

**Application Number** 07/2020/00210/VAR

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

**Applicant** Mr Wayne Bretherton

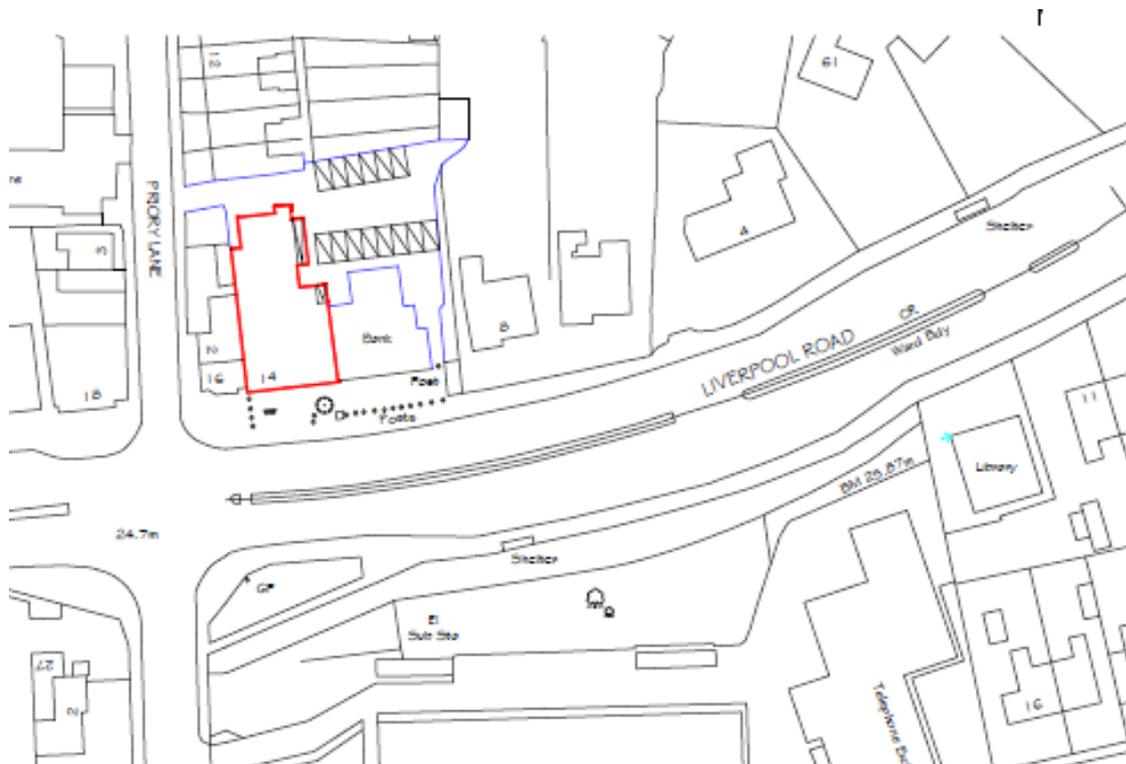
**Agent** Mr Chris Weetman  
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PR7 5RS

**Development** Variation of condition 2 of planning approval  
07/2018/8006/FUL to amend the internal layout

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

Date application valid 25.02.2020  
Target Determination Date  
Extension of Time

### Location Plan



### 1.0 Report Summary

- 1.1 The application has been called to planning committee by the local ward member due to a number of complaints that continue to be received from neighbouring residents in terms of noise and disturbance. The application seeks to vary condition 2 of planning approval 07/2018/8006/FUL in terms of the internal layout of the Craft and Crust 1260 premises only.

## **2.0 Site and Surrounding Area**

2.1 The application relates to the Craft and Crust 1260 restaurant unit in what was the former Booths supermarket located at 14 Liverpool Road in Penwortham, within the Penwortham District Centre. The premises had been vacant for a number of years, since September 2010 but was refurbished and sub-divided to form 3 units following grant of planning permission 07/2018/8006/FUL.

2.2 The premises is located close to the busy crossroads junction of Liverpool Road, Cop Lane and Priory Lane. It has commercial properties either side, and along Liverpool Road. On the opposite side of Liverpool Road is the recently constructed Tesco supermarket.

2.3 There are a number of residential properties to the north. At first floor above the application property are residential apartments.

## **3.0 Planning History**

3.1 There have been a number of planning permissions relating to this premises with those of relevance to this current application being:

07/2004/0950 Change of use of first floor from retail storage (Class A1) to two residential flats (Class C3) approved 08/10/2004

07/2018/8006/FUL for the conversion of the building to form 3 units together with the change of use from A1 (retail) to A3 (restaurant) for 1 unit and the other 2 units to remain in A1 retail use. The proposal also included a new shop front, windows, doors and cladding.

## **4.0 Proposal**

4.1 The application is for a variation of condition 2 of planning approval 07/2018/8006/FUL to amend the internal layout. Condition 2 required that the development be carried out in accordance with the approved plans and listed those plans by reference number.

4.2 The layout of the A3 restaurant unit of the sub-divided building had not been carried out in accordance with the approved layout and therefore this application seeks to regularise the situation.

4.3 Internally the layout consists of a seating area to the front of the premises with a large bar area to the western side with a pizza oven/kitchen area adjacent and a kitchen storage area with WC's to the northern end of the western side. To the eastern side is a VIP seating area with storage, office and a second seating area. As approved the layout had a much larger seating area with kitchen in the location of the VIP area with a small bar adjacent. The WC's were to be in the same location.

## **5.0 Summary of Publicity**

5.1 Neighbouring properties were notified with one letter of representation being received, objecting to the proposal on the following grounds:

- object on the grounds of noise and disturbance
- The floor plan does not follow the noise strategy that was first approved. The strategy did not cater for a large bar and cellar; or the extraction systems which are located below the roofline
- The acoustic test shows additional attenuation is required to meet approved target, dated 11th December 2019. This still needs clarity.

- Unacceptable levels of impact and airborne noise can be heard. This prevents us from enjoying our home, and has affected our wellbeing from the very first day of trading 11th December 2019
- Our property is an open plan design and cannot move around the house to avoid operational noise as it occurs (day or night)
- Countless hours have been lost working with the owner to try and mitigate the noise to some degree. Soundproofing material has been used without the desired effect

5.2 Following the submission of a Noise Report, neighbouring residents were reconulted with 3 further letters of representation being received, objecting on the following grounds:

- the recent commissioning report carried out by red acoustics is only applicable to flat 14b, noise levels. No noise level assessments have been carried out at flat 14c which is directly above the main bar, kitchen and toilet areas of the premises and where the outside seating area is directly beneath.
- to ongoing noise disturbance from the premises below.
- The original planning was for a restaurant. Craft and crust is a bar/pub with TVs and caters for standing customers therefore increasing footfall of incoming and outgoing customers.
- Craft and crust has a larger bar area than the original planning application for a restaurant. There is daily ongoing noise coming from craft and crust, of people talking, walking movement, noise from equipment and furniture movement.
- The noise also comes from people seated in the front outside area of the bar, which is directly below the living room and a bedroom.
- There is a loss of privacy due to customers seated outside in the paving area and can see into the living room and bedroom in the evening times.
- loss of the existing view of the paved area as the paved area is now covered by a huge canopy
- The noise that filters into our flat needs to be resolved.
- For the past two-years we have not been able to enjoy our home due to noise, odour, and disturbance caused by the two commercial venues that operate below the residential parts of this building; 1260 Craft & Crust and GinJarAle.
- Opposed the original planning application on the same grounds
- led to believe that the planning conditions and the noise mitigation assessment (report by Red Acoustics dated December 2018) would alleviate our concerns. This turned-out to be far from the truth.
- Since December 2019 we have been regularly disturbed by airborne and impact noise that travels into our entire flat.
- Have little faith in the South Ribble planning and assurance process
- The acoustic ceiling was not tested at completion and prior to occupation of the space, as per the planning condition 3
- An impact sound insulation test (ISO 140-7) did not form part of the original noise assessment, unlike other planning applications: - Bread & Butter (07/2019/0415/FUL) report by Red Acoustic dated June 19. - Lostock Ale House (07/2019/8975/FUL) report by Red Acoustic dated November 19 - Brooklyn's American Diner (07/2021/00563/DIS) report by KP Acoustics dated July 21
- The planning application for GinJarAle (August 2019) was granted without any evidence that showed the acoustic ceiling had be installed, noise reassessments were not submitted and impact tests were also omitted from this development.
- the noise commissioning tests (report by Red Acoustics dated 17th December 2019) shows additional attenuation is required. The retest report is vague, it does not show a pass/fail and offers no explanation for what 'additional attenuation' is required.
- the re-test was only done in same week that 1260 Craft & Crust opened and no tests have been carried out for GinJarAle.
- feel that this venue is trading as a pub and this goes against its intended use.

- It's difficult to see how this venue differs from most micropubs that operate across South Ribble and Preston. It's not a typical restaurant. It does not offer a mixed menu that provides dishes for all tastes, but this cannot be said for its wide range of craft ales and beverages
- In April 2020, environmental health also expressed similar
- The internal noise assessment (report by Red Acoustics dated July 2021) may show that the restaurant is operating under 80db, however this test was done on the first weekend after COVID lockdown, when some customers are no doubt still observing the COVID protocols. This may explain why the noise levels at the weekend of testing were lower than previous results and may not fully reflect the worse case scenario.
- They are only reflecting the average of one weekend.
- the following weekends have become louder than the testing weekend of 23-25th July 2021 and the average measured will surely not be maintained over the year.
- There has been many missed opportunities where noise could have been drastically reduced had the inclination been there.
- There seems to be a desire not to offend residents who live near the Lime Bar, but the residents who reside above commercial premises are forgotten and ignored.
- The pizza extraction system does not comply with the approved Ventilation and Extraction Statement dated 11/10/2018 condition no 4
- Beer kegs are rolled up the concrete ramp, empty kegs are placed against this external wall which creates further impact noise.

5.3 Neighbouring residents were sent a further letter advising that the red edge location plan was amended to reflect that of the parent planning application as it was noted the wrong premises had been red edged. This was to ensure that any decision on the application cannot be subject to a legal challenge.

## **6.0 Summary of Consultations**

6.1 **County Highways** has no objections to the variation of condition 2

6.2 **Environmental Health** initially commented that the proposed variation to the layout of this pub is retrospective and they are receiving complaints regarding the operation of this site. The previously imposed condition regarding insulation provision had not been complied with.

6.3 The new layout significantly reduces the level of seating available from the original plan, with a much larger bar area. Highlighting that the site is predominantly used as a bar and not a restaurant, and thus higher sound levels are being generated. Levels of up to 97 dB(A) were recorded from patrons shouting loudly within the premises, something that cannot be easily controlled. These recorded levels suggest that even if the proposed level of attenuation had been fitted, it would be insufficient for the proposed layout. EH could not support the application.

6.4 Following the submission of a Noise Report, Environmental Health were reconsulted and confirmed that following the monitoring undertaken, the suggested insulation level is now considered acceptable. Environmental Health have also undertaken and concluded their own investigation which found no statutory nuisance from the site.

6.5 Environmental Health were again reconsulted following receipt of a late letter of objection which raised a number of issues relating to this premises and also the neighbouring premises. A consultant EHO reviewed the Noise report for this development and advised that it appears to be a reasonable judgement of the ambient noise capability of the site. The condition is acceptable with this report as evidence the residential element should have the

minimum of disturbance. Therefore, Environmental Health now have no objection to this variation of the scheme.

## **7.0 Policy Background**

### **7.1 Central Lancashire Core Strategy**

**7.1.1 Policy 17: Policy 17: Design of New Buildings** requires new development to take account of the character and appearance of the local area, including:

(c) being sympathetic to surrounding land uses and occupiers and avoiding demonstrable harm to the amenities of the local area.

(d) ensuring that the amenities of occupiers of the new development will not be adversely affected by neighbouring uses and vice versa.

(f) minimising opportunity for crime, and maximising natural surveillance.

(j) making provision for the needs of special groups in the community such as the elderly and those with disabilities.

### **7.2 South Ribble Local Plan**

**7.2.1 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.

**7.2.2 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.

**7.2.3 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 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; the proposal would sustain, conserve and where appropriate enhance the significance, appearance, character and setting of a heritage asset itself and the surrounding historic environment.

**7.3 Penwortham Town Council Neighbourhood Development Plan** sets out the Visions and Objectives for the future of Penwortham; Sustainable development for the town and provide a local policy framework for developments within the town. In respect of the District Centre 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. In terms of parking The Town Council is working with South Ribble Borough Council and Lancashire County Council to consider the committal of resources to both develop and implement an Improvement Plan for the three Penwortham centres to enhance the physical environment, parking and the retail experience

## **8.0 Material Considerations**

8.1 The layout of the restaurant does not have any particular impacts on the premises, its use, the character and appearance of the area or the Penwortham District Centre. In these respects, the amended layout scheme is considered acceptable. However, in consideration of the parent planning application, the potential of noise and disturbance was one of the main issues, given that there are first floor residential apartments above. Therefore, consideration is given to the impacts the amended layout has on the residential amenity of the apartments.

8.2 Among the requirements of Core Strategy Policy 17 is need for new development to be sympathetic to surrounding land uses and occupiers, and to ensure that the amenities of occupiers of the new development will not be adversely affected by neighbouring uses and vice versa.

8.3 Since the A3 restaurant commenced operation, a large number of complaints have been received from the occupants of the first floor apartments in terms of noise and disturbance. Following investigation one of the causes appeared to be due to the altered internal layout of the restaurant. This is also due to the internal arrangements of the first-floor apartment which, it is understood, is open plan.

8.4 As part of the parent planning approval 07/2018/8006/FUL a noise assessment was carried out by Red Acoustics with a Noise Impact Assessment report F1606-REP01-JR dated 18 December 2018 being submitted which included the following assessments:

- Measure the existing environmental noise levels around the site
- Establish target plant noise limits
- Assess noise transfer between the proposed A3 spaces and the adjacent residential spaces in accordance with target criteria

8.5 Additionally, the Noise Impact Assessment report also provided a noise mitigation strategy. The details included measures such as wall linings, twin framed walls, acoustic ceilings and secondary glazing. Environmental Health considered the document and confirmed it was acceptable providing that the soundproofing works were undertaken as per the report and this was secured by condition.

8.6 It must be recognised that the residents of the apartment had objected to the proposal on noise grounds, commenting that the ceiling had inadequate soundproofing to prevent noise filtering into the apartment particularly are the commercial kitchen, bar and WC would sit below the lounge and two bedrooms. However, it was considered that, with the appropriate noise mitigation measures in place, there would be no additional undue impact on those residents in terms of noise and disturbance.

8.7 Those noise mitigation measures were based on the approved layout and it must be recognised that some of the noise experienced within the apartment which has resulted in complaints, may be due to the amended layout. The occupants of the first floor apartment have objected to the amended layout on the grounds of noise and disturbance, commenting that the submitted noise strategy did not cater for a large bar and cellar or the extraction systems which are located below the roofline. This has resulted in unacceptable levels of impact and airborne noise can be heard and prevents the occupants from enjoying their home and has affected their wellbeing from the very first day of trading, ie from 11th December 2019.

8.8 An additional acoustic test was carried out on 11<sup>th</sup> December 2019 which showed some additional attenuation was required. Environmental Health also carried out a number of monitoring visits to the premises and first floor apartment due to complaint about noise.

8.9 Environmental Health's initial consultation response advised that: *"The proposed variation to the layout of this pub is retrospective, i.e. the original layout plans submitted and approved have never been implemented. We are still receiving complaints regarding the operation of this site. The previous condition regarding insulation provision has not been complied with.*

*The new layout significantly reduces the level of seating available from the original plan, with a much larger bar area. Highlighting that the site is predominantly used as a bar and not a restaurant, and thus higher sound levels are being generated. Levels of up to 97 dB(A) were recorded from patrons shouting loudly within the premises, something that can not be easily control.*

*These recorded levels suggest that even if the proposed level of attenuation had been fitted it is insufficient for the proposed layout.*

*At this time the department cannot support the application."*

8.10 Therefore, it was considered necessary that a new noise impact assessment, based on the actual layout of the premises, be carried out and submitted. Due to Covid and the premises being either closed or operating at reduced capacity during Covid, the noise assessment has only recently been carried out now the restaurant is operating fully. It would have been of little use to assess noise impact during Covid and would not have given a true picture of the noise impacts.

8.11 The report is in the form of a technical note which details the measurement of internal noise levels at the premises. The purpose of the measurement is to determine typical and worst case operating noise levels within the restaurant area for comparison with the initial assumptions about internal operating noise levels (measured in a similar busy restaurant).

8.12 The report advises that, based on the measured operational noise levels within the restaurant spaces and the measured sound insulation performance of the separating construction it is concluded that the operational noise levels are in line with the recommended target noise levels for the restaurant space and no unreasonable disturbance is expected to the adjacent residential spaces.

8.13 Environmental Health have considered the noise assessment and confirm that, following the monitoring undertaken, the suggested insulation level is acceptable. Environmental Health have also undertaken and concluded an investigation which found no statutory nuisance from the site.

8.14 Environmental Health were further consulted following receipt of a late letter of objection and a consultant EHO reviewed the Noise report and confirmed that it appears to be a reasonable judgement of the ambient noise capability of the site. The condition is acceptable with this report as evidence the residential element should have the minimum of disturbance. Environmental Health therefore have no objection to this variation of the scheme.

8.15 In order to address the points raised in the late letter of objection, recognising that some of the issues do not relate to this premises alone, Environmental Health re-reviewed all the relevant acoustic documents provided as part of this and the parent application and advised:

*"During the initial application the department had concerns over the sound levels that had been assumed for the new venture and subsequently the nature of the use of the premises, in our view, akin more to a bar than a restaurant. I now understand that since reopening after the national lockdown the nature of the premises has changed to seated service only and usage is more akin to a standard restaurant as per the original planning permission.*

*The original acoustic report used assumed levels for the operation of the site to assess the impact on the first floor property. From this a specification was determined for the insulation works to the structure of the property. A subsequent test following these works identified*

*overall compliance with the agreed insulation level, but did highlight a slight exceedance at 125Hz, although this was minimal.*

*Following the lifting of the national lockdown the site was re-opened and monitoring undertaken across the site. This corresponded to the first weekend opening after lockdown and was generally a very busy weekend for most venues. I understand Craft and Crust was fully booked.*

*The above monitoring provided actual sound levels for the venue and these have been used to assess the impact against the insulation level. It again highlights a general compliance with the specified scheme with a slight 0.9dB exceedance at 125Hz, this is not detectible by the human ear.*

*The letter of objection received comments that an impact sound test has not been undertaken in line with ISO 140-7, this test involves testing the dividing structure for impact sound from above to below. It is irrelevant for consideration of any noise from the ground floor to the first floor, unless people are banging on the ceiling.*

*As an aside this department has fully investigated an alleged statutory noise nuisance from the venue to the first floor flat and concluded that no nuisance exists.*

*We have no objection to the application on the grounds of significantly adverse impact in line with the NPPF / NPSE.”*

8.16 In terms of the operation of the premises and the suggestions that it was more akin to a drinking establishment, it has been established that during Covid restrictions where such premises could only operate a takeaway services and since they were lifted, the premises has operated as a restaurant where tables have to be booked and officer's are satisfied that the premises is a restaurant not a drinking establishment.

8.17 Additionally, in terms of the comment that the noise testing was carried out the first weekend after the lock down was lifted and the premises was not fully occupied, it has been confirmed that the premises was operating at full capacity and the applicant has provided the booking details.

8.18 Whilst it is acknowledged that the neighbouring residents have raised a number of concerns, it is considered that both Environmental Health and Planning Enforcement have fully investigated those relating to noise and disturbance and no statutory nuisance has been found. In terms of residential amenity, it must be recognised that the premises was previously in commercial use as a supermarket and, although vacant for some time, could have resumed operation without any control over the hours of use etc or without any additional noise insulation measures.

8.19 Other matters raised are subject to separate investigation by the Enforcement team and will be dealt with accordingly and are no relevant to the variation of condition application which seeks to regularise the internal layout only.

8.20 The proposal does not have any impact on or alter the parking arrangements for the site and County Highways have no objections to the amended layout.

## **9.0 Conclusion**

9.1 For the reasons outlined above, it is considered the proposed layout it acceptable and the application is recommended for approval subject to the imposition of conditions as originally imposed with just condition 2 being amended to reflect the updated plan reference number and revision.

## **10.0 Recommendation**

10.1 Approval with Conditions.

## **11.0 Recommended Conditions**

1. The development, hereby permitted, shall be carried out in accordance with the submitted approved plans Dwg GF36/19 Rev C Proposed Ground Floor Unit 3  
REASON: For the avoidance of doubt and to ensure a satisfactory standard of development
2. The development hereby approved shall fully adhere the updated Noise Assessment Technical Details R1606/T01A by Red Acoustics dated 18 August 2021  
REASON: To safeguard the living conditions of adjacent residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy
3. The odour management plan contained in the approved Ventilation and Extraction Statement dated 11/10/2018 shall retained throughout the permitted use of the site.  
REASON: In the interests of the amenity and to safe guard the living conditions of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy.
4. Prior to the installation of any external light, details shall be submitted for approval in writing to the local planning authority. The approved scheme shall then be installed, maintained and retained at all times thereafter.  
REASON: In the interests of amenity and to safeguard the living conditions of the nearby residents in accordance with Policy 17 in the Central Lancashire Core Strategy
5. No deliveries shall be received and no waste, including empty bottles, shall be removed from the premises between the hours of 22:00 and 08:00 Monday to Sunday.  
REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy.
6. The Bi-fold doors to the front of the restaurant shall not be open between the hours of 20:00 and 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

## **12.0 Relevant Policy**

### **Central Lancashire Core Strategy**

Policy 17: Design of New Buildings

### **South Ribble Local Plan**

E4 District Centres

F1 Car Parking

G17 Design Criteria for New Development