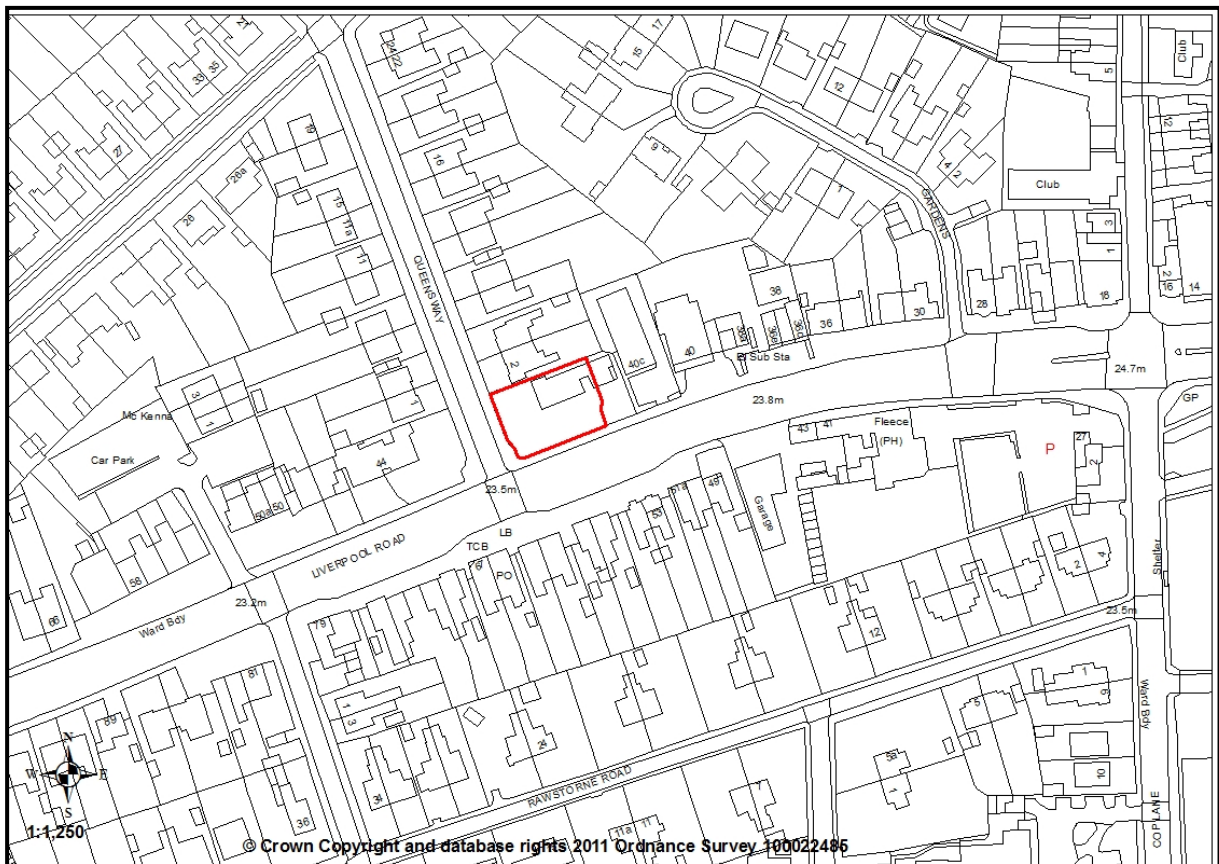


<b>Application Number</b>	07/2017/0631/VAR
<b>Address</b>	42 Liverpool Road Penwortham Preston Lancashire PR1 0DQ
<b>Applicant</b>	Martin Fitzsimmons
<b>Development</b>	Variation of condition 14 of 07/2015/1854/FUL - sale of non-alcoholic beverages and snacks 9.30am to 11.00am Monday to Saturday 11.00am to 12.00pm Sunday
<b>Officer Recommendation</b>	Approval with Conditions
<b>Officer Name</b>	Mrs Janice Crook
<b>Date application valid</b>	10.04.2017
<b>Target Determination Date</b>	05.06.2017
<b>Extension of Time</b>	23.06.2017

**Location Plan**



**1. Report Summary**

1.1 Members will recall a number of recent planning applications for this site, one for the erection of four ground floor units within A1/A2 use with residential accommodation at first floor which was approved by planning committee at the 15<sup>th</sup> October 2014 committee

meeting. The second was for the conversion and extension of the existing bungalow to provide three units within A1/A2 use and one unit within A4 use. This was refused by planning committee on 12 November 2015. The third was for the conversion of and extension to the existing bungalow to provide a retail unit within Use Class A1 and a wine bar within Use Class A4 which was approved on 25 February 2016. The development is now underway with conditions imposed having been addressed by way of a discharge of conditions application. A non-material amendment application was also approved for minor amendments relating to the brick and roofing materials and the introduction of rooflights.

1.2 The proposal now is for a minor material amendment in respect of condition 14 of planning approval 07/2015/1854/FUL to allow for the sale of non-alcoholic beverages and snacks between the hours of 09.30am and 11.00am Monday to Saturday and 11.00am to 12 noon on Sundays, effectively extending the hours of operation by one and a half hours in the morning on weekdays and by 1 hour on Sundays.

1.3 The proposed extension to the hours of opening in the morning has been duly considered in terms of potential additional impact on residential amenity and the district centre location in which the application property is set, and is considered acceptable and therefore the application is recommended for approval subject to the re-imposition of all conditions originally imposed with just condition 14 being amended to reflect the updated position.

## **2. Site and Surrounding Area**

2.1 The application relates to what was a residential bungalow at 42 Liverpool Road located on the corner of Liverpool Road and Queensway in Penwortham. The site is located within Penwortham District Centre with commercial properties along the length of Liverpool Road consisting of retail, restaurants, offices, takeaways and financial premises. Attached to the bungalow is a commercial property which is not part of this planning application. To the north of the site the area is wholly residential with properties along Queensway and beyond.

## **3. Planning History**

3.1 07/2013/0905/FUL for the erection of 4 ground floor units to include two retail (A1) and two financial and professional services (A2) with three residential apartments above following demolition of 42 Liverpool Road was withdrawn by the applicant in order to consider issues that were raised by consultees and residents.

3.2 07/2014/0355/FUL for the erection of 4 ground floor units to include two retail (A1) and two financial and professional services (A2) with three residential apartments above, (1 one-bed and 2 two-beds) following demolition of 42 Liverpool Road. This application was a resubmission of the withdrawn scheme. The application was deferred by the planning committee on 20<sup>th</sup> August 2014. A number of amendments were made to the plans and the amended scheme was approved by planning committee on 16 October 2014.

3.3 07/2015/1572/FUL for the conversion and extension of existing bungalow to provide 3 x Class A1/A2 units and 1 x Class A4 unit together with associated car parking was refused on 12 November 2015 on one ground: *"The proposal to extend the building at two storey to the western elevation is considered to have a detrimental impact on the neighbouring residential property 2 Queensway in terms of loss of light, overshadowing and having an overbearing effect by virtue of its height, scale and proximity to 2 Queensway. Therefore the proposal is contrary to Policy G17 in the South Ribble Local Plan 2012-2026."*

3.4 07/2015/1854/FUL for the conversion of and extension to the existing bungalow to provide a retail unit within Use Class A1 and a wine bar within Use Class A4 was approved on 25 February 2016.

3.5 07/2016/0264/DIS for the discharge of conditions 2, 3, 5, 6, 17 and 20 imposed under planning approval 07/2015/1854/FUL was discharged on 3 June 2016.

3.6 07/2016/0622/NMA for a non-material amendment relating to bricks, roofing materials and the introduction of rooflights was approved on 25 August 2016.

3.7 07/2017/0899/ADV for two internally illuminated static signs was recently granted advertisement consent.

#### **4. Proposal**

4.1 The application 07/2015/1854/FUL for the conversion of and extension to the existing bungalow to provide a retail unit within Use Class A1 and a wine bar within Use Class A4 was conditionally approved on 25 February 2015. Condition 14 restricted the use of the Class A4 unit, the wine bar premises, to the hours that had been applied for, that is 11:00hrs to 23:00hrs Monday to Friday, 11:00hrs to Midnight on Saturdays, and 12:00noon to 23:00hrs on Sundays and Bank Holidays.

4.2 The proposal now is to vary condition 14 to extend the hours of opening in the morning period to enable the sale of non-alcoholic beverages and snacks between the hours of 9:30am to 11:00am Monday to Saturday and 11:00am to 12:00 noon on Sunday, effectively extending the hours of opening of the wine bar by one and a half hours in the morning on weekdays and by 1 hour on Sunday mornings.

#### **5. Summary of Publicity**

5.1 Neighbouring residents were notified and a site notice posted with three letters of objections being received, objecting to the proposal on the following grounds:

- Property is along the residential street Queensway. The increase in opening hours will increase noise, smells and parking problems
- Effects on neighbouring properties
- No demand for these extended hours
- No guarantees there will be no sale of alcohol
- Loss of amenity
- Additional disturbance
- The conditions imposed were the minimum required to protect the amenity of the area and the rights of residents
- This is yet another application to 'chip away' at the planning consent
- Condition 22 of planning consent is very clear on the permitted use of the property – specifically to be used as a Wine Bar. The sale of non-alcoholic beverages and snacks will result in a café restaurant.

#### **6. Summary of Consultations**

6.1 **Environmental Health** suggest that the applicant should wait for a period of one year until making an application to increase the hours of operation in order to gauge whether the wine bar use has any adverse impact on the community.

#### **7. Policy Considerations**

7.1 Planning permission 07/2015/1854/FUL to which this application seeks to vary condition 14 was duly considered in terms of the following policies:

- Central Lancashire Core Strategy - Policy 11: Retail and Town Centre Uses; Policy 17: Design of New Building.
- The Design Guide Central Lancashire Supplementary Planning Document

- South Ribble Local Plan 2012 – 2026 - Policy E4: District Centres; Policy G17: Design Criteria for New Development, Policy F1: Parking Standards

## **8. Material Considerations**

8.1 Neighbouring residents objected to the application 07/2015/1854/FUL for the conversion of and extension to the bungalow to provide a retail unit and wine bar due to the close proximity of the wine bar to residential properties. They considered the use would impact upon their residential amenity in terms of noise and disturbance, especially in the evenings. They considered a drinking establishment would cause noise from its servicing, the type of business, music and noisy customers coming and going and unsocial behaviour.

8.2 During consideration of that application, Environmental Health also commented that the development had the potential to adversely affect the amenity of the area. Therefore a number of conditions were imposed in respect of noise. These include that there be no live or recorded music played at the premises other than low level incidental background music; that the external area be restricted to the front of the building only and the times of the use of the external area be restrict for use by patrons of the A4 Units for use between 10:00 hrs and 22:00 hrs Monday to Saturday and 10:00 hrs and 21:00 hrs on Sundays and Bank Holidays; and that deliveries and waste collection does not take place between the hours of 19:00hrs and 07:30hrs.

8.3 Additionally, condition 14 restricted the hours of opening of the A4 premises to between 11:00hrs to 23:00hrs Monday to Friday, 11:00hrs to Midnight on Saturdays, and 12:00noon to 23:00hrs on Sundays and Bank Holidays. This was to protect the amenities of adjoining residents and to ensure the development was in accord with Policy 17 in the Central Lancashire Core Strategy.

8.4 The proposal to extend these hours relates to the morning period only to enable the A4 unit to open at 09:30 hrs Monday to Saturday and 11:00 hrs on Sundays. The applicant has submitted a supporting statement indicating a number of reasons for this, as follows:

- *Potential customers have requested that the premises are opened earlier than 11am during the week and 12pm on Sunday as they would appreciate the opportunity to have breakfast or a mid-morning snack at our establishment.*
- *No alcohol would be served before already agreed licensing hours and these additional hours are simply to offer a 'breakfast/brunch' menu to the public.*
- *More businesses catering for the demand would encourage more people to visit the town of Penwortham and thereby assist in regenerating the town centre. At present, there seems to be too little capacity to meet the demand.*
- *There are other established businesses in the village that open at these times to cater for the obvious demand and these additional requested hours would allow us to spread the cost of the fixed overheads such as insurances, rent, business rates etc over a longer working week, thereby giving this fledgling business a better chance of success.*
- *By opening earlier and catering for the demand that is already being serviced by the existing outlets, this new business would not be at a commercial disadvantage to those established businesses.*
- *An increase in hours would mean that either the existing staff would receive greater remuneration or we would be required to recruit more staff. Either way, staff would earn more or more staff would earn the same.*
- *No additional disturbance will be created for the neighbouring properties as the hours requested are after the morning rush hour and in both cases (during the week and on Sunday) are well after the time when most people are up and about."*

8.5 There have been three letters of objection to this application from neighbouring residents of Queensway due to the proximity of the premise to residential properties. Residents consider the increase in opening hours will increase noise, smells and parking

problems in the area and this will impact detrimentally of their properties. They comment that the conditions imposed were the minimum required to protect the amenity of the area and the rights of residents. They also comment that there is no proven demand for these extended hours and that there are no guarantees there will be no sale of alcohol. However, the premises will not be permitted to sell alcohol under the terms of their license which restricts the supply of alcohol for consumption on and off the premises - Sunday to Friday 11:00am 10:45pm and Saturday 11:00am 11:45pm

8.6 Residents also comment on the requirements of condition 22 which restricted the use of the premises to the use applied for, as a wine bar, and no other use within Class A4 of the Use Classes Order or any other use class shall take place, **unless the prior consent of the Local Planning Authority is obtained**. Residents consider the proposals will result in the wine bar becoming a café.

8.7 It must be recognised that the premises is not changing from a wine bar within the A4 use class but applying to extend the hours of operation in the mornings to enable the sale of non-alcoholic beverages and snacks. This is considered an ancillary use to the main use as a wine bar. The purpose for condition 22 was to ensure that the premises did not become a public house or other drinking establishment within the A4 Use Class so that the Council as Local Planning Authority could retain control over the future use of the premises should the wine bar venture fail.

8.8 Finally, the objectors comment that a recent press article stated that the premises would have a capacity of 220 patrons. What the article did say is that the building could hold up to 140 people with an external capacity of 80 people, as follows: *“When it opens at the end of May, the bar - which will also offer tapas-style food - will be able to hold 100 people downstairs, 40 upstairs and 80 outside. It will open from 11am-11pm every day apart from Saturday’s, when it will open until midnight.”*

8.9 The capacity of a commercial premises is controlled by the fire regulations which allows 1 person for every 0.5 square metres of floorspace with reference also given to the amount of exits the building has. There is nothing in the planning permission to restrict the number of patrons at the premises.

8.10 It is considered that the proposed extension in the hours of opening in the morning period will not have any additional impact on neighbouring residential amenity, particularly as the proposal is for an extension in the hours of opening in the morning only. The premises is within the Penwortham District Centre where most commercial premises operate from 09.00am or earlier. The proposal is considered to be policy compliant and is therefore recommended for approval.

## **9. CONCLUSION**

9.1 The proposal for an extension in the hours of opening in the morning period only to allow for the sales of non-alcoholic drinks and snacks is considered to be acceptable in this District Centre location. Although the site is in close proximity to residential properties, it remains a district centre property which policy E4 seeks to protect and enhance to maintain its vitality and viability. The proposal is therefore compliant with this policy.

## **10. RECOMMENDATION:**

Approval with Conditions.

## **11. RECOMMENDED CONDITIONS:**

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development, hereby permitted, shall be carried out in accordance with the approved plans Dwg 558-PO1 Rev B Floor Plans: 558-PO2 Rev A Elevations: 558-PO3 Service Delivery Movement: or any subsequent amendments to those plans that have been agreed in writing by the Local Planning Authority.

REASON: For the avoidance of doubt and to ensure a satisfactory standard of development

3. If the development hereby approved does not commence before 30th April 2016, the building will be reassessed for bat roosting potential and the findings supplied to and agreed in writing by the Local Planning Authority.

REASON: To ensure the protection of scheduled species protected by the Wildlife and Countryside Act 1981 in accordance with Policy 22 in the Central Lancashire Core Strategy and Policy G16 in the South Ribble Local Plan 2012-2026

4. That any tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall not take place during the nesting season, normally between March and August, unless the absence of nesting birds has been confirmed by further surveys or inspections and written approval has been given from the Local Planning Authority.

REASON: To protect habitats of wildlife in accordance with Policy 22 of the Central Lancashire Core Strategy and Policy G16 in the South Ribble Local Plan 2012-2026

5. Prior to commencement of the development hereby approved, details of the landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include elements of native and wildlife attracting shrubs and bird nesting habituate. The approved landscaping scheme shall be implemented in the first planting season following completion of the development and shall be maintained at all times thereafter to the satisfaction of the Local Planning Authority. This maintenance shall include the watering, weeding, mulching and adjustment and removal of stakes and support systems, and shall include the replacement of any tree or shrub which is removed, becomes seriously damaged, seriously diseased or dies by the same species. The replacement tree or shrub must be of similar size to that originally planted.

REASON: In the interests of the amenity of the area in accordance with Policy 17 in the Central Lancashire Core Strategy, Policy G13 and Policy G17 in the South Ribble Local Plan 2012-2026

6. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:

- the proposed times construction works will take place
- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the location of the site compound
- suitable wheel washing/road sweeping measures
- appropriate measures to control the emission of dust and dirt during construction
- appropriate measures to control the emission of noise during construction
- details of all external lighting to be used during the construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

REASON: To safeguard the amenities of neighbouring properties in accordance Policy 17 in the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan 2012-2026

7. Prior to the installation of any external fixed mechanical plant, equipment, air conditioning units and/or condenser units or extraction systems being installed on the premises full details of the siting and noise levels to be experienced at the nearest properties and the fixings to be used shall be provided to the local planning authority for written approval. The approved system shall then be installed as agreed and thereafter maintained as approved. Any changes to the system shall first be agreed with the local planning authority in writing.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy

8. There shall be no live or recorded entertainment or music played at the premises, either internally or externally. Low level incidental background music is only permissible internally.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy

9. The external seating area to be used by patrons of the A4 Units shall be restricted to the area immediately to the front of the building facing Liverpool Road, as indicated on the approved plan Dwg 558-PO1 Rev A. This area shall only be used between 10:00 hours and 22:00 hours Monday to Saturday and 10:00 hours and 21:00 hours on Sundays and Bank Holidays. At no time shall the garden area to the west fronting Queensway be used by patrons.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy

10. There shall be no external floodlighting or patio heaters installed in the outside area without prior consent from the Local Planning Authority.

REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan 2012-2026.

11. Times of deliveries shall be restricted to those detailed in the submitted supporting statement, between 09:00hrs and 10:30hrs.

REASON: In the interests of residential amenity and highway safety and to be in accordance with Policy G17 in the South Ribble Local Plan 2012-2026

12. There shall be no waste collection between the hours of 19:00hrs and 07:30hrs Monday to Friday with no waste collection on Saturdays, Sundays or Bank Holidays.

REASON: In the interests of the amenity of nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan 2012-2026

13. The use of the A1 premises hereby approved shall be restricted to the hours applied for, that is, 08:30hrs to 18:30hrs Monday to Saturday and 10:00hrs to 17:00hrs on Sundays and Bank Holiday

REASON: In the interests of the amenities of adjoining residents and to accord with Policy 17 in the Central Lancashire Core Strategy

14. The use of the A4 premises hereby approved shall be restricted to the hours applied for, that is 09:30hrs to 23:00hrs Monday to Friday, 09:30hrs to Midnight on Saturdays, and 11:00hrs to 23:00hrs on Sundays and Bank Holidays

REASON: In the interests of the amenities of adjoining residents and to accord with Policy 17 in the Central Lancashire Core Strategy

The level of the new access shall be constructed 0.150m above the carriageway channel line of Liverpool Road.

REASON: To safeguard the future reconstruction of the highway

15. The layout of the development shall include provisions to enable vehicles to enter and leave the highway in forward gear and such provisions shall be laid out in accordance with the approved plan and the vehicular turning space shall be laid out and be available for use before the development is brought into use and maintained thereafter.

REASON: In the interests of highway safety and other highway users in accordance with Policy G17 in the South Ribble Local Plan 2012-2026

16. Prior to commencement of the development hereby approved, a Tree Root Protection Plan be submitted to and approved in writing. The Tree Root Protection Plan should demonstrate suitable root protection area to adequately protect trees to be retained on site.

REASON: To prevent damage to trees during construction works in accordance with Policy G13 in the South Ribble Local Plan 2012-2026

17. Before any site activity (construction or demolition) is commenced in association with the development, barrier fencing shall be erected around all trees to be retained on the site as detailed in the Tree Protection Plan which has been agreed by the Local Planning Authority. The fencing shall be constructed and located in compliance with BS 5837 2012 - Trees in Relation to Design, Demolition and Construction - Recommendations. Within these fenced areas no development, vehicle manoeuvring, storage of materials or plant, removal or addition of soil may take place. This includes ground disturbance for utilities. The fencing shall not be moved in part or wholly without the written agreement of the Local Planning Authority. The fencing shall remain in place until completion of all development works and removal of site vehicles, machinery, and materials in connection with the development.

REASON: To prevent damage to trees during construction works in accordance with Policy G13 in the South Ribble Local Plan 2012-2026

18. Prior to the first use of the development, a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Where the Local Planning Authority agrees a timetable for implementation of the Full Travel Plan, the elements are to be implemented in accordance with that timetable unless otherwise agreed in writing with the Local Planning Authority.

REASON: To promote and provide access to sustainable transport options in accordance with Policy 3 in the Central Lancashire Core Strategy.

## **12. RELEVANT POLICY**

E4 District Centres

G17 Design Criteria for New Development

Central Lancashire Core Strategy Policy 17: Design of New Buildings