's Constitution). Following consultation with the Chair of the Planning & Highways Committee, it has been confirmed in writing that the application can be determined under the officer scheme of powers.

DEVELOPMENT PLAN

Local Plan Part 2 (2015) Policies:

Policy 8 "Development & People"

Policy 11 "Design"

Residential Design Guide Supplementary Planning Document

RES E1: Materials

RES E20: Balcones and Raised Terraced Areas

ASSESSMENT

The key issues in relation to this application are:

- Residential Amenity
- Design/Visual Amenity

Residential Amenity

Policy 8 of the LPP2 (2015) requires development to secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, light, privacy/overlooking and the relationship between buildings.

RES E20 of the Residential Design Guide permits balcony proposals providing they do not create an unacceptable level of overlooking on surrounding properties.

It was noted on my site visit that from the first floor patio doors where the proposed balcony will be sited and viewing in to No.71 Manor Road's rear garden area, the existing garage at the application site predominately acts as a screen for much of the views in to the nearest patio area at No.71; as such privacy/overlooking will be reduced in to the most private area of the rear garden. This is the area which should be protected from overlooking and loss privacy.

It was also noted that, No.67 Manor Road is set further back than the application site and as such there is no obvious view back in to the nearest patio area at No.67. The view from the proposed balcony to the closest patio area and conservatory at No.67 will be hindered due to the set back of the property. It was also noted that No.67 has a polycarbonate conservatory roof and as such overlooking will be reduced.

Casual overlooking is usually always present between houses, therefore whilst overlooking may occur in to both No.67 and No.71 top most part of the garden, this type of overlooking is present between most dwellings from first floor windows. Therefore, in this circumstance we look to protect overlooking in to the private most part of the garden which is the closest patio areas of No.67 and No.71 to the dwellings.

With regards to the objection stating that the trees and bushes become bare in winter between the application site and No.67, whilst this has been taken in to consideration it is deemed that the level of usage during the winter months will be very minimal and as such minimal loss of privacy concerns will arise.

On balance, whilst careful consideration has taken place, the proposal is considered to meets the requirements of Policy 8 of the Local Plan Part 2 (2015) and Residential Design Guide SPD Policies.

Design/Visual Amenity

Policy 11 of the LPP2 (2015) requires all new development to present a good standard of design and expects all new development to demonstrate an understanding of the wider context; and to make a positive contribution to the local area.

The proposed balcony will be completed with a glass balustrade with a stainless steel top rail to match the existing front balustrade and a composite decking infill flooring. This is considered to achieve a contemporary finish and will harmonise with the existing dwelling.

It is acknowledged that the proposed balcony and external staircase accords with Policy 11 of the LLP2 (2015) and therefore provides a positive addition to the host dwelling.

Emily Colebourne
25th October 2022



TOWN AND COUNTRY PLANNING DECISION NOTICE

TOWN AND COUNTRY PLANNING ACT
1990

THE APPLICATION

Applicant:	Agent:
Mr Phil Wright	T&S Design
Avalon	24 Poppyfield
69 Manor Road	Cottam
Darwen	Preston
BB3 2SN	PR4 0BF

Full Planning Application

FOR:
Proposed rear balcony with external staircase
AT:
Avalon
69 Manor Road
Darwen
BB3 2SN

APPLICATION REFERENCE NUMBER: **10/22/0885**

The application was received: **06/09/2022**

THE DECISION

Date of Decision: 25/10/2022

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. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Proposed Rear Balcony, Drawing Number 01 Revision A, Date Received 06/09/2022

REASON: For the avoidance of doubt and to clarify which plans are relevant to the 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 (LPA), in reaching this decision, has followed the guidance in paragraph 38 of the National Planning Policy Framework (2021). The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. This has been demonstrated by:

Providing advice to the applicant/agent during the course of the application on potential problems and possible solutions.

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.

For further information and advice please contact our Local Authority Building Control Section on 01254 778901

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 778901

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 former 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 new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required is 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 land stability and public safety risks. As a general precaution, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

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 requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

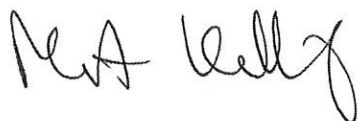
5. As part of this permission, you are required to ensure that no skips or building materials are placed on the adopted highway which will hinder or inhibit the refuse or recycling collection services. Any building materials that do not cause an obstruction to the collection services and permission is 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 Strategic Director of Growth & Development, Blackburn with Darwen Borough Council,
Town Hall, Blackburn. BB1 7DY

A handwritten signature in black ink, appearing to read 'Martin Kelly'. The signature is written in a cursive style with a large initial 'M' and 'K'.

Martin Kelly,
Strategic 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.

