

**Application Number** 07/2020/00584/VAR

**Address** 14A Liverpool Road  
Penwortham  
Preston  
Lancashire  
PR1 0AD

**Applicant** Michelle McKiernan

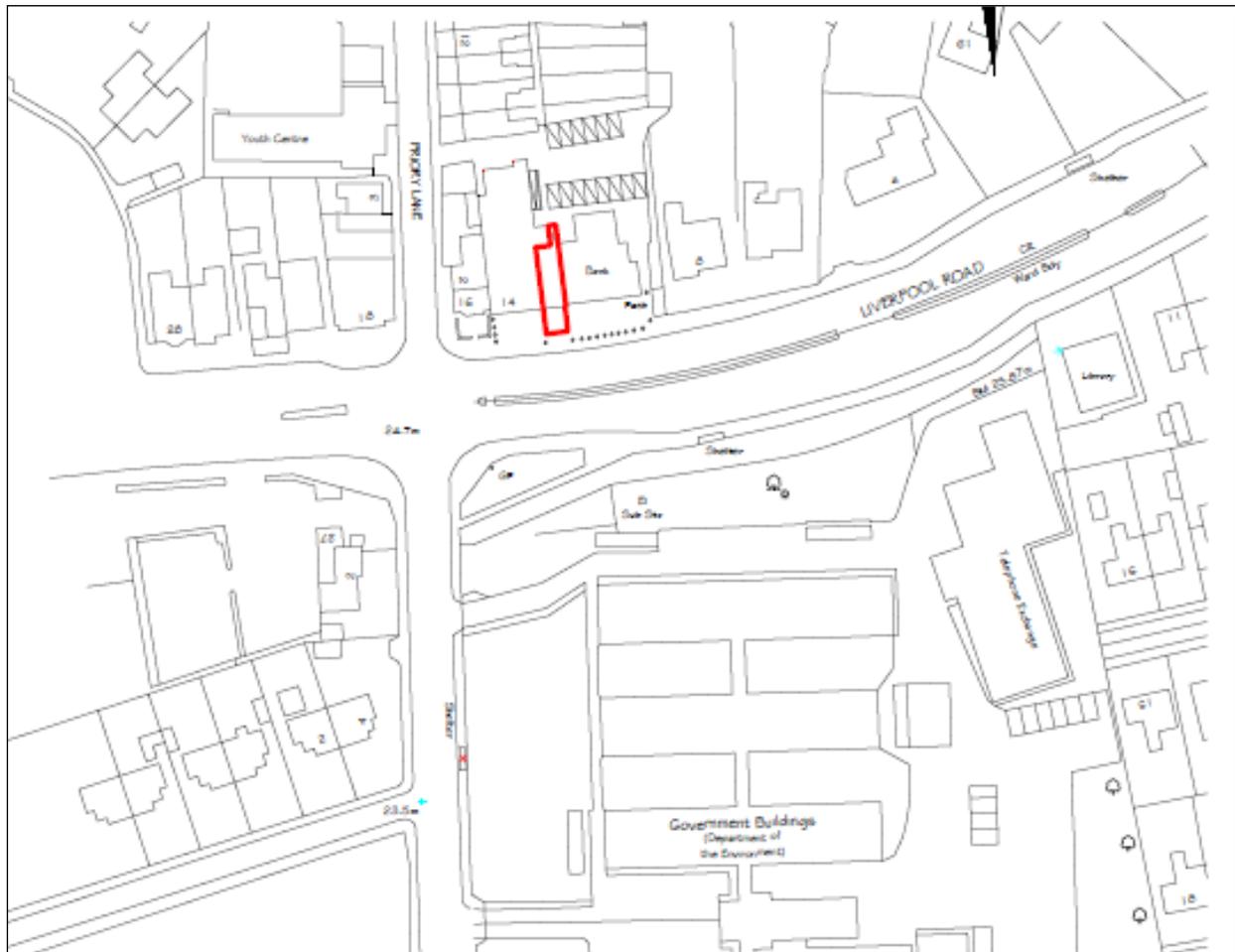
**Development** Variation of conditions No. 9 and 10 of planning approval 07/2019/7949/FUL to allow for use of outdoor area until 8pm

**Officer Recommendation** **Approval with Conditions**

**Officer Name** **Mrs Janice Crook**

Date application valid 31.07.2020  
Target Determination Date 25.09.2020  
Extension of Time

**Location Plan**



## **1. Report Summary**

- 1.1 The application seeks a variation of conditions 9 and 10 to allow the use of the outdoor area until 20:00 to bring this premises in line with the adjacent restaurant which is permitted to keep its Bi-fold doors open until 20:00 and the drinking establishment and 16 Liverpool Road which is permitted to use its outside area until 20:00. There are no objections from County Highways or Environmental Health and three letters of representation are all in support of the proposal. The application is recommended for approval subject to the imposition of conditions as originally imposed with conditions 9 and 10 being amended accordingly.

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

- 2.1 The application relates to Unit 1 of the recently refurbished and sub-divided former Booths supermarket on Liverpool Road in Penwortham. The property is close to the crossroads junction of Liverpool Road, Priory Lane and Cop Lane, which is an Air Quality Management Area. The area is predominantly commercial in nature and is within the Penwortham District Centre. Residential apartments are above some of the commercial premises with further residential properties located to the north on Priory Lane. Diagonally opposite is the locally listed Water Tower, a residential property with the Grade II listed Fleece Inn to its west. Both these properties are within the Penwortham Conservation Area.

## **3. Planning History**

- 3.1 There have been a number of planning permissions on the premises with the relevant one being:

07/2018/8006/FUL Conversion to form 3 units. Change of use from A1 (retail) to A3 (restaurant) for 1 unit and 2 units to remain A1 (retail). New shop front, windows, doors and cladding. Approved 15/01/2019

07/2019/7949/FUL Change of use of Unit 1 from A1 (Retail) to A4 (Drinking Establishment) Approved 23/10/2019

## **4. Proposal**

- 4.1 The application proposes a variation of conditions 9 and 10 of planning approval 07/2019/7949/FUL. The wording of the conditions is as follows:

### Condition 9

*Any outside area to be used by patrons, shall be restricted to the area immediately outside the building facing Liverpool Road. This area shall only be used between the hours of 11:00 hours to 18:00 for the consumption of food and drink.*

### Condition 10

*Table and chairs provided to the outside area shall only be provided between the hours of 11:00 to 18:00. Outside of these hours they must be removed to prevent their unauthorised usage.*

- 4.2 The proposal is to allow the use of the outdoor area until 20:00hrs, effectively extending the time by 2 hours in the evenings.

## **5. Summary of Publicity**

5.1 Neighbouring properties were notified with three letters of representation being received in support of the proposals.

## **6. Summary of Consultations**

6.1 **Environmental Health** require the outside area to be restricted to the area immediately outside the building facing Liverpool Road and that it is only used between the hours of 11:00 and 20:00 for the consumption of food and drink. Any tables and chairs provided to the outside area shall only be permitted between 11:00 and 20:00 and then must be removed to prevent unauthorised usage.

6.2 **County Highways** have no objections to the proposals to vary conditions 9 and 10.

## **7. Policy Background**

### **South Ribble Local Plan**

7.1 **Policy E4: District Centres** seeks to protect and enhance the district centres to maintain their vitality and viability. Planning permission will be granted for new buildings, redevelopment of existing sites, extensions to, or change of use of existing buildings for A1 Retail Use, which will be encouraged to achieve a minimum of 60% of the overall units and A3 Café and Restaurant uses. Applications for other district centre uses including A2 Financial and Professional Services, A4 Drinking Establishments and B1 Offices will be permitted where this would not harm the sustainability of the shopping area.

7.2 **Policy F1: Parking Standards** requires all development proposals to provide car parking and servicing space in accordance with the parking standards adopted by the Council. In general, parking requirements will be kept to the standards as set out unless there are significant road safety or traffic management implications related to the development of the site. The parking standards should be seen as a guide for developers and any variation from these standards should be supported by local evidence in the form of a transport statement. Where appropriate, some flexibility will be factored into the standards in relation to the specific local circumstances.

7.3 **Policy G17: Design Criteria for New Development** permits new development, including extensions and free-standing structures, provided that, the proposal does not have a detrimental impact on the existing building, neighbouring buildings or on the street scene by virtue of its design, height, scale, orientation, plot density, massing, proximity, use of materials. Furthermore, the development should not cause harm to neighbouring property by leading to undue overlooking, overshadowing or have an overbearing effect; the layout, design and landscaping of all elements of the proposal, including any internal roads, car parking, footpaths and open spaces, are of a high quality and will provide an interesting visual environment which respects the character of the site and local area; the development would not prejudice highway safety, pedestrian safety, the free flow of traffic, and would not reduce the number of on-site parking spaces to below the standards stated in Policy F1, unless there are other material considerations which justify the reduction such as proximity to a public car park.

### **Central Lancashire Core Strategy**

7.4 **Policy 17**, among other things, seeks to ensure that new development is (c) sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the amenities of the local area and (d) that the amenities of occupiers of the new development will not be adversely affected by neighbouring uses and vice versa.

- 7.5 **Penwortham Town Plan** advises that “*The Central Lancashire Core Strategy designates in Policy 11 District Centres and the South Ribble Local Plan identifies Liverpool Road, Penwortham, as a District Centre (Policy E4), and sets out its boundary in Appendix 7 of the NDP. The purpose of these policies to prevent an over proliferation of non-retail uses at the expense of retail provision within the centre is supported. It recognises that it is important to the vitality and viability of the District Centre that the retail strength and appearance of these frontages is retained.*

*It is acknowledged that there will be both considerable change, but also opportunities, when the Penwortham By-pass is completed. This will reduce through traffic and allow for improvement to the retail environment. In addition, the former Government Offices site on Cop Lane provides, through the extant planning permission, a potential new retail store with additional parking to serve the centre. It is also recognised that the Borough Council has committed to carrying out initial improvements in the centre.*

*The need for an overall improvement plan for the centre is recognised and the Town Council will work with both the Borough and County Councils to prepare and implement such an Improvement Plan.”*

## **8. Material Considerations**

- 8.1 Planning permission was granted in January 2019 for the sub-division of the former Booths supermarket to form 3 units, 2, A1 retail units and the third an A4 restaurant. Subsequent planning application 07/2019/7949/FUL sought the change of use of Unit 1 to an A3 drinking establishment. Planning Committee granted conditional approval on 23 October 2019. At the same meeting, planning application 07/2019/6994/COU was also considered relating to 16 Liverpool Road for a change of use to an A3 drinking establishment. During discussions on this application, it was proposed and agreed by Planning Committee to amend the hours of use of the outside area, which as had been recommended by Environmental Health. They had recommended the hours from between 11:00am to 18:00pm. Planning Committee instead agreed hours between 11:00am to 20:00pm, effectively 2 hours longer in the evening period than had been recommended. The aim was to achieve consistency in terms of hours of use between similar venues in Penwortham where outside space was used.
- 8.2 As the application for the unit subject of this current application had already been voted on with the hours of use of the outside space having been accepted as per the recommendation it resulted in this premises having reduced hours, whilst the application for 16 Liverpool Road was approved with the extended hours. This has therefore resulted in disparity between the two neighbouring premises.
- 8.3 The applicant is therefore applying to vary condition 9 to allow for the use of the outside area until 20:00, as follows:
- 8.4 Any outside area to be used by patrons shall be restricted to the area immediately outside the building, facing Liverpool Road. This area shall only be used between the hours of 11:00 and 20:00 for the consumption of food and drink (with a view to extending to 22:00 if no complaints are made). However, this wording would result in the condition not being precise and therefore would not pass the tests for imposing conditions. Additionally, Environmental Health would not support an extension until 22:00 and therefore the wording within the brackets would not be included on the amended condition.
- 8.5 The application has also applied to vary conditions 10 to read: “Tables and chairs provided to the outside area shall only be provided between the hours of 11:00 and 20:00” but again included the proviso “with a view to extending to 22.00 if no complaints are made” but as already indicated above, this would not be supported.

- 8.6 In the supporting statement, the applicant has advised that, as it was Winter and the outside space would not be required, they did not apply to vary the condition as a matter of urgency. However, they were then forced to close the premises due to the Covid 19 pandemic. On opening up again, social distance rules now mean that the inside area can only hold a third of what it could do pre lock-down and therefore require the use of the outside area for longer.
- 8.7 Additionally, due to the current Covid-19 pandemic and the easing of lockdown, the Government issues new legislation in the Business and Planning Bill which included the ability of operators of cafes, bars and restaurants to apply for pavement licence to enable them to achieve social distancing measures. However, as the use of the outside area for this premises is controlled by planning conditions, they are not eligible to benefit from the relaxed pavement licence legislation.
- 8.8 Environmental Health have no objections to the use of the outside area until 20:00 but would not support 22:00 and providing tables and chairs are removed to prevent unauthorised use after that time.
- 8.9 Three letters of support have been received as the proposal brings the premises into line with other similar venues in Penwortham
- 8.10 County Highways have no objections from a highway safety point of view.

## **9. Conclusion**

- 9.1 In conclusion, it is considered that the proposal is acceptable and represents a relatively minor increase in the hours of use of the outside area and result in the use being comparable with other similar type venues in Penwortham and particularly the drinking establishment at 16 Liverpool Road. The application is therefore recommended for approval subject to the imposition of conditions originally imposed.

## **10. RECOMMENDATION:**

- 10.1 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 submitted approved plans Dwg PE35/19 Rev A; GF35/19 Rev A;  
REASON: For the avoidance of doubt and to ensure a satisfactory standard of development
3. There shall be no live or recorded entertainment or music played at the premises, either internally or externally, unless agreed in writing at least 10 working days prior to the event. Low level amplified background music is only permitted internally. Any amplified background music shall be routed and controlled through a sound limiter which shall be set by the Council's Environmental Health Department  
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.

4. There shall be no flood lighting or patio heaters installed in the outside area without prior consent from the Local Planning Authority.  
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.
5. Waste, including empty bottles, shall not be removed from the premises (taken outside the building) between the hours of 20:00 - 08:00 on any day.  
Reason: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy
6. Waste collections shall not occur outside the hours of 19:00 to 08:00 Monday to Friday and 19:00- 10:00 Saturdays. There shall be no collections on Sundays and nationally recognised Bank Holidays.  
REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy
7. No deliveries shall be received by the site between the hours of 19:00 and 09:30 Monday to Sunday. No deliveries shall be received on nationally recognised Bank Holidays.  
REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy
8. All doors and windows to the property shall remain closed at all times except for access and egress so as not to cause a noise nuisance to nearby properties and residents.  
REASON: In the interests of the amenity of the nearby residents and businesses in accordance with Policy 17 of the Central Lancashire Core Strategy
9. Any outside area to be used by patrons, shall be restricted to the area immediately outside the building facing Liverpool Road. This area shall only be used between the hours of 11:00 hours to 20:00 for the consumption of food and drink.  
REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy
10. Table and chairs provided to the outside area shall only be provided between the hours of 11:00 to 20:00. Outside of these hours they must be removed to prevent there unauthorised usage.  
REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy
11. Prior to the commencement of any works on site a Noise Management Plan shall be submitted for approval to the local planning authority detailing how the applicant intends to control noise from patrons whilst using the facility both internally and externally. The approved plan shall then be implemented and retained thereafter. Any changes to the plan shall first be agreed in writing with 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
12. Prior to the installation of any extraction/ventilation systems full details of the 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: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy
13. There shall be no external storage within the confines of the application site.

REASON: To safeguard the visual appearance and character of the area in accordance with Policy G17 in the South Ribble Local Plan

14. The use hereby approved shall not be open to the public outside the hours of 11:00 and 23:00 Monday to Friday, 11:00 and Midnight on Saturday and 12:00 and 23:00 on Sundays and Bank Holidays

REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy

**12. RELEVANT POLICY**

**South Ribble Local Plan**

E4 District Centres

F1 Car Parking

G17 Design Criteria for New Development

**Central Lancashire Core Strategy**

17 Design of New Buildings

**Penwortham Town Neighbourhood Plan**