

## **APPLICATION REPORT – 19/00845/COU**

**Validation Date: 5 September 2019**

**Ward: Chorley North West**

**Type of Application: Change of Use Planning**

**Proposal: Change of use from shop (Use Class A1) to micropub (Use Class A4)**

**Location: Halls Bakery 93 Collingwood Road Chorley PR7 2QE**

**Case Officer: Mrs Hannah Roper**

**Applicant: Mr Asim Gulzar**

**Consultation expiry: 25 October 2019**

**Decision due by: 31 October 2019**

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### **RECOMMENDATION**

1. Refuse full planning permission

### **SITE DESCRIPTION**

2. The application relates to a small commercial unit on Collingwood Road, Chorley. This is listed on the application form as a bakery, however, on site it is clearly most recently being used as a sunbed shop. The property is the end unit in a small parade of four, single storey, shops facing onto Collingwood Road opposite the junction with Isleworth Drive.
3. The surrounding area is characterised by residential dwellings. Directly to the north of the site is number 1 Hardy Drive, which has been extended by means of a single storey side extension that abuts the common boundary. The rear boundary of this property forms the side boundary of the rear yard at the application site.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

4. The application seeks to change the use of the former shop from A1 to A4 for use as a drinking establishment. Whilst the current proposal is for a micro pub, the A4 use class covers all types of drinking establishments. The plans demonstrate a patio area to the front of the property with a 1.2m high balustrade and a ramp to the pavement level.
5. The application form indicates that the proposed A4 use would be in operation between the hours of 10am and 1am every day.

### **REPRESENTATIONS**

6. Seven letters of objection have been received raising the following issues:
  - Disturbance to the surrounding area, especially when people are under the influence of alcohol

- Parking will be difficult in the surrounding area
- Music will be antisocial in the early hours of the morning
- Children's bedrooms less than 12m away and overlook the rear of this property
- Unacceptable exposure to cigarette smoke and butts
- Litter, glass and food waste disposed of inappropriately pose a safety risk
- Ground floor bedroom in close proximity
- Health and hygiene issues due to drunk people
- The former pub to the rear was a magnet for violence and antisocial behaviour with the police regularly having to intervene
- The current use of the building has been incorrectly reported to the Council
- The opening hours are inappropriate in a residential area
- The footpath will be blocked

## **CONSULTATIONS**

7. CIL Officers – the proposal is a non-chargeable development
8. Lancashire Highway Services – no objection subject to details requiring how street furniture within the patio area will be dealt with and showing a storage area for empty kegs
9. Regulatory Services - Environmental Health – have raised concerns regarding the proposal

## **PLANNING CONSIDERATIONS**

### Principle of the development

10. 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:
  - a) 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;
11. 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.
12. The application site is located in the settlement area of Chorley, which is excluded from the Green Belt and identified on the Policies Map. The property is located within the defined local centre of Collingwood Road. This is a small centre consisting only of the four units within this purpose built block.
13. Policy EP7 seeks to states that planning permission will be granted for A1, A2, A3 and A4 uses, which support the function of the district and 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 development would not cause harm to any neighbouring property by virtue of overlooking, overshadowing or by creating overbearing impacts.
16. The application premises comprise the end unit in a parade of shops. The other three properties within this small, purpose-built block are in commercial use. However, the wider surrounding area is residential in nature with a residential property directly adjacent to the site to the north. This property has an extension directly adjacent to the common boundary between the two properties. This extension/garage conversion houses ground floor habitable rooms.
17. The side elevation of the application property is located less than 1.8m from the side elevation of the extension to this dwelling at its closest point and the patio area proposed to the front of the unit would be adjacent to the boundary. Similarly, the bin store is located directly adjacent to the rear boundary of the residential dwelling. No indication has been given with regard to the storage of empty barrels and kegs, however, it is assumed that this would also take place to the rear of the property.
18. The application forms indicate that permission is being sought for the operation of the proposed use until 12:30am every day with the premises currently seeking a license to sell alcohol and to play recorded music for similar hours. 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 of this type. This would be amplified through the use of the exterior patio area directly to the front of the building, which is both directly adjacent to a residential property and opposite a number of others. This would be especially acute during the summer months where surrounding dwellings may wish to have windows open.
19. Furthermore, this patio area is likely to act as a congregation point at both closing time and for those needing to leave the premises to smoke. A ground floor bedroom at number 1 Hardy Avenue is located less than 3m from the boundary and is likely to be particularly susceptible to the impacts of both noise and smoke. A recent appeal decision (ref: PP/D2320/W/19/3230707) dealt with a similar application for a micro pub in close proximity to residential dwellings. It was dismissed at appeal with the Inspector placing significant weight upon the impacts of smoke and noise on neighbouring dwellings, stating that "The noise and cigarette smoke associated with its use by a potentially large number of people over long hours would be detrimental to the living conditions of nearby residential occupiers, both within their homes and using their gardens."
20. The Inspector also considered the position of the refused application within a defined centre stating *"The Local Centre would be expected to be a vibrant and busy area. However, and irrespective of some late-night uses, activity would be likely to be greatest during daytime retail hours. At other times, including weekday evenings and Sundays, there would be a reduction in footfall and traffic in the surrounding area with a consequent reduction in background noise. The extended opening hours of the appeal scheme and the nature of the proposal would therefore result in an increase in noise and activity in and around the premises at otherwise quieter times when residential occupiers might reasonably expect to enjoy their homes free from significant noise and disturbance."*

21. The application currently being considered is located within a significantly smaller defined centre than the appeal property, with only four units forming the centre in its entirety. As such, the level of noise and footfall would be significantly smaller than that of the dismissed appeal site. This would result in a more pronounced difference in noise and activity between the day time and night time, should this application for a change of use to A4 use be approved, for the surrounding residents.
22. Furthermore, the history of the site includes two refusals of planning permission at the same property for a change of use to a hot food takeaway on the basis of the increased noise and disturbance to the surrounding residential dwellings. It is considered that the A4 use now proposed with external front patio area would also result in a significantly greater detrimental impact than these previously refused applications.
23. Having considered the relationship of the site with its residential neighbours, the recently dismissed appeal for a similar scheme and the previous refusals at the application site, it is considered that no alternative conclusion can be drawn other than that the proposal would result in significant detrimental impact by means of noise and disruption to the surrounding residential dwellings and refusal is recommended on this basis.

#### Highway safety

24. 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 within Chorley Town Centre as being 1 space per 6sqm 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.
25. Highways have been consulted on the application and have raised no objection in principle to the proposal as there is a public car park to the rear of the site and on street parking available in the vicinity. However, they have raised queries regarding how street furniture (phone box and public litter bin) would be dealt with as the submitted plans show them within the patio area. It is considered that these are issues that could be overcome and could be dealt with by condition should the application be approved.
26. It is also noted that the application building has permission as a retail unit that would generate traffic in its own right. In this sense, any impact on highway safety in the local area would be similar to the previous situation and would not be unacceptable.

#### **CONCLUSION**

27. The proposed A4 drinking establishment is likely to have an unacceptable adverse impact on the amenity of the neighbouring residential occupiers. This impact is likely to be most detrimental to the occupiers of number 1 Hardy Avenue, but also to those of properties in the wider surrounding area as the proposal would result in increased noise generation and general disruption over an extended period of time, due to increased comings and goings, external congregation on the proposed patio area and smoke generation in close proximity to habitable rooms. It is therefore concluded that the proposed change of use would have a harmful impact on the amenity of neighbouring occupiers contrary to policies EP9 and BNE1 of the Chorley Local Plan 2012-2026.

**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.

#### Reasons for Refusal

1. The proposed development would result in people congregating outside of an enclosed building that would result in noise, cigarette smoke and general disturbance, which would be harmful to the amenity of both direct neighbouring occupiers and those in the wider area, contrary to Policies EP9 and BNE1 of the Chorley Local Plan 2012 - 2026

#### **RELEVANT HISTORY OF THE SITE**

**Ref:** 02/00132/COU **Decision:** REFFPP **Decision Date:** 10 April 2002  
**Description:** Change of use from Retail to Hot Food Takeaway,

**Ref:** 95/00833/FUL **Decision:** PERFPP **Decision Date:** 24 January 1996  
**Description:** New shopfront,

**Ref:** 5/1/03313 **Decision:** PERFPP **Decision Date:** 7 May 1969  
**Description:** Shop development, Collingwood Road.

**Ref:** 90/00099/COU **Decision:** REFFPP **Decision Date:** 3 April 1990  
**Description:** Change of use from video hire to video hire plus pizza takeaway