

APPLICATION REPORT – 21/00688/FUL

Validation Date: 29 May 2021

Ward: Chorley North East

Type of Application: Full Planning

Proposal: Section 73 application to vary condition no. 4 (hours of operation) attached to planning permission 19/01030/FUL (Change of use from holistic spa to holistic spa and cafe) to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.

Location: Whins Green Kitchen Whins Lane Wheelton Chorley PR6 8HN

Case Officer: Mr Iain Crossland

Applicant: Lesley Barrow

Agent: Mr Doug Purnell, DP Architectural Services Ltd

Consultation expiry: 29 June 2021

Decision due by: 24 July 2021

RECOMMENDATION

1. It is recommended that planning permission is granted subject to conditions

SITE DESCRIPTION

2. The application site is located in the Green Belt, on Whins Lane, Wheelton. The site consists of a contemporary low level detached building with flat roof that is in use as a holistic spa and café. There is an associated car park, with vehicular access from Whins Lane, between the building and the highway. There is a converted barn to the south west of the application building that is in the ownership of the applicant, and beyond which are three further dwellings. Other dwellings are located some distance further from the site.
3. The wider site slopes down away from Whins Lane culminating in an attractive outlook over the valley containing the River Lostock and Leeds Liverpool Canal to the west. As such the building elevation is lower on the eastern side than the west, where it has been designed to overlook the valley in response to the change in levels. The character of the area is largely open agricultural land punctuated by dwellings and buildings of agrarian origins. The lies between and within walking distance of the settlements of Wheelton and Higher Wheelton.

DESCRIPTION OF PROPOSED DEVELOPMENT

4. This application seeks consent to vary condition no. 4 (hours of operation) attached to planning permission 19/01030/FUL, which was for the change of use from a holistic spa to a holistic spa and café, to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.

REPRESENTATIONS

5. One representation has been received citing the following grounds of objection:

- Increased disturbance from the existing use of the premises, but opens up the potential for further intensification by allowing scope for evening-type uses including weddings, parties, live performances, outdoor cooking/BBQs etc. In either case the extended hours will inevitably lead to additional noise impact during the quieter evening hours.
 - The application has not been accompanied by any form of acoustic assessment to determine the impact of additional noise during the late evening period. On this basis, no objective determination of the application can be made that the use will not lead to unacceptable noise and disturbance on nearby receptors.
6. Cllr Margaret France has requested that the application be determined by the Planning Committee on the basis that residents have concerns about the late hours of operation attracting more traffic and vehicle noise to what is a very quiet rural cul-de-sac. The initial business as a holistic spa in the daytime didn't cause any concerns, but late opening of the cafe until 11pm on Fridays and Saturdays would probably mean staff leaving later still. The ongoing concern is that the next application might well be for a licence to sell alcohol on the premises, again bringing the prospect of more disturbance to a quiet rural backwater.

CONSULTATIONS

7. Wheelton Parish Council: Have raised concerns about the extra hours, increased traffic, and disruption to neighbours that this change in conditions could bring.
8. Regulatory Services - Environmental Health: Have no objection.

PLANNING CONSIDERATIONS

9. The application building replaced an existing workshop and store, and was granted planning permission under references 18/00357/FUL and 18/01017/FUL, originally to be solely used as a health spa. In December 2019 planning permission was granted to accommodate a café alongside the spa facility under reference 19/01030/FUL, whilst further consent was granted for the use of a void space beneath the building in February 2021 (ref. 20/01337/FUL). The planning history alone demonstrates that the business has diversified and expanded over a fairly short period of time.
10. The success of the business and its diversification to include a café has led to an increased intensity in the use of the site and now the applicant is seeking to manage this increased trade through the current application to extend the opening hours on Fridays and Saturdays later into the evenings on those days.
11. Planning permission 19/01030/FUL, which allowed for the inclusion of a café within the site included a condition that set the hours of operation to between 09:00am and 19:00pm Mondays to Saturdays and 09:00am to 16:00pm on Sundays to safeguard the amenities of local residents. The applicant now seeks to extend this to allow for later opening hours up to 23:00 hours on Fridays and Saturdays.
12. It is noted that the use of the application site includes the use of the outdoor areas, and that tables and chairs are set out for customers to use on a terrace area to the north east of the building. The use of this outdoor area has the greatest potential for noise generation from customers of the café. Other potential noise sources are from customers leaving and entering the premises and from vehicle movements in the car park. This already occurs up to 7pm in the evenings and into the weekends at present.
13. The nearest noise sensitive receptor is at Whins Farm to the south west of the site, beyond the dwelling at Whins Barn. This dwelling is shielded from the site to some extent by the neighbouring Whins Barn, although the garden area to Whins Farm is rather more open towards the application site at the rear. The open terrace area where outdoor dining takes place is, however, situated on the opposite side of the application building from Whins Farm and is over 30m away. Given the degree of separation and screening provided by the application building this prevents any adverse privacy impacts, and is also an effective

screen from the limited noise that is generated by customers dining on the terrace. The car parking area is well screened from Whins Farm by Whins Barn, which provides good protection against disturbance from vehicles accessing this area.

14. It is noted that there are concerns regarding noise disturbance from the later operation of the business, and that the requirement for a noise assessment has been suggested. The application has been considered by the Council's environmental health officer, who confirms that there have been no noise complaints or enquiries relating to this premises from the current use. The extended hours requested for the operation of the site would not extend into the night-time. The nature of the activity means that the noise levels or any potential perceived disturbance is likely to be very dependent on the clientele on any given day, therefore, noise assessments are of limited value where the noise varies in intensity and duration in any event.
15. Noise assessments are usually only requested where there is a steady volume/source of noise (such as night-clubs where the predominant activity is the playing of music) and noise insulation measures are likely to be required to prevent structural transmission of noise to residential premises. Furthermore, it is noted that the licensing and statutory nuisance regimes are available if disturbance is reported and the investigation determines the need for control measures.
16. Given the lack of any evidence that the present use has resulted in harm to residential amenity from an environmental nuisance perspective, the distance of the outdoor terrace area from the nearest dwellings and the screening provided by the application building and Whins Barn it is not considered that there would be any adverse impact from noise disturbance through the operation of the site into the evenings on Fridays and Saturdays for the authorised uses.
17. It is clear, however, that the nature of the business and use of the premises is evolving and leaning more towards to the café and restaurant uses that are enabled at present. As such it is considered that any consent to increase the operating hours of the premises should also be accompanied by a condition preventing the playing of music, given the absence of any noise assessment or associated details, and the potential that this might have for neighbour disturbance should this occur. It is recommended that this be controlled by condition.
18. On the basis of the above assessment it is considered that the proposed variation of condition no.4 of planning permission 19/01030/FUL to enable extended hours of operation would have no unacceptable impact on residential amenity and complies with policies EP3 and BNE1 of the Chorley Local Plan 2012 - 2026.

CONCLUSION

19. It is recommended that the application is approved and condition no.4 is varied for the reasons set out above.

RELEVANT HISTORY OF THE SITE

Ref: 17/00743/FUL **Decision:** PERFPP **Decision Date:** 16 November 2017
Description: Erection of a building for use as a holistic spa following demolition of existing workshop and store, conversion of live/work unit to a dwelling, and associated landscaping and access works

Ref: 18/00357/FUL **Decision:** PERFPP **Decision Date:** 13 June 2018
Description: Erection of a building for use as a holistic spa following demolition of existing workshop and store, conversion of live/work unit to a dwelling, and associated landscaping and access works (re-submission of previously approved planning application 17/00743/FUL)

Ref: 18/01017/FUL **Decision:** PERFPP **Decision Date:** 17 December 2018
Description: Erection of single storey side extension to existing holistic spa

Ref: 19/01030/FUL **Decision:** PERFPP **Decision Date:** 19 December 2019
Description: Change of use from holistic spa to holistic spa and café.

Ref: 20/01337/FUL **Decision:** PERFPP **Decision Date:** 4 February 2021
Description: Conversion of subterranean void space beneath the existing building and associated construction works to provide cafe/ day spa facilities (retrospective)

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.

Suggested conditions

No.	Condition												
1.	<p>The Development shall only be carried out in accordance with the approved plans, except as may otherwise be specifically required by any other condition of this permission.</p> <p><i>Reason: To define the permission and in the interests of the proper development of the site.</i></p>												
2.	<p>The proposed development must be begun not later than three years from the date of this permission.</p> <p><i>Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004</i></p>												
3.	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Drawing Reference</th> <th>Received date</th> </tr> </thead> <tbody> <tr> <td>Location plan</td> <td>2019-35-L01</td> <td>29 October 2019</td> </tr> <tr> <td>Proposed site plan</td> <td>2019-35-P02</td> <td>29 October 2019</td> </tr> <tr> <td>Proposed floor plans</td> <td>2019-35-P01</td> <td>29 October 2019</td> </tr> </tbody> </table> <p><i>Reason: For the avoidance of doubt and in the interests of proper planning.</i></p>	Title	Drawing Reference	Received date	Location plan	2019-35-L01	29 October 2019	Proposed site plan	2019-35-P02	29 October 2019	Proposed floor plans	2019-35-P01	29 October 2019
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4.	<p>The holistic spa and café business hereby permitted shall only operate between the hours of 09:00 and 19:00 hours Monday to Thursday, 09:00 and 23:00 hours Friday and Saturday and 09:00 and 16:00 hours on Sundays.</p> <p><i>Reasons: To safeguard the amenities of local residents.</i></p>												
5.	<p>No music of any type shall be played or reproduced in the building or on the site hereby permitted.</p> <p><i>Reason: In the interests of the amenity of the area and nearby residential properties.</i></p>												