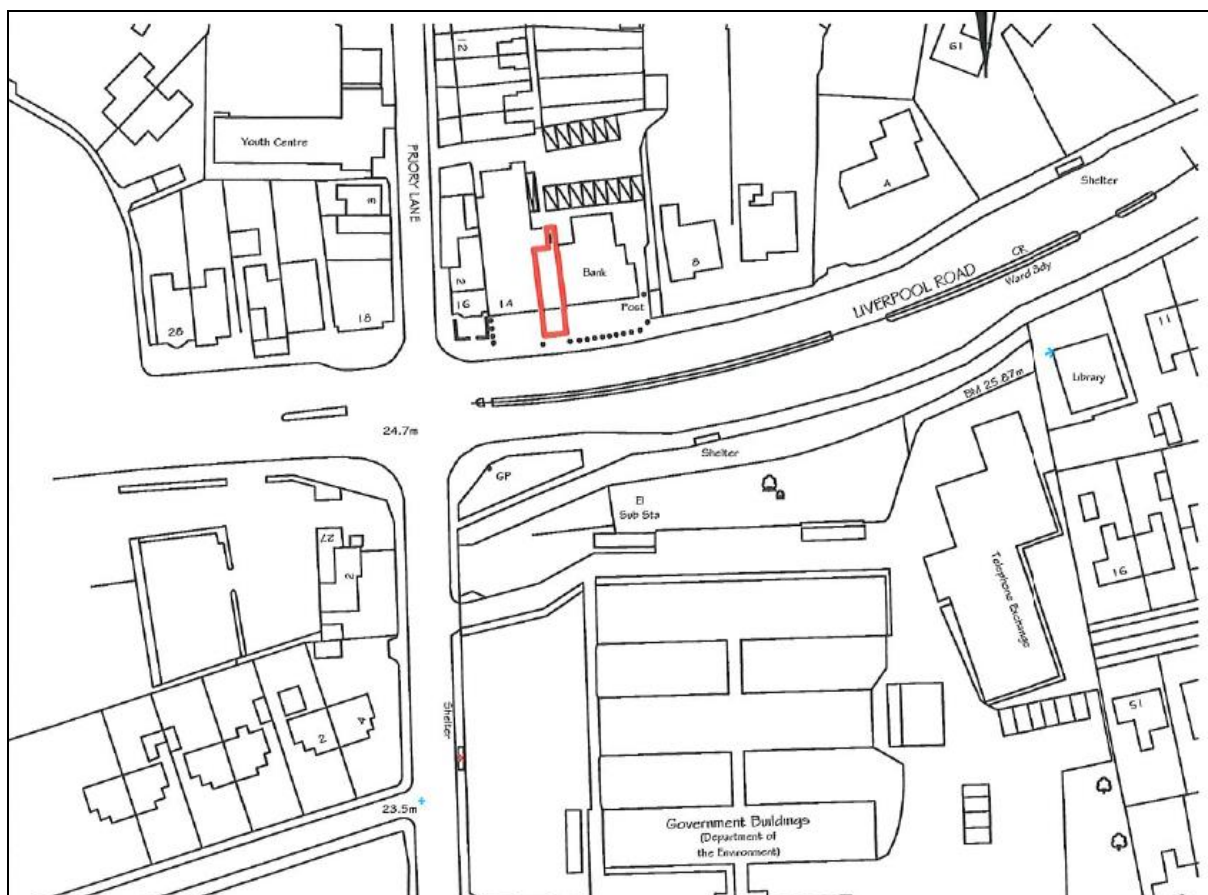


<b>Application Number</b>	07/2021/01194/VAR
<b>Address</b>	14A Liverpool Road Penwortham Preston Lancashire PR1 0AD
<b>Applicant</b>	Miss Michelle McKiernan
<b>Development</b>	Variation of condition 14 of planning approval 07/2019/7949/FUL to extend the hours of opening
<b>Officer Recommendation</b>	Approval with Conditions
Date application valid	10.12.2021
Target Determination Date	04.02.2022
Extension of Time	

### Location Plan



## 1. Report Summary

1.1 The application seeks a variation of condition 14 of planning approval

## 2. Site and Surrounding Area

2.1 The application relates to the drinking establishment known as Gin Jar Ale at 14a Liverpool Road in Penwortham. This is one of 3 units formed from the former Booths supermarket premises which was refurbished and sub-divided

2.2 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.

2.3 Residential apartments are above some of the commercial premises with further residential properties located to the north on Priory Lane. Opposite is the newly constructed Tesco supermarket. 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 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

3.2 07/2019/7949/FUL Change of use of Unit 1 from A1 (Retail) to A4 (Drinking Establishment) - approved

3.3 07/2020/00584/VAR Variation of conditions No. 9 and 10 of planning approval 07/2019/7949/FUL to allow for use of outdoor area until 8pm – approved

### **4. Proposal**

4.1 The application seeks to vary condition 14 of planning approval 07/2019/7949/FUL to extend the hours of opening to be in line with the licensing hours.

4.2 Condition 14 required that: *“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”*

4.3 Licensing allows for the consumption of alcohol at the premises between the hours of 11am to 11pm Sunday to Thursday and 11am to midnight on Friday and Saturday with the hours of opening being 11am to 11.30pm Sunday to Thursday and 11am to 00:30 on Friday and Saturday

4.4 The proposal would therefore allow for an additional half hour opening time.

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

5.1 Neighbouring properties were notified and a site notice posted with no letters of representation being received. However, a petition was submitted by the applicant containing 116 signatures of customers in support of the variation of condition application.

5.2 Additionally, the applicant contacted the case officer advising that a number of customers had tried to register their support for the application through the Planning Portal but were unable to do so. This matter has been reported to IT for investigation.

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

6.1 **Environmental Health** have no comments to make on the proposals.

### **7. Policy Background**

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 Cafe 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 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.

**7.3 Central Lancashire Core Strategy 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.

**7.4 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 Background**

**8.1.1** The application property gained permission (07/2018/8006/FUL) for the sub-division of the former Booths supermarket to form two retail units and one restaurant and refurbishment works, including a new shop front, windows, doors and cladding. A subsequent application (07/2019/7949/FUL) was approved by planning committee for a change of use of one of the retail units to provide a drinking establishment, now known as the Gin Jar Ale. A number of conditions were imposed on that permission with condition 14 setting out the hours of use.

**8.1.2** An application was then approved to vary conditions 9 and 10 of 07/2019/7949/FUL to extend the hours of use of the outside area from between the hours of 11:00 to 18:00 to between 11:00 and 20:00 to bring the Gin Jar Ale in line with similar adjacent premises.

8.1.3 This current application seeks to vary condition 14 of planning approval 07/2019/7949/FUL to extend the hours of opening to be in line with the licensing hours.

8.1.4 Condition 14 required that: *"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"*

8.1.5 Licensing allows for the consumption of alcohol at the premises between the hours of 11am to 11pm Sunday to Thursday and 11am to midnight on Friday and Saturday with the actual hours of opening being between 11am to 11.30pm Sunday to Thursday and 11am to 00:30 on Friday and Saturday

8.1.6 The proposal would therefore allow for an additional half hour opening time in the evenings on Saturday to Thursday, an additional 1:30 hours on Friday and an additional 1 hour in the mornings on Sunday.

## 8.2 Justification

8.2.1 The Gin Jar Ale were operating to the licensing hours. During investigation by Planning Enforcement into the breach of condition 14 following a complaint, Legal Services advised that the more restrictive hours, ie those imposed by the planning condition, must be complied with. Since this advice, the operators of the Gin Jar Ale premises have complied with the planning hours and seek to vary the hours through this variation of condition application.

8.2.2 The applicant advised that they received two different opening/operating hours from planning and licensing which caused some confusion.

8.2.3 The supporting statement submitted in support of this application outlines that when operating to the licensing hours, *"customers made staggered exists throughout the night, especially from 11pm onwards, which resulted in little to no outside noise, disturbance from congregating customers waiting outside for taxis rather than inside. So now, as No 16 On The Hill (Literally two doors down) also have to comply to these hours we have in effect two establishments at capacity all being made to exit onto the street at 11pm with our doors locked behind them. Surely this isn't in the interests of nearby residents? Before the majority of people left at staggered times, with only a table or two left to be told to leave at the end of the evening. This seems contradictory to the interests of the nearby residents and we feel will lead to complaints regarding street noise etc when we have been nothing be extremely vigilant and worked hard with customers to ensure existing the premises was done so in a quiet and courteous manner. We have never received any complaints regarding closing time noise so have obviously managed this extremely well."*

8.2.4 It is considered that, as the Gin Jar Ale premises has been operating to the Licensing hours for some time without substantial complaint (just 2 received), the need to bring Planning and Licensing in line with each other to avoid confusion and the limited extended time of opening proposed, it is considered acceptable, particularly as the premises is within the Penwortham District Centre where Policy E4 supports such uses to protect and enhance the district centre to maintain the vitality and viability.

## 8.3 Residential Amenity

8.3.1 There are residential apartments above the application property and its neighbouring properties. There are also a number of residential properties along Priory Lane and Liverpool Road in the vicinity of the application premises. The proposal has the potential to adversely affect the residential amenity of these neighbouring properties in terms of noise and disturbance due to the proposed extension in hours of use.

8.3.2 Policy 17 seeks to ensure that neighbouring properties are not adversely affected by new development and Policy G17 seeks to protect residential amenity.

8.3.3 It is noted that licensing allows for the premises to be open until midnight and 00:30 on Friday and Saturday. It is understood the premises has been operating to the licensing hours for some time. The licensing hours are just half an hour longer on a Saturday night and therefore not considered unduly detrimental to the amenity of neighbouring residents.

8.3.4 No letters of objection have been received.

8.3.5 Environmental Health have no objections to the proposal, making no comments.

## **9. Conclusion**

9.1 The proposal extends the hours of opening of the Gin Jar Ale premises to be in line with the licensing hours. This is considered acceptable and the application is recommended for approval.

## **10. RECOMMENDATION:**

10.1 Approval with Conditions.

## **11. RECOMMENDED CONDITIONS:**

1. 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
2. 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.
3. 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.
4. 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
5. 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

6. 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
7. 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
8. 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
9. 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
10. Within three months from the date of this permission, 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
11. 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
12. 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
13. The use hereby approved shall not be open to the public outside the hours of 11:00 and 23:30 Sunday to Thursday, 11:00 and 00:30 on Friday and Saturday  
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**

12.1 **South Ribble Local Plan**

- E4 District Centres
- G17 Design Criteria for New Development

12.2 **Central Lancashire Core Strategy**

Policy 17: Design of New Buildings

### 12.3 Penwortham Neighbourhood Development Plan