

**Application Number** 07/2022/00148/VAR

**Address** 16 Liverpool Road  
Penwortham  
Preston  
Lancashire  
PR1 0AD

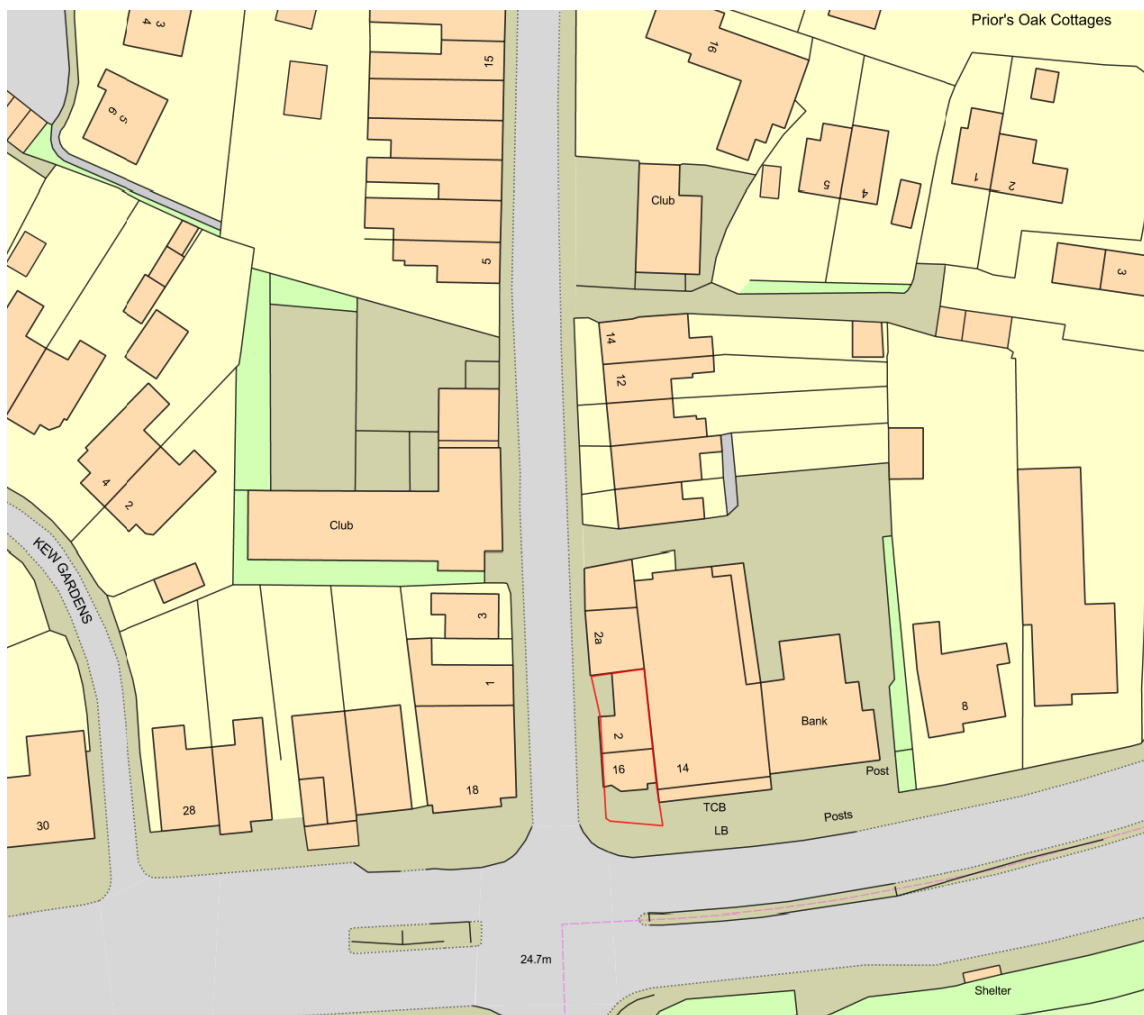
**Applicant** Preston Pub Co Ltd

**Development** Removal of condition 4 to allow for patio heaters and Variation of Condition 14 of planning permission 07/2019/6994/COU to extend the hours of operation.

**Officer Recommendation** Approval with Conditions

Date application valid 09.03.2022  
Target Determination Date 04.05.2022  
Extension of Time N/A

**Location Plan**



## **1. Report Summary**

1.1 The application proposes the removal of condition 4 of planning permission 07/2019/6994/COU to allow for patio heaters to be used outside together with a variation of condition 14 to extend the hours of opening of the drinking establishment premises known as 16 On The Hill locating on Liverpool Road in Penwortham. All other conditions are to remain as originally imposed.

1.2 The proposal has been considered by Environmental Health who confirm they have no issue with an extension in times internally but would object to the removal or variation of the lighting / patio heaters condition.

1.3 However, given that other bars in the area have successfully varied this condition through the planning appeal process, then, in the interests of consistency in the area, it is considered acceptable and the application is recommended for approval.

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

2.1 The application relates to a commercial property located on the corner of Liverpool Road and Priory Lane in Penwortham and at the crossroads junction with Cop Lane, which is a Air Quality Management Area. The property was used as a café with seating to the forecourt area on Liverpool Road before changing to a drinking establishment. The area is predominantly commercial in nature and is within the Penwortham District Centre. Some residential properties are located to the north on Priory Lane and above some of the commercial properties. 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**

07/1991/0448 Non-illuminated Shop Sign at First Floor Level. CONS 31/07/1991  
07/2016/1336/TPD Notification for prior approval for a change of use from Class (A1) to Class (A3) PRI 10/01/2017  
07/2019/6994/COU for the change of use of from an A3 Restaurant/Café to a Class A4 Drinking Establishment. Approved

## **4. Proposal**

4.1 The application proposes the removal of condition 4 to allow for patio heaters to be installed outside and for the variation of condition 14 to extend the hours of operation.

4.2 In the interests of clarity, the conditions are set out below:

*4. There shall be no flood lighting or patio heaters installed in the outside area without prior consent from the Local Planning Authority.*

*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 The proposal seeks to extend the hours to align the hours with those on the Premises License.

## **5. Summary of Publicity**

5.1 Neighbouring properties were notified and a site notice posted with 1 letter of representation being received in support of the application, commenting that the new bars & restaurants in the area is having a positive impact. Some of the businesses in this

area of Penwortham have different restrictions than those further into Penwortham and feel they all should be entitled to the same opening hours and agreements to improve outside seating areas. Penwortham is growing and thriving which impacts business & house prices which is a positive to all.

## **6. Summary of Consultations**

**6.1 Environmental Health** have no issue with an extension internally of the use. However, they have had complaints regarding live entertainment in the past. They are against an extension of the outside area usage and would object to the removal or variation of the lighting / patio heaters or hours.

## **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 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.

**7.4 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.

**7.5 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 Background**

8.1.1 The application property had been used since 2016 as a café known as ‘Bread and Butter’ and was subject to a change of use permission in July 2019 from an A3 Restaurant/Café to a Class A4 Drinking Establishment. Following the changes to the Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020, an A4 Drinking Establishment now falls within a Sui Generis use.

8.1.2 A number of conditions were imposed on the change of use permission. Condition 4 stated there could be no flood lighting or patio heaters installed in the outside area without prior consent from the Local Planning Authority. The reason for this condition was in the interests of the amenity of nearby residents.

8.1.3 Condition 14 restricted the house of use to 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, again in the interests of the amenity of nearby residents.

8.1.4 The proposal now is to remove condition 4 in order to allow for the use of patio heaters and to extend the hours of operation so they align with the Premises License.

8.1.5 As the conditions were imposed in the interests of the amenity of nearby residents, an assessment of the potential impacts is carried out below.

### **8.2 Residential Amenity**

8.2.1 During consideration of the change of use planning application 07/2019/6994/COU, the view was that the proposal had the potential to adversely affect the amenity of the area in terms of the effect of noise and disturbance on nearby residential properties. Environmental Health advised that, while they had no objection in principle, a number of conditions would be required to avoid any significant adverse effects. The conditions included the following:

- that no live or recorded entertainment or music is played at the premises;
- that no flood lighting or patio heaters be installed in the outside area;
- that waste, including empty bottles, should not be removed from the premises between the hours of 20:00 - 08:00 on any day;
- that waste collections shall not take place outside the hours of 19:00 to 08:00 Monday to Friday and 19:00-10:00 Saturdays;
- that no deliveries shall be received by the site between the hours of 19:00 and 09:30 Monday to Sunday;
- that 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;

- that the outside area/beer garden shall not be used between 20:00 and 10:00 hours on any day;
- that a Noise Management Plan be submitted for approval;
- that details of any extraction/ventilation systems be submitted; and
- that there shall be no external storage within the confines of the application site.

8.2.2 The restriction on patio heaters became Condition 4 which this current application seeks to remove to allow for patio heaters to be used externally. The use of the external area is restricted to the area immediately outside the building facing Liverpool Road for use between the hours of 11:00 and 20:00 by condition 9 of the parent planning approval.

8.2.3 Although the use of patio heaters can effectively extend the time that patrons can use the external space, particularly during the colder months, as this is restricted to 20:00, this is considered to be reasonable and will not particularly impact on the residential amenity of nearby residential properties.

8.2.4 However, it must be noted that, although the application form specified that the application is for the removal of condition 4, the supporting statement indicates the **amendment** of condition 4 is to allow use of patio heaters on the outdoor area.

8.2.5 Environmental Health have advised that they would object to the removal or variation of condition 4. However, it must be recognised that similar premises in the area have been allowed to vary this condition to allow patio heaters. In a recent appeal decision for the Lime Bar at 42 Liverpool Road, the Inspector varied the condition to read: *“There shall be no flood lighting installed in the outside area without prior consent from the Local Planning Authority.”*

8.2.6 Given that patio heaters have been allowed in the area, it would be inappropriate to restrict their use at this premises. Additionally, the hours of use of the outside area is restricted by condition 9 and the proposals do not seek to amend this. As such it is considered appropriate to amend condition 4 to remove reference to patio heaters only.

8.2.7 The application also proposes the variation of condition 14 to allow for an additional half an hour of Friday until midnight. However, on consideration of the application, it was noted that there were some discrepancies within the application submission and a copy of the Premises License was requested. In the interest of clarity, the licensing hours of opening of the premises are:

|                     |                 |
|---------------------|-----------------|
| Sunday to Thursday  | Noon to 23:20pm |
| Friday and Saturday | Noon 12:20am    |

8.2.8 Effectively, if the hours on the premises license were applied, the premises would operate for one hour less in the mornings, 20 minutes more on Saturday to Thursday and one hour and 20 minutes more on Fridays.

8.2.9 Discussions therefore took place with the applicant who has confirmed that the main aim is to extend the hours of use on a Friday but would welcome the retention of the 11:00am start to provide flexibility and extended use by 20 minutes on other days. Therefore, it is considered that condition 14 be amended to read: *“The use hereby approved shall not be open to the public outside the hours of Noon to 23:20pm on Sunday; 11:00am to 23:20pm Monday to Thursday and 11:00am to 12:20am on Friday and Saturday”*

8.2.10 Whilst this does not strictly align the hours of use to those on the premises licence as it allows one hour earlier opening in the mornings, it provides the applicant with flexibility.

8.2.11 Environmental Health have no objections to the extension in the hours of use. Although they comment that they have had complaints regarding live entertainment in the past, this is covered by condition 3 of the parent permission which required:

*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*

8.2.12 If live entertainment is being carried out without first agreeing in writing, then this would be a matter for planning enforcement to deal with.

8.2.13 All other conditions on the parent permission as requested by Environmental Health are to remain as imposed, in the interests of residential amenity.

## **9. Conclusion**

9.1 For the reasons set out in this report, it is considered that it is appropriate to vary condition 4 to allow for the use of patio heaters and to vary condition 14 to extend the hours of use and therefore 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 1603 Ground Floor Layout  
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 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. 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
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 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 Noon to 23:20 on Sunday; 11:00am to 23:20pm Monday to Thursday and 11:00am to 12:20 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

## **RELEVANT POLICY**

### **South Ribble Local Plan**

Policy E4: District Centres

Policy F1: Parking Standards

Policy G17: Design Criteria for New Development

### **Central Lancashire Core Strategy**

Policy 17: Design of New Buildings

### **Penwortham Town Plan**