

APPLICATION REPORT – 17/00549/FUL

Validation Date: 9 June 2017

Ward: Eccleston And Mawdesley

Type of Application: Full Planning

Proposal: Creation of outdoor drinking area including erection of boundary fence

Location: 267B The Green Eccleston Chorley PR7 5TF

Case Officer: Mr Iain Crossland

Applicant: Mr Neil Marginson

Consultation expiry: 30 June 2017

Decision due by: 4 August 2017

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 to consume alcohol and intoxicating spirits 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) The proposed outside drinking area would result in an unacceptable reduction in parking availability in the area that would lead to more haphazard parking practices and parking along the highway to the detriment of pedestrian safety and the amenity of local residents contrary to Policy BNE1 of the Chorley Local Plan 2012 – 2026.

SITE DESCRIPTION

2. The application site comprises a small former retail unit that is located within the settlement area of Eccleston and is currently in use as a drinking establishment. The unit is located within a short parade of shops in a prominent location on The Green, close to the junction with Bannister Lane. The building is of a utilitarian low level type with a glazed frontage. There is a large apron of tarmac between the parade of shops and the highway that is commonly used for the parking of vehicles.
3. The character of the area is largely residential although there are also commercial and community uses in close proximity.
4. Planning permission was granted in November 2015 to use the unit as a drinking establishment (re.15/00775/FUL) subject to a condition (no. 4) stating:
No area for outside drinking or seating shall be created at the premises and no chairs and/or tables shall be placed outside.
Reason: To minimise the risk of disturbance to properties in the area and to maintain parking areas at the premises.

DESCRIPTION OF PROPOSED DEVELOPMENT

5. This application seeks planning permission for the creation of an outdoor drinking area, defined by the erection of boundary fence. The area would extend 2.4m from the front of the building and would span the 6.5m width of the premises. The applicant proposes that the boundary fence would be no more than 0.9m in height and would be constructed of pallets with decorative planting within the structure.

REPRESENTATIONS

6. 61 representations in support of the application have been received from 55 addresses. These make the following comments about the proposal:
 - It would add vitality to the village.
 - The outdoor drinking area needs defining to prevent people spilling out over the wider area.
 - There is no evidence of antisocial behaviour.
 - The parking of cars on the pavement area is dangerous to pedestrians and should be prevented in any case.
 - Little cross over with adjacent business opening times.
 - The Institute opposite have no problems with outside drinking.
 - No impact on neighbour amenity.
 - It would look attractive.
7. 12 representations in objection to the application have been received. These make the following comments about the proposal:
 - Loss of customer parking in the area.
 - Antisocial behaviour.
 - The drinking area would block vehicular access and create highway safety issues.
 - Noise and disturbance to neighbouring businesses.
 - Opening times of businesses overlap.
 - The owners are unable to control customers.
 - It would affect adjacent businesses.
 - Out of character with the area.
 - Opposite a school.

CONSULTATIONS

8. **Eccleston Parish Council:** Comment that the creation of the proposed outdoor drinking area is contrary to condition 4 of the original planning permission 15/00775/FUL (change of use application from retail to micro pub) which states:
No area for outside drinking shall be created at the premises and no chairs and/or tables shall be placed outside.
Reason: to minimise the risk of disturbance to properties in the area and to maintain parking areas at the premises.
9. Given that the condition effectively precludes drinking outside the premises the Parish Council objects to this application on the grounds of impact on neighbour amenity, potential loss of the only parking spaces associated with the premises and safety of customers, given the relative narrowness of the pavement in this area.
10. **Lancashire Highway Services:** Have no objections.

PLANNING CONSIDERATIONS

Principle of the development

11. The National Planning Policy Framework (the Framework) states that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. This means that development proposals that accord with the development plan should be approved without delay.

12. The application site is located in the settlement area of Ecclestone. The adopted 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.
13. Policy BNE1 of the 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 does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.

Character and appearance of the area

14. The proposal would result in the erection of a 0.8m to 0.9m high timber pallet fence with decorative planting within the structure. This would be used to delineate the outdoor drinking area that is the subject of this application. The structure would be low level and relatively low key. The design is intended to reflect a current trend for industrial aesthetic elements, and would be softened through the use of decorative planting. If the pallets were to be stained or painted and planted up as proposed then it is considered that the visual impact on the appearance of the area would be limited and would not alter the character of the area. It would also have the benefit of defining the drinking area and containing customers, discouraging them to spill out onto the wider area.
15. The creation of an area for outdoor drinking, and the patronage that it would result in, has the potential to contribute positively to the character of the area and result in an increased perception of vitality.

Neighbour amenity

16. There are residential properties to the north and south of the unit beyond the row of shops and to the rear on Bannister Lane. The unit itself is positioned between other units in commercial use. To the left (south) is a kitchen and bathroom shop that was previously a hairdressers and to the right (north) is a unit that is used by a homeopath for the treatment of clients. Beyond this is a dress shop, charity shop, hairdressers and dental surgery.
17. When the planning application for the use of unit as a drinking establishment was assessed, it was considered at that time that the location of the proposed micro pub immediately adjacent to non-residential uses was an acceptable location for such a use. However, it was considered that an outside drinking area would not be appropriate as it could lead to unacceptable noise to nearby properties late in the evening, especially in the summer months and would also reduce the parking available to the premises. There is, therefore, a restrictive condition attached to the planning permission that prevents an outside drinking area being formed or table and chairs being put outside.
18. Since planning permission was first granted for the use of the premises, the operator of the drinking establishment has changed and appears to have been successful in attracting greater custom.
19. The unit to the north side, which was vacant at the time of the initial application, is now used by a homeopath that treats clients within the unit and is particularly sensitive to the inevitable noise that would be generated from people congregating in an outdoor drinking area due to the nature of the treatment requiring a quiet and calm environment. The operating hours of the two businesses coincide by approximately four hours each evening and during the afternoons on Saturdays. This has some limited weight in terms of the harm that would be created to neighbouring amenity.
20. More significantly, the situation at the site, and in the immediate area, does not appear to have altered in any significant way since the original planning application for the change of use of the unit was determined. Therefore, the original conclusion of the Local Planning Authority that outside drinking would not be appropriate, as it could lead to unacceptable noise to nearby properties late in the evening, especially in the summer months, is still relevant.

21. It is noted that objectors have referred to the presence of, and potential for anti-social behaviour, however, there is no substantive evidence of this.
22. On the basis of the impact on neighbour amenity through noise and disturbance, as a result of the creation of an outdoor drinking area, it is considered that the proposed development would result in unacceptable harm.

Parking and highway safety

23. There is a small forecourt associated with the unit immediately in front of it, beyond which is the public pavement. There are double yellow lines on the carriageway beyond this. It is noted that it has become custom and practice over the years for those using the businesses to park their cars on the area between the parade of shops and the highway. The proposed outdoor drinking area would interfere with the way in which this area operates for parking, and would inevitably divert some users onto the highway. It is noted that in this location on street parking is severely limited, and any subsequent reduction in parking would be detrimental.
24. It is noted that when planning permission was granted for the drinking establishment itself, the impact on parking availability was specified as a reason for the restrictive condition that prevents the creation of an outdoor drinking area to the front of the unit. The parking difficulties in the area would appear to be unchanged and, therefore, it is considered that the proposed development would result in an unacceptable reduction in parking availability in the area that would lead to more haphazard parking practices and parking along the highway, to the detriment of pedestrian safety and the amenity of local residents.
25. The proposed boundary fence is not considered to result in any harm to highway safety in itself. It is noted that the LCC Highways officer states that in order to maintain the necessary inter-visibility, the height of the proposed wooden enclosure for the drinking area should be limited to 1.0m. The proposed structure would be no more than 0.9m in height.

Other Issues

26. The parking of cars on the pavement area is dangerous to pedestrians and should be prevented in any case: This issue cannot be addressed as part of this application.
27. The Institute opposite have no problems with outside drinking: The Eccleston Institute is located on the opposite side of the main carriageway and is not directly comparable with the situation considered here.
28. The site is opposite a school: There is no impact on the school from the proposed development, and the drinking establishment operates outside school hours.

CONCLUSION

29. The proposed creation of an outdoor drinking area would not have any unacceptable impact on the character of the area, however, due to the potential noise and disturbance associated with people congregating to consume alcohol and intoxicating spirits outside of an enclosed building, it is considered that there would be a harmful impact on the amenity of neighbouring occupiers contrary to Policy BNE1 of the Chorley Local Plan 2012 – 2026. It is also considered that parking availability in the area would be reduced, forcing car users to park on surrounding streets to the detriment of residential amenity.

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: 15/00775/FUL **Decision:** PERFPP **Decision Date:** 5 November 2015
Description: Change of use from retail unit (Use Class A1) to micro pub (Use Class A4)