

DEVELOPMENT CONTROL COMMITTEE

TUESDAY, 5TH MARCH 2019, 6.30 PM

COUNCIL CHAMBER, TOWN HALL, CHORLEY

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following report that was unavailable when the agenda was published.

Agenda No Item

**A 19/00083/FUL - PRIDE OF AGGI, 10 BABYLON LANE,
 ADLINGTON, CHORLEY**

(Pages 31 - 38)

GARY HALL
CHIEF EXECUTIVE

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APPLICATION REPORT – 19/00083/FUL**Validation Date: 12 February 2019****Ward: Adlington And Anderton****Type of Application: Full Planning****Proposal: Change of use from shop (Use Class A1) to drinking establishment (Use Class A4) for a 2 year temporary period****Location: Pride Of Aggi 10 Babylon Lane Adlington Chorley PR6 9NN****Case Officer: Mr Iain Crossland****Applicant: Mr Darren Tickle****Consultation expiry: 5 March 2019****Decision due by: 9 April 2019**

RECOMMENDATION

1. It is recommended that this application is refused for the following reasons:
 - i) The proposed outside drinking area would result in people congregating outside of an enclosed building that would result in noise and disturbance, which would be harmful to the amenity of neighbouring occupiers contrary to policy BNE1 of the Chorley Local Plan 2012 – 2026.
 - ii) Insufficient information has been provided to demonstrate that the proposed drinking establishment, as a result of internal noise generation, would not have an unacceptable adverse impact on the amenity of the neighbouring occupiers or that satisfactory mitigation measures could be put in place to reduce any detrimental impact to the occupiers of properties at nos. 8 and 10 Babylon Lane, contrary to policy BNE1 of the Chorley Local Plan 2012 - 2026.

SITE DESCRIPTION

2. The application site is located within the settlement area of Adlington and comprises a small former retail unit (sweetshop) that occupies a mid- terraced unit. It lies within the Local Centre, where there is a variety of commercial uses, although the application property is directly surrounded by residential dwellings, and is already in use as a drinking establishment, albeit without the benefit of planning permission.
3. It is noted that planning permission was sought for the change of use from a shop (Use Class A1) to a drinking establishment (Use Class A4) under application reference 18/00960/FUL, and that planning permission was refused in December 2018. Notwithstanding this however, the drinking establishment subsequently commenced operating in December 2018 without the benefit of planning permission. An appeal has not been lodged against the refusal of planning permission and the Council served an enforcement notice on 1st February 2019 that takes effect on 7th March 2019. No appeal against the enforcement notice has been received to date.

DESCRIPTION OF PROPOSED DEVELOPMENT

4. The application seeks planning permission to change of use of the former sweetshop (Class A1) to a drinking establishment (Class A4) for a temporary period of two years. The submitted plans indicate a smoking shelter to be located within the rear yard and a refurbishment of the internal layout. The applicant has stated on the application forms that the hours of operation are currently unknown, however, the premises are licensed to sell alcohol and to play recorded music until 23:30 hours on Sunday to Thursday and until 00:30 hours on Friday and Saturday and to play live music until 23:30 hours on Sunday to Thursday and until 00:00 hours on Friday and Saturday.

REPRESENTATIONS

5. No representations have been received.

CONSULTATIONS

6. **Adlington Town Council:** The Town Council objected to the previous application 18/00960/FUL for the following reasons and considers that these still apply to the current application, and that since then there has been evidence of the relevance of these objections:
 7. A drinking establishment located in a terraced house is likely to cause noise nuisance to the adjacent neighbours, particularly if live or recorded music is played. If an outdoor area is also planned this will cause a separate source of noise nuisance and could also create a privacy problem for close neighbours. The trading hours of the business will be much later than the shop which it replaces so any disturbance will go on into the evening. There is no parking in this location and the property is situated on a narrow road close to a busy corner. This means that vehicles dropping customers off could easily cause traffic problems and obstruction.
 8. The Town Council considers that this location is already well served by other licensed premises. If the Council is minded to approve the application, the Town Council requests that sound surveys are undertaken from both inside the building and outside.
 9. Since the drinking establishment opened (without planning permission) in December 2018 residents have reported noise problems, delivery lorries, taxis and other vehicles parking directly outside the building and either blocking the pavement or endangering other vehicles entering Babylon Lane from the junction, vomit on the pavement, smokers standing outside the front door and inconveniencing pedestrians, and anti-social behaviour at the front of the property (which necessitated police involvement in mid-February).
10. **Regulatory Services - Environmental Health:** Have concerns over the general suitability of the building for the proposed use and specifically that the level of noise attenuation provided by a standard party wall between the properties is unlikely to be sufficient to prevent disturbance to the occupiers of the domestic properties next door. In addition, there are concerns that people noise from the use of the rear yard area may also cause disturbance to local residents. It is considered that the likelihood of complaints from the occupiers of the adjoining properties to be high and have serious concerns that a substantial programme of noise insulation measures may be required to protect the amenity of the neighbouring properties, particularly the domestic properties at either side of the building.

PLANNING CONSIDERATIONS

Principle of the development

11. Paragraph 92 of The National Planning Policy Framework (The Framework) states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting

places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

12. Policy V2 of the Chorley Local Plan 2012 – 2026 states that within the settlement areas excluded from the Green Belt, and identified on the Policies Map, there is a presumption in favour of appropriate sustainable development, subject to material planning considerations.
13. The application site is located within the settlement area of Adlington, and is within the local centre of Adlington, as defined by policy EP7 of the Chorley Local Plan 2012 – 2026. This states that planning permission will be granted for Class A1, A2, A3 and A4 uses, which support the function of the local centre.
14. The principle of the proposal is, therefore, considered to be acceptable subject to other material planning considerations.

Impact on the amenity of neighbouring occupiers

15. Policy BNE1 of the Chorley Local Plan 2012-2026 states that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that the proposal would not cause an unacceptable degree of noise disturbance to surrounding land uses.
16. The application premises comprise a mid-terraced dwelling located directly between two residential properties. The proposed development involves the provision of a drinking establishment on the ground floor of the building. Toilets would be located in the existing kitchen area to the rear of the property and a new smoking shelter would be located directly adjacent to the rear door in the existing yard area.
17. Whilst no hours of operation have been provided, the business is likely to operate late into the night. The premises are licensed to sell alcohol and to play recorded music until 23:30 hours on Sunday to Thursday and until 00:30 hours on Friday and Saturday. It is, therefore, considered that there would be potential for the generation of noise disturbance, which would go above and beyond that typically associated with a retail unit. This would include conversation, laughter and other noise usually associated with a drinking establishment, whereby people meet to socialise and consume alcohol and intoxicating spirits.
18. The applicant has stated that the general clientele that they are seeking to attract are more mature customers who would behave with more respect to the surrounding residents, however, the clientele and their behaviour cannot be controlled through the planning process, and whilst the applicant might argue that their customers would generate lower levels of noise than would usually be the case for a drinking establishment, this cannot be guaranteed. Nor can the future use of the property, which could change ownership at anytime and continue as a drinking establishment.
19. Whilst the surrounding locality, due to the Local Centre designation, does contain a mix of uses including a public house, the application property is positioned between two residential dwellings. The nearby public house is located on the corner of Babylon Lane and Chorley Road in a detached building with a clear break between the pub and the nearest residential dwellings and is a historic situation.
20. The application site has previously accommodated a retail business; however, it is considered that the use of the application building as a drinking establishment with evening opening hours would be a more intensive use with greater potential for noise generation and disturbance, which would be exacerbated by general comings and goings at late evening hours and the potential for customers to congregate outside the premises.
21. The Council's Environmental Protection officer has raised significant concerns to the proposal due to the level of noise attenuation that would need to be provided given the party walls on both sides of the property are of residential standard, the likely operating hours and the potential for live music.

22. Additional concerns have been raised regarding the congregation of people in the yard and outdoor smoking shelter, which is likely to cause disturbance to neighbouring residents but in terms of noise and smoke. The issue of future occupiers, despite the current owner's intentions over how the property operates, were also raised as a concern.
23. No acoustic information has been provided and as such there is insufficient information relating to noise and noise mitigation at the site to ensure that the amenity of the occupiers of neighbouring properties is not detrimentally impacted upon by the proposed change of use.
24. Regardless of the lack of an acoustic report, it is considered that any internal mitigation measures would not result in the issue of the general comings and goings, or the congregation of customers on the pavement or in the yard, being resolved.
25. The current proposal has been submitted on the basis of a two year temporary period, and it is noted that no noise complaints have been received by the Council throughout the operation of the drinking establishment since December 2018. Whilst no complaints have been received it must be considered that the establishment is in its infancy and has not been in operation through the summer months when customers are more likely to spend time outdoors, at the front or rear of the unit. As set out above the operator could change at any time and the clientele could vary and increase depending on the success of the enterprise without control. It is not, therefore, considered that a two year temporary period would address the potential for unacceptable noise disturbance, which may be experienced by the neighbouring occupiers as issues could still arise within the two year period.

Highway safety

26. Policy ST4 of the Chorley Local Plan 2012-2026 requires that proposals for development will need to make parking provision in accordance with the standards set out in Appendix A of the Local Plan. Appendix A identifies the Council's minimum parking standards for drinking establishments outside Chorley Town Centre as being 1 space per 5sqm of public floor space. Policy ST4 does provide some flexibility in the parking standards and locations that are considered to be more sustainable and well served by public transport may be considered appropriate for lower levels of provision.
27. The site does not contain any parking provision and the application does not propose any. However, the site is located within, but on the edge of the Adlington local centre with good levels of public transport accessibility. The location is well served by public transport, cycle and walking facilities.
28. It is also noted that the application building was previously used as a retail unit that would already generate traffic in its own right. Consequently, any impact on highway safety in the local area would be similar to the previous situation and would not be unacceptable.

CONCLUSION

29. The proposed drinking establishment would have an unacceptable adverse impact on the amenity of the neighbouring occupiers of nos. 8 and 12 Babylon Lane as a result of internal and external noise sources. As such it is concluded that the proposed change of use would have a harmful impact on the amenity of neighbouring occupiers contrary to policy BNE1 of the Chorley Local Plan 2012-2026.

RELEVANT HISTORY OF THE SITE

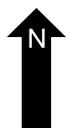
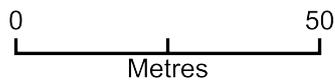
Ref: 18/00960/FUL **Decision:** REFFPP **Decision Date:** 13 December 2018
Description: Change of use from shop (Use Class A1) to drinking establishment (Use Class A4)

Ref: 84/00312/ADV **Decision:** PERFFP **Decision Date:** 11 June 1984
Description: Illuminated projecting sign village properties

RELEVANT POLICIES: In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

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