



REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER

TO: BARROWFORD & WESTERN PARISHES COMMITTEE

DATE: 8th August 2019

Report Author: Neil Watson
Tel. No: 01282 661706
E-mail: neil.watson@pendle.gov.uk

PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE 8th AUGUST, 2019

Application Ref: 19/0274/FUL

Proposal: Full: Use as Bar and Café (Use Class A3/A4) and extend opening hours.

At: Unit 1A The Fountains, Gisburn Road, Barrowford

On behalf of: Mr W Farnworth

Date Registered: 8 May 2019

Expiry Date: 3 July 2019

Case Officer: Kathryn Hughes

This report has been brought before Members as more than 3 objections have been received.

Site Description and Proposal

The site is a former retail unit which has been re-divided and granted planning permission for use as a bar/café sited on Gisburn Road within Barrowford Local Shopping Centre.

The proposal is to extend the use to include an outside forecourt area for seating and tables until 9pm each evening and extend the opening hours of the premises from 9am until 11.30pm. At present the opening hours are restricted from 11am to 11.30pm.

Relevant Planning History

13/09/0305P – Installation of ATM in shop frontage – Approved 28th August, 2009.

17/0783/FUL – Full: Formation of additional entrance doorway on front elevation – Approved.

18/0564/FUL – Change of use of a shop (Use Class A1) to a café/Bar (Use Class A3/A4) – Approved.

Consultee Response

LCC Highways – No objection on highway grounds.

Barrowford Parish Council – wish to make the following observations –

- Inadequate internal noise filtering through the ceiling especially after 11pm;
- Smells from newly installed kitchen which is exacerbated by the fire door being opened in close proximity of the entrance to the flats;
- The outward opening fire door open across a footpath used by flat owners and is solid – near accidents have occurred when the door has been opened and presents health and safety issues;
- Seating being provided to the front which is used until closing time causing noise nuisance in the above flats;
- Taxi nuisance at closing time and general parking problems on the grassed area to the side and in the reserved parking bays in the rear car park; and
- The use of the front entrance and side fire escape as delivery points.

This unit was previously the Spar Shop with a defined service area to the rear. Planning permission was obtained to divide this large into two smaller retail units. But at the time no change of use was mentioned. If change of use had been applied prior to conversion the current format and layout would not have been supported by the Parish Council. Problems that have arisen from this unauthorised use must not be ignored when considering this application. The conditions applied for the change of use to the Lounge Bar across the road should be considered and applied to this retrospective application along with others that protect the amenity and enjoyment of both flat holders and local residents.

The Parish Council would request conditions be imposed to alleviate current problems and address the following:

- The installation of adequate sound insulation;
- The creation of a designated service entrance from the loading bay in the car park would have been preferable to the use of the fire escape door;
- The kitchen having been installed without the change of use may not meet the increased standards for commercial kitchens i.e. extraction system;
- The outdoor seating although not a problem during the day can become a nuisance if allowed unrestricted in the evenings in a semi-residential area. This was managed at The Lounge by hours of use and measures to enforce that it is not used outside those hours being included in the conditions;
- All approved opening hours should accord with the opening hours approved at The Lounge; and
- Taxis servicing customers should be conditioned to reduce the loss of enjoyment and amenity to residents.

Public Response

Nearest neighbours notified by letter. Four responses received objecting on the following grounds:-

- I originally raised issues with noise, parking and odour which have been justified. Extended opening hours and outside seating will only exacerbate these issues;
- There is constant crowd noise when the bar is busy specifically Thursday, Friday and Saturday from early evening till closing and from mid/late afternoon till closing on Bank Holiday Sundays. Extended opening hours will make my situation worse;
- On the 5th May there was live music in the bar and this was so loud I might as well as been sat in there. During the conversion the ceiling was stripped back to create an 'industrial' look so any insulation isn't there now';
- Extending the bar to the front area will encourage people to stay out for longer so increasing external noise, the outdoor seating has been provided since the beginning of May and footrests and wider sills have been fixed to the front of the building. Customers tend to stand directly under my windows to smoke and people drinking alcohol are noisier than normal and I can hear them even with my windows closed;
- Outside seating could be used as climbing aid to my property as pointed out by Lancashire Constabulary. I do not feel safe in my own home;
- I have been unable to have my windows open when the bar is open even on night vent;
- As residents we pay a management fee which includes an allocated parking space which are occupied by others on a regular basis and some leave vehicles overnight;
- The kitchen door/fire door opens outwards across the full width of the path and is often left open. Deliveries are made via this door and barrels rolled across grass and paving stones some of which are cracked and loose as a result;
- There can be 4-5 taxis parked with engines running at any one time especially at closing time on double yellow lines;

- Noise from the crashing of bottles being put into the bin under my window wakes me up and broken glass; and
- I've had a group of young males try to enter by the private entrance and received abuse.

Officer Comments

The main issues relate to impact on amenity from the proposed changes in operating hours.

Policy

The following Pendle Local Plan Part 1: Core Strategy policies apply:

WRK4 – seeks to ensure retail provision in town centres.

The following Replacement Pendle Local Plan policy is also relevant:

26 – Non-Shopping uses in Town Centres and Local Shopping Areas – designates primary and secondary shopping frontages and the percentages allowed for non-retail uses.

31 – Parking – sets out the parking standards for different uses.

Principle of Use

The site is within Barrowford Local Shopping Centre and a secondary shopping frontage.

At present the premises has permission for a mixed use food and drink use (Use Class A3/A4) which has been implemented.

Concerns have been raised over coming and goings but as there is an existing restaurant within this block it would not be reasonable to refuse this one on these grounds. The opening hours have been restricted to 11.30pm the same as the existing restaurant in this block.

Opening the premises earlier at 9am rather than 11am is not considered to raise any further concerns on this basis.

Allowing the outside area to be used between the hours of 9am and 8pm would not be unreasonable for a commercial operation such as this as this is the same as allowed at The Lounge across the road and would provide more of a balance with the residential units above.

It is understood that complaints relating to loud music referred to one occasion where a live band played inside the building during a Sunday afternoon/early evening and this would be permitted under its licensing provision and would not be prevented as part of this proposal. Environmental Health and Licensing were made aware of the complaint and have investigated under their powers.

Concerns have also been raised over parking as there is a car park to the rear of the premises which provides parking for both the residential and commercial units and is managed privately this is acceptable.

In terms of taxis and drop off and pick-ups this is to be expected at this type of premises and the proposed changes would not raise any further concerns on this basis.

This proposal therefore is considered to be acceptable until 8pm not 9pm as requested subject to conditions to restrict the use of the space and accords with policy.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal is acceptable in this location and therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

Subject to the following conditions:

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

1:1250 location plan and Drawing No. 01.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The premises shall not be open for customers or any other person not employed within the business operating from the site outside the hours of 0900 and 2330 hours Monday to Sunday.

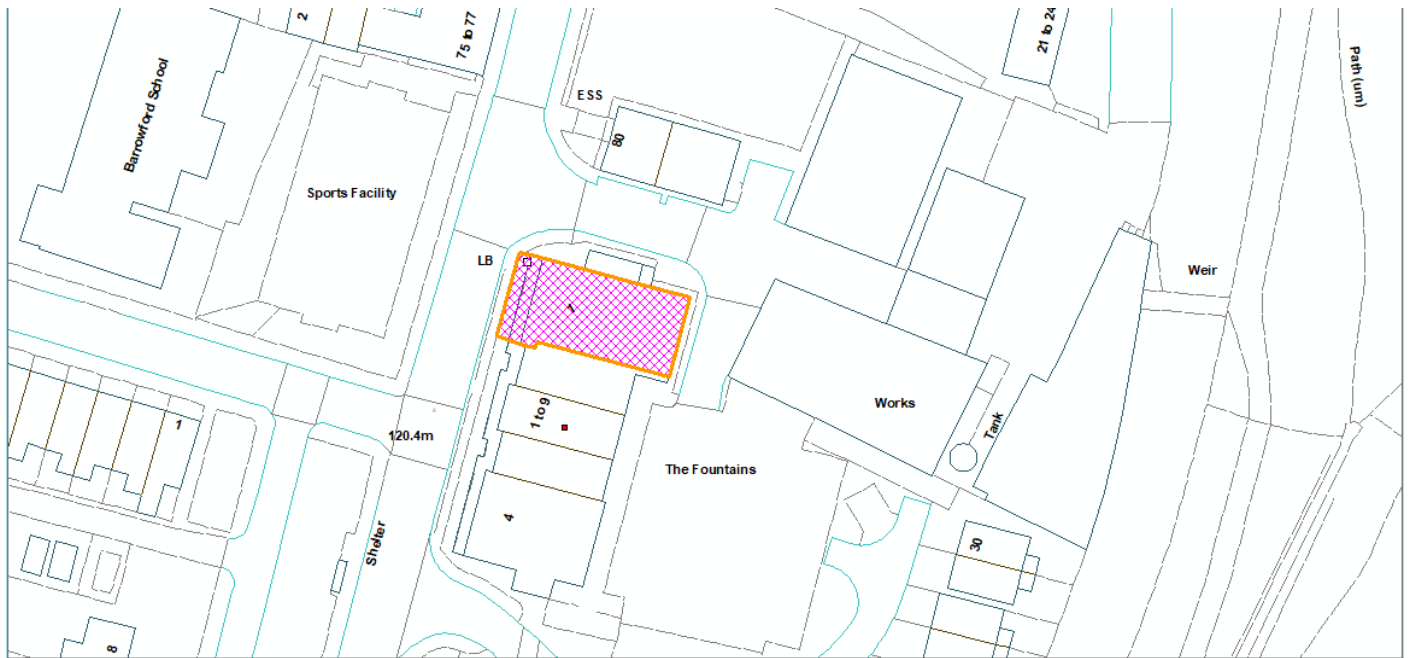
Reason: In the interests of aural and residential amenity.

4. The outside seating area to the front of the premises shall not be open for customers or any other person not employed within the business operating from the site outside the hours of 0900 and 2000 hours Monday to Sunday.

Reason: In the interests of aural and residential amenity.

5. With one month of the date of this permission details of the outside seating area including number and types of moveable seating and tables shall be submitted to and approved in writing by the Local Planning Authority. All seating and tables shall be made unavailable for use by the public in this area outside the hours of 9am and 9pm each day.

Reason: In the interests of aural and residential amenity.



Application Ref: 19/0274/FUL

Proposal: Full: Use as Bar and Café (Use Class A3/A4) and extend opening hours.

At: Unit 1A The Fountains, Gisburn Road, Barrowford

On behalf of: Mr W Farnworth

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 8TH AUGUST 2019

Application Ref: 19/0468/HHO
Proposal: Full: Retention of single storey rear extension with balcony.
At: 42 Gisburn Road, Barrowford.
On behalf of: Mrs Clare Riding
Date Registered: 26.06.2019
Expiry Date: 21.08.2019
Case Officer: Charlotte Pinch

Site Description and Proposal

The application is brought to committee as it has received more than 3 objections.

The application site is a terraced property, located within the settlement boundary of Barrowford and is not within a Conservation Area.

The proposal is for a retrospective application for a replacement single storey rear extension, with flat roof to be used as a first floor balcony. The extension is complete and constructed of coursed natural stone and a fibreglass flat roof, with white UPVC fenestration features.

It is important to note that this application is solely for the erection of the single storey extension, the shed which is mentioned in some comments will be the subject of an additional separate application.

Relevant Planning History

None relevant.

Consultee Response

LCC Highways

No objection.

Barrowford Parish Council

No objections to a small scale ground floor extension, but has grave concerns about the use of the roof at 1st floor level as a balcony. The concerns relate to privacy issues in the adjoining properties. The balcony will give a line of sight into windows on the two adjacent properties which at first floor level would not normally be the case. If the Council is minded to approve the application as it stands, Barrowford Parish Council would not support the application and object on the grounds stated.

Public Response

Six letters of objection were received from neighbouring occupiers, five from different households, their comments can be summarised as follows:

- Overlooking from the balcony back into first floor windows of adjacent terraced properties and outside amenity spaces.

- Reduction in value of neighbouring properties, due to detrimental overlooking impacts.
- The extension overshadows adjacent properties, resulting in a loss of light.
- Significant noise and disturbance to neighbours from those using the balcony.
- The scale of the building is large and out of keeping with existing adjacent properties.
- The shed on the back street restricts access and parking.
- Inaccuracies in the application form, including ownership.
- The extension would create a precedent for extensions and balconies in the street.
- The site lies within a Conservation Area, therefore works should comply with the Local Plan and should avoid additional development.
- Affects the Human Rights Act.

A letter of response was received, on behalf of the applicants, which made the following comments:

- The applicant is the owner of the property.
- The site does not lie within a Conservation Area.
- This application has no impact on parking/loading/turning.
- The applicant was informed, incorrectly, by a builder that planning permission was not required. As soon as notification was received that planning permission was required, this application was submitted.
- There are a number of examples of balconies/raised platforms along this row of dwellings.

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Replacement Pendle Local Plan

Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and developments, setting out the requirements for good design and protecting residential amenity.

Impact on Visual Amenity

Policy ENV2 of the Pendle Local Plan Part 1 aims to ensure that all new development should viably seek to deliver the highest possible standards of design. Moreover, the design principles SPD advises that single storey rear extensions should not normally extend beyond the line of existing additions in order to maintain the character and appearance of such areas.

The application site is not within a Conservation Area, therefore policies relating to such a designation do not apply to this application.

The proposed extension would have a modest depth of 3 metres and total height of 2.7 metres, which includes a glass screen. The depth of the extension would be the same as the extension it replaced and in line with existing garden boundaries and extensions on neighbouring properties within this terrace. Its scale and appearance would not appear obtrusive within the street scene.

Although Corlass Street is accessible by the public, it is not a main highway and is well screened from Gisburn Road to the west. The extension is constructed in natural coursed stone and white UPVC features to match the existing dwelling.

Therefore, the proposed development is acceptable and would not have a detrimental impact on the character of the area, in accordance with Policy ENV2 and the Design Principles SPD.

Impact on Residential Amenity

The Design Principles SPD states that single storey rear extensions located on or immediately adjacent to the part boundary with neighbouring properties will normally be acceptable if they do not project more than 4 metres from the rear elevation of the existing dwelling.

The proposed retrospective extension has a maximum depth of 3 metres and retains a 1.5 metre separation distance with the boundary of No.44 Gisburn Road. As a result, it would comply with the guidance in the SPD.

Moreover, the SPD advises that balconies at first floor level or above can result in a loss of privacy for neighbours. Careful consideration needs to be given to siting and potential screening.

The proposed balcony would be on top of the retrospective extension, at first floor level with a depth of 3 metres. The balcony would be at the rear of the dwelling and have views directly east, initially over Corlass Street, then Pendle Water and Lower Park Hill Recreation Ground beyond. All rear gardens and the rear elevations of the properties in this row are readily visible from public vantage points on Corlass Street, therefore very few properties benefit from private external amenity spaces.

Although concerns have been raised regarding overlooking impacts from the retrospective balcony onto neighbours rear gardens and into first floor windows, given the modest height and depth of the balcony, the view from the balcony would be no greater than that gained from existing first floor windows or when viewed publically from Corlass Street. Views into directly adjacent neighbour's windows at No.40 and No.44 would be at an extremely acute angle, which would not provide significant visibility.

Moreover, it is important to note that a number of other properties in this terrace already benefit from rear free standing balconies or similar roof terraces at the same or greater height than that

proposed as part of this application. As a result, views from the proposed balcony would be no greater than existing raised platforms at adjacent properties.

In addition, further comments have been raised regarding noise disturbance from people using the proposed balcony. No information has been provided to show that the property is to be used as anything other than a residential dwelling house, for which typical domestic noise and activities would not be considered inappropriate or harmful within this residential setting.

Therefore, the proposed development is acceptable in terms of residential amenity in accordance with Policy ENV2 and the Design Principles SPD.

Highways

The proposed development would not result in an increase in the number of bedrooms at the property, nor alter the existing access or parking provision. Therefore no objections are raised on highway safety grounds.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed extension is acceptable in terms of policy, design, amenity and highway safety. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

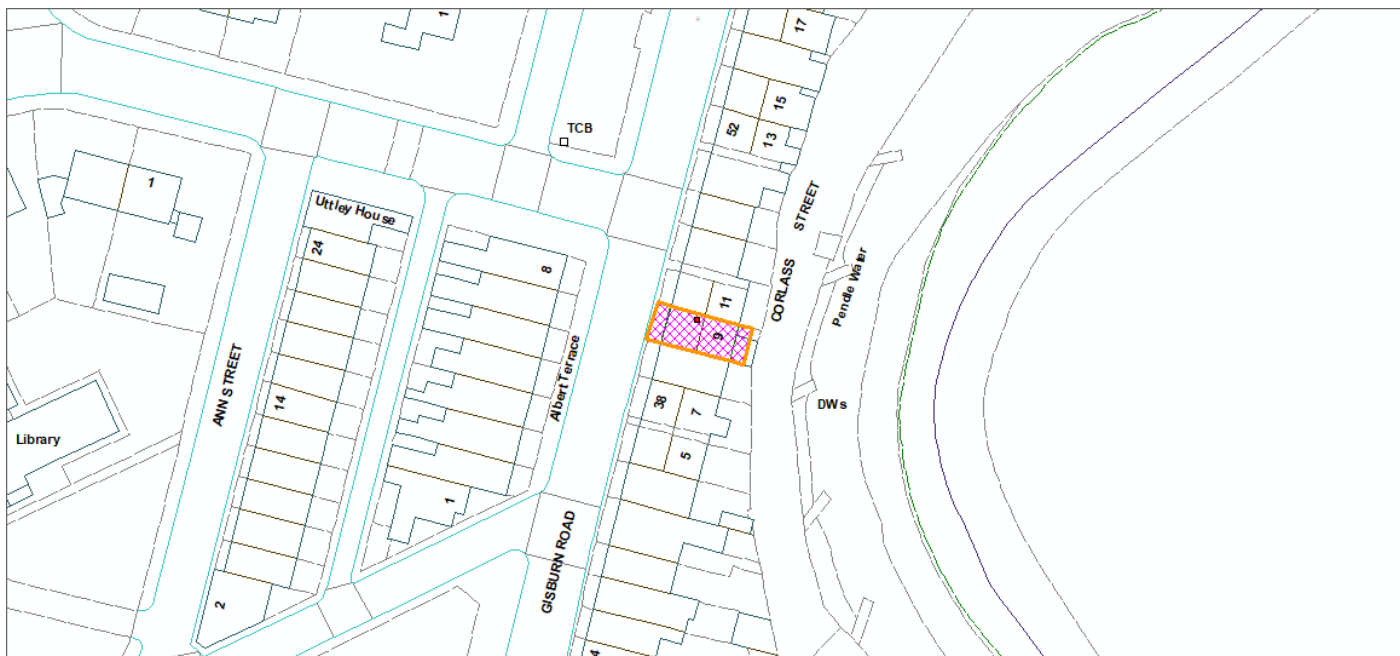
Subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: ADM/19/20/03A, ADM/19/20/02A and ADM/19/20/01A.

Reason: For the avoidance of doubt and in the interests of proper planning.

2. All the external materials to be used in the development hereby permitted shall match those of the existing building in colour, form and texture and there shall be no variation without the prior consent of the Local Planning Authority.

Reason: These materials are appropriate to the locality and in order to allow the Local Planning Authority to control the external appearance of the development.



Application Ref: 19/0468/HHO

Proposal: Full: Retention of single storey rear extension with balcony.

At: 42 Gisburn Road, Barrowford.

On behalf of: Mrs Clare Riding

LIST OF BACKGROUND PAPERS

Planning Applications

NW/MP

Date: 31ST July 2019