

<b>Item 3a</b>	<b>14/00741/FUL</b>
<b>Case Officer</b>	<b>Helen Lowe</b>
<b>Ward</b>	<b>Wheelton and Withnell</b>
<b>Proposal</b>	<b>Single storey extension to rear of existing cafe and extension of opening hours to : Monday, Tuesday, Wednesday, Friday &amp; Sunday: 10.00 - 17:00 and Thursday &amp; Saturday: 10:00 - 2200</b>
<b>Location</b>	<b>The Cottage Tea Rooms, 25A School Lane, Brinscall</b>
<b>Applicant</b>	<b>Mr Robin Bamford</b>
<b>Consultation expiry:</b>	<b>11<sup>th</sup> September 2014</b>
<b>Decision due by:</b>	<b>27 August 2014</b>
<b>Recommendation</b>	<b>Refuse</b>
<b>Executive Summary</b>	<b>The proposed extension and increase in opening hours would have an unacceptable impact on the amenities of neighbouring residents. The proposal would also lead to an increase in on street parking and would be harmful to highway safety. The proposal is accordingly recommended for refusal.</b>
<b>Update</b>	<b>Members will recall that this application was reported at the previous Development Control Committee meeting on the 28<sup>th</sup> of October. The application was deferred for a site visit, to take place on the 12<sup>th</sup> of November. An additional analysis of the representations received has been added to the original report, which is contained in the section on representations below.</b>

## Representations

<p><b>Cllr Margaret France</b> has objected to the proposals, stating the following reasons:</p> <ul style="list-style-type: none"> <li>• The extension would have significant impact upon the adjoining properties;</li> <li>• There would be more noise nuisance and loss of light;</li> <li>• There is no provision for parking of vehicles;</li> <li>• Extending the opening hours until 10pm would bring more cars to a road which already has insufficient parking spaces;</li> <li>• Where is the smoking area to be sited?</li> </ul>	
<p><b>Withnell Parish Council</b> have stated they support the application as it is in line with aspects Parish Plan. The application will encourage tourism, provide employment and offer meeting facilities available in a similar environment within the community</p>	
<p><b>In total 60 representations have been received which are summarised below</b></p>	
<p><b>Objection</b></p>	<p><b>Support</b></p>
<p>Total No. received: 4</p>	<p>Total No. received: 56</p>
<ul style="list-style-type: none"> <li>• Parking on the Oak Tree car park cannot be taken into account as development for dwellings in the car park has been passed;</li> <li>• The café already cause parking problems in the area (double yellow lines have been introduced);</li> <li>• No smoking area has been provided;</li> <li>• Cars and vans park in the double yellow lines for takeaway;</li> <li>• There would be increased noise and activity while their children are trying to sleep;</li> <li>• The swimming pool does not want non-patrons parking there;</li> <li>• The noise report assumes doors and windows are closed. The rear stable door is often open as is the kitchen window. Also, the BS standards used to draw up the report aren't suited to this type of development in a residential area</li> <li>• It will overshadow and reduce sunlight and daylight</li> <li>• The increase in operating hours will be very invasive in terms of noise nuisance and disturbance;</li> <li>• Parking is currently at a premium in the village with no scope for increased capacity;</li> <li>• It is inappropriate to the nature and amenity of a predominantly residential neighbourhood;</li> <li>• It is reasonable to assume the window in the gable wall has</li> </ul>	<ul style="list-style-type: none"> <li>• Would bring the community together more;</li> <li>• The café is currently not big enough;</li> <li>• Would provide more jobs;</li> <li>• Generates trade for the village;</li> <li>• Would help ease congestion;</li> <li>• Is a much needed facility as neither pub serves food;</li> <li>• The main transport method would be walking;</li> <li>• Local clubs would be able to meet there on an evening;</li> <li>• If it was a private property the extension would not need the approval of the planning committee;</li> <li>• The scale, design and appearance of the proposal is appropriate;</li> <li>• Loss of light would be minimal and only affect one window;</li> <li>• Loss of privacy, noise and disturbance would be minimal;</li> <li>• There is a lack of refreshment facilities in the area;</li> <li>• It is an asset to the village;</li> <li>• Visitors are always considerate;</li> <li>• Parking problems in the village are not sue to the tea room but residents on School Lane increasing number so cars per household;</li> <li>• Would encourage more people to shop locally and use other facilities in the village.</li> </ul>

<p>existed since at least 1800;</p> <ul style="list-style-type: none"> <li>• The daylight and sunlight report does find that there will be a reduction in available sunlight and daylight;</li> <li>• The increased opening hours would reduce the quality of life for locals and have a detrimental disturbance to the peaceful nature of the village.</li> </ul>	
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Since the application was reported at the last committee, an analysis of the location of representations has been made.

Of the 56 letters of support that have been received - 12 are from residents of Brinscall, 8 are from residents of Withnell, and 15 are from addresses outside of the Borough of Chorley. These are from 51 individual households.

The four letters of objection have been received from occupants of School Lane, in close proximity to the application site.

A further three supporting representations have also been received from the owner and two proprietors of the café, which are not included in the 56 reported above.

### **Consultees**

<b>Consultee</b>	<b>Summary of Comments received</b>
Lancashire County Council Highways	The proposal makes no provision for car parking, although at least 3 no spaces are required. Given that School Lane has 'No Waiting at Anytime' restriction on one side for almost its entirety, it is essential that the required parking is provided for the proposal to be acceptable. The car park at the swimming pool may be Chorley Council owned but does not appear to have been provided for use by shoppers and the general public. Unlike take-away shops where customers buy meals and leave the premises within a reasonable time frame, tea rooms attract 'long stay' customers. Unless the applicant provides parking, Highways would wish to object to the proposal.
Chorley Council Environmental Health Officer	There is no record of any current or historical statutory nuisance complaints relating to the premises in terms of noise or odour. The exit to the rear of the building will be a fire escape which should not be used by customers for access or egress to the premises on a day to day basis. As such the door should remain closed and not used for either ventilation or as an additional entrance/exit and a condition stating such should be considered. It is not anticipated that the proposed extension would result in noise issues at the nearest residential properties and raise no objections to the proposals.

## **Assessment**

### Background

1. The application property is a modestly sized single storey property, located on School Lane within the settlement boundary of Brinscall. It is located within the School Lane Local Centre as defined in the emerging Local Plan (policy EP7). The surrounding area is predominantly residential in character, the properties immediately adjacent to the application property – nos. 27 and 25B School Lane are both residential. Other shops located within the Rural Local Service Centre are located on the opposite side of School Lane, to the north west of the application property.
2. Planning permission was granted in 2006 to change the use of the property from a hairdressing salon to a café (reference 06/01017/FUL). Planning conditions were attached to that consent restricting the opening hours from 10:00 to 16:00 on Saturdays and Sundays; that the door approved in the rear elevation must remain closed and that no outdoor seating area should be created at the rear of the building. In 2008 an application was submitted to vary the opening hours (ref. 08/00275/FUL). The hours requested by the applicant were not agreed and a new condition imposed which restricted the opening hours to: Monday – Friday 10:00am-16:00pm; Saturday 10:00am – 18:00pm and Sunday 10:00-16:00pm.
3. The applicant then appealed against this condition, and two further conditions which seek to keep the rear door closed during opening hours and prevent the use of the rear yard area. The appeal was dismissed.

### The proposal

4. The current application proposes the erection of a single storey rear extension. The proposed extension would project a maximum of 5.8m from the rear elevation of the application property. It would have a maximum width of 4.6m, although this varies along the depth of the extension, narrowing in width when adjacent to the window in the facing elevation of the neighbouring property. The maximum height of the proposed extension, to the ridge would be 3.7m. The eaves height would be 2.4m
5. It is also proposed to change the opening hours to:
  - Monday, Tuesday, Wednesday, Friday & Sunday: 10.00 - 17:00;
  - Thursday & Saturday: 10:00 – 22:00.

### Applicant's case:

6. The applicant has provided a supporting statement, daylight and sunlight report and noise assessment in support of the application. They make the following comments:
  - To preserve the rural nature and the area, and enhance local employment, meaning less commuting, the village needs local facilities and the Cottage Tea Room serves as a meeting place and a focal point for the community attracting walkers, cyclists runners, day trippers and local residents, some of whom are elderly and come in almost daily.
  - The facility provides part-time employment for eight people which is much needed in rural economies and is encouraged in Policy 13 of the Core Strategy.
  - Currently the very limited size of the building causes problems. Due to of the lack of space, there are regular queues for tables and, at very busy periods, customers have to be turned away, which is not good for business, especially as the proprietors promote the Tea Room as a community facility open to all.
  - The retention of the amenities of the adjacent properties has been one of the main considerations in the design of the extension which incorporates a glazed roof with a light well adjacent to the adjoining neighbours existing boundary window and proposes windowless side walls to cut out flanking sound transmission.
  - It is not envisaged that the proposals would cause much increase to the amount of cars visiting the village as the majority of visitors are locals, dog walkers, cyclists etc. However, an arrangement has been made and visitors would be asked to park at the public car park at Lodge Bank or we have been given permission to use the large car park to the rear of the Oak Tree Inn on School Lane.

- The Daylight and Sunlight report concludes that the proposals have suitable regard to the BRE advice and the proposed design provides for reasonable access to light for this window. The neighbouring window in question is positioned on the site boundary and would therefore be regarded as having an unreasonable dependency over the neighbouring land regarding its access to light. The guidance is clear that the standard BRE Guidelines and parameters should be relaxed in this case.
- The noise assessment concludes that with the windows and doors of the proposed extension closed that the noise impact should not bar the grant of planning consent for the development. However, it also exercises caution that the British Standard used in their assessment (BS4142) is properly intended to be used as a 'Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas'. This is not an industrial noise source and not a mixed residential and industrial.

### Neighbour Amenity

#### *The extension*

7. The application property is bounded on both sides by residential properties, to the west by no. 27 School lane and to the east by no. 25b School Lane.
8. Policy BNE1 of the emerging Local Plan states that new development should not cause harm to neighbouring property by virtue of overlooking, overshadowing or overbearing impact. Although the extension proposed is not to a residential property, the neighbouring properties are, therefore it is also considered appropriate to also have regard to the Council's Householder Design Guidance and policy HS5 of the emerging Local Plan.
9. The rear elevation of no. 27 extends beyond the rear elevation of the application property and as such no. 27 has a side elevation adjacent to the rear yard of the application property. This forms the site boundary. There is a window in this elevation, serving a lounge room. At the appeal the Inspector found that this window had been in place for some time, and would be expected to remain, and therefore its existence was a material consideration. The proposed extension would be 1.5m from this window, and once past the window the proposed extension would increase in width by 0.9m. The eaves height of the extension opposite this window would be 2.4m and the ridge height would be 3.7m. It is understood that this is the only window to serve the room.
10. The neighbour at no. 27 has also provided plans with their comments on the application to show how the proposals could be amended to comply with the BRE (Building Research Establishment) 25 and 45 degree guidelines. The 45 degree guideline is to be used where the proposed extension is perpendicular to the window that is affected. The proposed extension would be opposite this extension, therefore it is not considered to be appropriate to use this guideline. The BRE Guidance (Fact Sheet 1 25 and 45 degree rules of thumb 2013) states that where the 25 degree test is breached, daylight and sunlight levels should be checked using further detailed tests, such as the BRE's Vertical Sky Component, Daylight Distribution, Average Daylight Factor and Annual Probable Sunlight Hours. It does not automatically mean that the proposal will be unacceptable.
11. The applicant has submitted a Daylight and Sunlight Report with the application which assesses the vertical sky component, daylight distribution and annual probable sunlight hours as well as overshadowing. The report finds that the proposal would result in the window and room served by that window at no. 27 would not meet the recommended BRE guidelines in respect of the vertical sky component, daylight distribution and annual probable sunlight hours. However, it also concludes that the window is located unreasonably close to the boundary, and that such windows take more than their fair share of light and have an unreasonable dependency over neighbouring land, therefore the guidelines can be relaxed in this instance. With regards overshadowing in the report this is in reference to the amenity space (rear garden) of no. 27 and the proposed extension comfortably complies with the BRE Guidelines.

12. The report submitted by the applicant shows that the proposed extension would have a negative impact upon the occupiers of no. 27 in terms of the amount of overshadowing and loss of daylight that would occur. The appeal inspector found in 2008 that this window was a material consideration in determining the appeal, therefore whilst its position in relation to the application property is unusual, the fact remains that the window is the sole window serving a habitable room and the impact of the proposals upon the occupiers of that room is an important consideration in assessing this application.
13. Taking these matters into consideration, the findings of the Daylight and Sunlight Report, the proximity and size of the extension in relation to the window at no 27 it is considered that on balance the proposal does not comply with policies HS5 and BNE1. The proposed extension would have an unacceptably overbearing impact upon the occupiers of the neighbouring property and cause an undue degree of overshadowing and loss of light.
14. To the east the extension would be adjacent to the boundary with no. 25b School Lane. This property is at a slightly lower level than the application property. There are no windows in the side facing elevation of no. 25b and the proposed extension would not project beyond the rear elevation of no. 25b. It is not considered that the proposed extension would have an unduly overbearing impact upon the occupants of no. 25b.
15. The rear garden area of no. 25b wraps around the rear of the application site. At present there are two windows and a door in the rear facing elevation. One window serves the WC, the other the Kitchen. Both have top hung high level opening windows. There is a condition attached to planning approval 08/00275/FUL requiring The door hereby approved in the rear elevation shall be kept closed at all times during the permitted opening hours, other than for the access/egress of persons. There are no restrictions placed on the opening of the windows. A number of complaints have been received that the rear door has been opened in breach of this condition.
16. The application proposes a door and window in the rear facing elevation of the proposed extension. Based upon the advice received from the Council's Environmental Services Officer and the findings of the appeal inspector in 2008, should permission be granted, it would be considered appropriate to attach a condition restricting the proposed rear door to remain closed, as is currently attached to planning consent 08/00275/FUL.

#### *Changes to opening hours*

17. The increase in opening hours would result in the property potentially being open for an additional 15 hours a week, and until 22:00 on two days per week. In 2008 the Inspector found at the appeal that the coming and going of customers and their vehicles, until the time of 23:00 on a Saturday had the potential to be disturbing at that time of the evening, particularly for the occupiers of no 27, immediately adjoining.
18. It is considered that to open the cafe until 17:00 Monday to Saturday would be reasonable, however given the close proximity of the property to neighbouring residential properties, a closing time of 22:00, could lead to an unacceptable level of noise and disturbance for neighbouring residents, particularly from the comings and goings of customers. It also seems probable that some activity would also continue after the closing time, as staff clean/tidy up and leave the premises after customer trading has ceased.
19. The Framework and Planning Practice Guidance both emphasise the importance of the impact of noise on health and quality of life. As such it is considered that the proposed increased opening times would be contrary to National guidance due to the increased noise and disturbance created.

### Highway Safety

20. There is no dedicated off street parking presently available at the application property, nor any capacity to provide any. The existing public floor area of the building is approximately 33 sq m and the proposed floor area would add around 19.6 sq m. This gives a total number of parking spaces required under policy ST4 of the emerging Local Plan of 10 spaces (one space per 5 sq m of public floor space outside of Chorley Town Centre).
21. The applicant has suggested that visitors could park within the car park of the Oak Tree Inn, however this is outside of the control of the applicant and its availability could not be secured. Planning permission has not been granted for residential development on this car park, an application was submitted (14/00412/FUL), but was withdrawn.
22. The car park on Lodge Bank to the rear of the swimming pool is owned by Chorley Council and approximately 100m away. Not only does it appear to be used by visitors to the pool, but also potentially people using the playground and walking locally. Many neighbouring properties nearby also do not benefit from off street parking and there are no waiting restrictions on the opposite of School Lane to the application property. Parking provision in the local area is therefore considered to be limited.
23. Lancashire County Council Highways have advised that they object to the proposals. In light of their advice, taking into account the lack of off street parking and limitations on parking in the locality, it is considered that the proposal would be harmful to highway safety. To increase the level of activity at the premises would cause increased demand for the limited parking available nearby also causing harm to the amenities of neighbouring residents.

### Design and Appearance

24. It is proposed to construct the extension from blockwork covered render, with a natural slate roof. The colour of the render has not been specified. The existing property has a natural stone faced front elevation and cream coloured render to the side and rear elevations. It is considered that the proposed materials would be appropriate to the character of the existing building and the locality. The proposed extension would not be visible from within the street scene, although it would be visible from the rear of adjacent properties on School Lane and very limited views from properties on Lodge Bank to the south. The proposed extension would represent a large extension in relation to the existing building, however given the limited views of the extension it is not considered that its design and appearance would be so detrimental to the character of the building or wider area to warrant refusal of the proposals on this basis.

### **Overall Conclusion**

25. The proposed extension would have an unacceptably overbearing impact upon the occupiers of the neighbouring property and cause an undue degree of overshadowing and loss of light and would therefore be contrary to policies BNE1 and HS5 of the emerging Local Plan.
26. It is considered that the increase in opening hours would lead to an increase in noise and disturbance for local residents.
27. The proposed extension would not comply with policy ST4 of the emerging Local Plan. No off street parking can be provided. The proposal would lead to an increase in on street parking in the vicinity, which is already limited. The proposal would therefore be detrimental to highway safety and cause harm to the amenities of neighbouring residents.
28. The proposal is accordingly recommended for refusal.

## Planning 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 Borough Local Plan Review 2003 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposals has had regard to guidance contained with the National Planning Policy Framework (the Framework), the development plan and the emerging Local Plan 2012-2026. The specific policies/ guidance considerations are contained within the body of the report.

## Emerging Local Plan

The Inspector has issued her partial report on the findings into the soundness of the Chorley Local Plan 2012-2026 which is a material consideration in the consideration of any planning application. In summary, the plan is considered to be legally compliant. In relation to soundness, the plan is considered sound, with the exception of matters relating to Gypsies and Travellers.

Paragraph 18 of the Partial Report states: *“For the avoidance of doubt, the Plan may not be adopted until it has been changed in accordance with all the main modifications set out in the Appendix to this partial report and any which may be specified in the Appendix of my forthcoming supplementary report. However because of the very advanced stage in the examination process that the main modifications set out in the Appendix have reached, significant weight should be attached to all policies and proposals of the Plan that are amended accordingly, where necessary, except for matters relating to Gypsies and Travellers.”*

The Council accepted the Inspector’s modifications for Development Management purposes at its Executive Committee on 21st November 2013. It is therefore considered that significant weight can be given to her report, and to the policies and proposals of the emerging Local Plan, as amended by the main modifications.

## Planning History

Reference	Description	Decision	Date
04/01165/FUL	Alterations to shop front	Approve	8 December 2004
05/01166/FUL	Two storey rear extension and 1st floor added	Refused	13 February 2006
06/01017/FUL	Alterations to existing hairdressers to form new cafeteria	Approved	9 November 2006
08/00275/FUL	Variation of condition 4 of planning permission 06/01017/FUL to vary the opening hours to 10:00 - 16:00 Monday to Friday, 10:00 - 23:00 Saturday, and 10:00 - 16:00 Sunday,	Approved Appeal against conditions imposed, dismissed)	30 April 2008
11/00975/FUL	Installation of 10.no photovoltaic (PV) panels on the south facing roofpitch.	Approved	23 December 2011

The following reasons for refusal are suggested:

1. The proposed extension would have a harmful impact upon the amenities of neighbouring residents, by reason of its size and siting. It would cause an overbearing impact and increased overshadowing and is, therefore, contrary to the Council’s Householder Design Guidance and policies BNE1 -Design Criteria for New

Development and HS5 – House Extensions of the emerging Chorley Local Plan (2012-2016).

2. The proposed increase in opening hours would lead to an unacceptable increase in noise and disturbance for local residents contrary to policy BNE1 -Design Criteria for New Development and HS5 – House Extensions of the emerging Chorley Local Plan (2012-2016).
3. The proposal would lead to an increase in on street parking in the vicinity, which is already limited. The proposal would therefore be detrimental to highway safety and cause harm to the amenities of neighbouring residents. The proposal is therefore contrary to policies BNE1 – Design Criteria for New Development and ST4 – Parking Standards of the emerging Chorley Local Plan (2012-2016).