

## **APPLICATION REPORT – 20/00653/FUL**

**Validation Date: 29 June 2020**

**Ward: Lostock**

**Type of Application: Full Planning**

**Proposal: Change of use from RBS Bank (Use Class A2) into a coffee shop/bar (Use Class A4) with the first floor being used as a function room only**

**Location: The Royal Bank Of Scotland 23 Town Road Croston Leyland PR26 9RA**

**Case Officer: Mrs Hannah Roper**

**Applicant: Mr Lee Mossop, Mossgreen Developments Ltd**

**Agent: Mr Jason Linnane, JLP Design (UK) Ltd**

**Consultation expiry: 27 July 2020**

**Decision due by: 8 October 2020 (Extension of time agreed)**

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### **RECOMMENDATION**

1. It is recommended that planning permission is refused for the following reasons:
  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
  2. 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 directly adjacent residential properties, contrary to Policies EP9 and BNE1 of the Chorley Local Plan 2012 - 2026.

### **SITE DESCRIPTION**

2. The application relates to a mid terraced property located on Town Road, Croston. The property has most recently been used as a bank and has a square, ground floor bay window. The neighbouring residential property has a set back garage adjoining the property that has living accommodation above.
3. The property is located within Croston Conservation Area and within Croston Local Centre. The surrounding area is predominantly residential in nature. Croston has a number of existing public houses and a number of dispersed commercial uses along Town Road

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

4. The application seeks planning permission to change the use of the former bank (Use Class A2) into a coffee shop/bar (Use Class A4) with the first floor being used as a function room only.

5. Whilst the current proposal is for a coffee shop/bar with function room above, the A4 use class covers all types of drinking establishments.

6. No external alterations are proposed.

## REPRESENTATIONS

7. Nine representations have been received citing the following grounds of objection:

- This is a busy road with restricted parking and there is already an issue with cars parking on pavements
- The building is in a bend with existing restricted views
- The bollards should remain to provide protection
- The proposal would make an existing poor situation worse Impacting on businesses on businesses and homes
- There is already noise and antisocial behaviour on most nights and in particular on weekends
- Taxis use their horns after closing to make their presence known
- There are cafes and function rooms already available on Croston, mostly with parking
- Noise from inside and outside the building would disturb neighbours
- The upstairs function room would be used as additional seating should the downstairs be busy
- There is nowhere proposed for smokers to go
- The proposal is adjacent to a child's bedroom
- What is defined as 'a function'? How will this be policed?
- There would be a general nuisance as people congregate, particularly by the adjacent garage doors
- There is limited access to the property for any form of commercial waste
- There is already an oversaturation if this type of use within Croston
- The smell of smoke would be a nuisance
- There would be problems relating to litter
- Will devalue properties and create issues with their sale in the future
- Lack of privacy from the function rooms to bedrooms in the opposite side of Town Road
- The first floor function room is directly adjacent to a neighbouring habitable room and no amount of sound proofing will detract from constant disruption.

8. The applicant has put forward the following arguments in support of the application. These are set out below:

- The proposed change of use is in line with national and local policy on the healthy functioning of local centres and an A4 use, unlike the currently vacant premises, would support the functioning of the local centre, as provided for by Local Plan Policy EP7.
- Town Road is located within an existing local centre. No external alterations are proposed and it is submitted that the proposed change of use would not give rise to any material increase in the potential for overlooking or overshadowing of neighbours when compared with the previous use of the premises as a bank with first floor office storage and would create no overbearing impacts. In consequence, the scheme would satisfy the stated requirements of Local Plan Policy BNE 1.
- To address any possible concern about potential noise generation or disturbance arising from the proposed use and affecting residential environments, the current submission includes provision for internal insulation to all party walls.
- The use of the first-floor function room would be restricted to use for pre-booked events only. Both these measures are designed to mitigate any risk of undue noise and disturbance for neighbours being caused by internally generated noise.
- The rear yard would be used, as before, for bin storage and service access, so any risk of increased disturbance being caused by activities there is deemed minimal. Servicing would

generally occur during the normal working day and therefore be unlikely to cause any material increase in ambient noise levels.

- The location of the property at a 'pinch point' and bend in the highway, with passing traffic in close proximity, and bearing in mind also the width of the footway outside the premises, it is submitted that customers of No. 23 Town Road would be most unlikely to attempt to congregate or linger outside. Indeed, anyone wishing to eat or drink in the open air would be far more likely to frequent the large 'beer garden' at The Wheatsheaf, just a short distance away.

- The premises are relatively modest (limited seating/covers to the ground floor and a function room for pre-booked events only on the first floor) and that the proposed hours of use are between 9am and 10pm only on Sundays through Thursdays, with an additional evening hour, taking opening to 11pm, on Fridays and Saturdays only. With a restaurant opposite that operates over similar hours, has a significantly greater capacity, and provides a takeaway facility; and with the Wheatsheaf and Lord Nelson public houses nearby, which both have restaurant facilities and open into the late evening seven days a week, the proposed use of 23 Town Road as a coffee shop/bar would be unlikely to generate significant additional or unacceptable evening activity in the vicinity.

- As no external alterations are proposed, the current proposals raise no issues concerning the character or appearance of the designated conservation area or the setting of any listed building, whilst the nature of the proposed use would be in keeping with its location within the defined local centre of this historic village.

- No altered or additional pedestrian or vehicular access is proposed.

## **CONSULTATIONS**

9. Environment Agency – Have no objection

10. Regulatory Services - Environmental Health – Have no objection in principle but have concerns relating to noise disturbance, cigarette smoke and the lack of an Acoustic Survey.

11. Croston Parish Council – Object to the proposal on the grounds that the Officer's Report (Delegated Report) for the previous application (19/01119/FUL) raised a number of issues related to the impact on neighbouring properties of noise disturbance and smoking outside the premises and reason no 1 for the refusal of the previous application was given as "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" and that these issues have not been dealt with.

12. CIL Officers – Comment that the proposal is not CIL liable.

13. Lancashire County Council Highways – Have no objection in principle to the proposal but have requested additional information on bin storage and servicing.

## **PLANNING CONSIDERATIONS**

### Principle of the development

14. 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;

15. 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.

16. The application site is located in the settlement area of Croston which is excluded from the Green Belt and identified on the Policies Map. The property is located within the defined local centre of Croston, however this is a small centre surrounded by dense residential dwellings.

17. Policy EP7 of the Chorley Local Plan 2012 – 2026 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.

18. The principle of the proposal is, therefore, considered to be acceptable subject to other material planning considerations.

#### Impact on the amenity of neighbouring occupiers

19. 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.

20. The application premises comprise a mid-terraced dwelling located directly between a residential dwelling to one side and a hairdressers, with residential flat above to the other. The proposed development involves the provision of a coffee shop/bar drinking establishment with a function room on the first floor. No exterior alterations would be made to the property.

21. Hours of opening for the proposed use vary throughout the week with operational hours of up to 9pm and 10pm during the week and Sundays. The latest hours proposed are on a Saturday where the premises would operate between 9am and 11pm. 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 or the former bank unit that would have predominantly operated during the day-time or early evening. This noise would include conversation, laughter and other noise usually associated with a A4 drinking establishment of this type.

22. Whilst the previously refused application sought planning permission for a generic class A4 use, the current proposal specifies an class A4 use but with a function room on the first floor. No evidence of how this would be operated or controlled has been submitted. Whilst the Planning Statement states that the function room would be pre-booked, in reality it is considered that there would be no means of conditioning that this room is used only for functions or for certain hours, or certain numbers of functions given that it is used in association with the coffee shop/bar for which an overall class A4 use is sought. Regardless of this, functions at which alcohol is required are likely to taken place into the evenings and weekends when they are likely to result in the most disturbance. Furthermore, the pre-booking of a function would not result in any less noise generation. It is also considered likely that when there are no functions taking place that it is likely that this will form overspill seating for the downstairs area.

23. A drinking establishment with evening opening hours would be a more intensive use than the former bank, with greater potential for noise generation and disturbance. This would be exacerbated by general comings and goings at late evening hours and the potential for customers to congregate outside the premises.

24. Limiting the use of the upstairs to a function room, if this could be achieved, would exacerbate this situation further as it would result in large numbers of customers, known to each other, leaving the premises simultaneously. This would have an impact on residents in the wider area which consists of dense terraced properties. Whilst it is acknowledged that there are other drinking establishments within Croston these do not form part of a row of terraced properties adjacent to residential dwellings. It is, therefore, considered that the proposed use of the first

floor as a function room would not result in any less impact on the surrounding residents than the previously refused scheme.

25. Residential properties are located directly adjacent to the application property with an adjoining bedroom wall at first floor. The large doors and balcony previously proposed have now been omitted from the scheme, however it is likely that windows adjacent to the neighbouring property would be opened especially during the summer months and during functions. The impact of noise disturbance as a result of this would be especially acute during the summer months where surrounding residential dwellings may wish to have windows open.

26. The previously refused scheme, application ref: 19/01119/FUL was refused on a number of grounds including that '*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 directly adjacent residential properties, contrary to Policies EP9 and BNE1 of the Chorley Local Plan 2012 - 2026.*'

27. In support of this application, the applicant has submitted details of specific sound boarding, however this has not been accompanied by any form of Acoustic Assessment that identifies the potential sources of noise, makes a realistic assessment as to the level of sound proofing required or demonstrates the proposals put forward would adequately mitigate any noise disturbance. Environmental Protection have been consulted on the proposal and given the importance of this issue, they do not consider that the level of information submitted is adequate to alleviate any concerns relating to noise disturbance.

28. Furthermore, Environmental Protection have again raised concerns as the area adjacent to the properties frontage, especially adjacent to the neighbouring garage doors, is likely to result in congregation for those needing to leave the premises to smoke. The neighbouring properties have habitable room windows in close proximity to these congregation points and, therefore, likely to be particularly susceptible to the impacts of both noise and smoke.

29. 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."

30. 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.*"

31. The application currently being considered is located within a significantly smaller defined centre than the appeal property, with a small number of commercial uses surrounded by residential dwellings in close proximity. As such, the level of noise and footfall is significantly smaller than at the site where the appeal was dismissed. This would result in a more pronounced difference in noise and activity between the daytime and night time for the surrounding residents should this application be approved. This issue formed a reason for refusal in respect of the previous application (ref:19/01119/FUL) and there has been no additional information put forward to address this issue or to alleviate these concerns. The proposal also, therefore, remains unacceptable on these grounds.

32. No indication has been given with regard to the storage of empty barrels and kegs or rubbish at the site, however it is assumed that this would also take place to the rear of the property with

access gained to the side of the building This would result in a further disturbance and disruption to the neighbouring residential dwellings as the yards to these properties are small and in close proximity to habitable room windows. Details of bin storage and servicing were requested from Lancashire Highways on the 27 July 2020, however these have not been submitted.

33. Issues in relation to privacy with the properties on the opposite side of Town Road have been raised. The previous application proposed the use of the flat roof as a balcony/congregation space. This has been omitted from the current proposal and as such the relationship between the two properties would not be altered.

#### Design and impact on the dwelling, street scene and the setting of the Croston conservation area

34. Paragraph 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the PLBCA) are relevant to the '*Special considerations affecting planning functions*'.

Section 66 states:

*(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

*(2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provision of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.*

Section 16 of the National Planning Policy Framework (the Framework) refers to conserving and enhancing the historic environment. The following paragraphs contained therein are considered to be pertinent in this case:

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

192. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and

the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

195. Where a proposed development will lead to substantial harm to (or total loss of significance

of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

200. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

The Central Lancashire Core Strategy (2012) (the Core Strategy), policy 16 refers to Heritage Assets. This policy mirrors that given in the Framework and states that it seeks to:

*'Protect and seek opportunities to enhance the historic environment, heritage assets and their setting by:*

- a. Safeguarding heritage assets from inappropriate development that would cause harm to their significances.'*

The Chorley Local Plan 2012 – 2026, policy BNE8 refers to the Protection and Enhancement of Heritage Assets. Essentially this policy mirrors the Framework. Paragraph b, states that,

*'Applications will be granted where they sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of the heritage asset itself and the surrounding historic environment and where they show consideration for the following: iii, The Conservation and, where appropriate, the enhancement of the setting of heritage assets.'*

35. The site is located within the Croston Conservation Area, a designated heritage asset. This end of Town Road is predominantly characterised by traditional terraced dwellings created of red brick with uniform windows and stone plinths. In contrast to the previously refused scheme, the current proposal does not include any plans to alter the appearance or façade of the building and as such it is concluded that the proposal would not result in any detrimental impact on the appearance of the property, surrounding streetscape and the conservation Area. It is, therefore, considered that the proposal accords with policy.

## Highway safety

36. 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.

37. The site does not contain any parking provision and the application does not propose any. However, the site is located within Croston Centre. The application building was previously used as a bank that would already 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**

38. The proposed drinking establishment is likely to have an unacceptable adverse impact on the amenity of both neighbouring residents and those in the wider area by virtue of general noise and disturbance and smoking in close proximity to habitable spaces. The proposal for a first floor function room would not result any less concerns regarding noise and disturbance than the previously refused scheme for a class A4 use at the site and once again it is considered that insufficient evidence has been put forward to alleviate these concerns or address the reasons for refusal on the previously refused scheme

**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.

## **RELEVANT HISTORY OF THE SITE**

**Ref:** 18/00906/FUL      **Decision:** PERFPP      **Decision Date:** 23 November 2018  
**Description:** Removal of existing banking related fittings and ATM. New glazing panel to be installed following ATM removal.

**Ref:** 16/00125/ADV      **Decision:** PERADV      **Decision Date:** 8 April 2016  
**Description:** One non-illuminated fascia sign, one non-illuminated hanging sign, one non-illuminated sign adjacent to door and one non-illuminated sign to cash machine.

**Ref:** 12/00289/ADV      **Decision:** PERADV      **Decision Date:** 8 May 2012  
**Description:** Removal of existing signage and installation of replacement, converting the current Royal Bank of Scotland to Santander

**Ref:** 06/00274/ADV      **Decision:** PERADV      **Decision Date:** 19 April 2006  
**Description:** Advertisement consent for one non-illuminated fascia sign and one non-illuminated projecting sign

**Ref:** 05/01140/ADV      **Decision:** REFADV      **Decision Date:** 18 January 2006  
**Description:** Retrospective application for the erection of an internally illuminated fascia sign and projecting sign and non-illuminated welcome/security sign

**Ref:** 04/00429/FUL      **Decision:** REFFPP      **Decision Date:** 28 May 2004  
**Description:** Formation of access ramp with barrier rail and installation of light above entrance



**Ref:** 02/00860/FUL      **Decision:** PERFPP      **Decision Date:** 18 October 2002  
**Description:** Installation of Automatic Teller Machine

**Ref:** 92/00816/FUL      **Decision:** PERFPP      **Decision Date:** 10 December 1992  
**Description:** Two storey rear extension

**Ref:** 91/00036/FUL      **Decision:** PERFPP      **Decision Date:** 12 March 1991  
**Description:** Use of first floor for office storage

**Ref:** 85/00616/ADV      **Decision:** WDN      **Decision Date:** 28 October 1985  
**Description:** Display of internally illuminated replacement fascia signs

**Ref:** 77/00027/FUL      **Decision:** PERFPP      **Decision Date:** 29 March 1977  
**Description:** Change of use of part of ground floor from residential to banking and first floor to flat