

Application Number

07/2023/00722/VAR

Address

16 Liverpool Road
Penwortham
Preston
Lancashire
PR1 0AD

Applicant

Mr Antony Ian Anderson

Development

Variation of Conditions 9 and 11 of planning approval 07/2019/6994/COU as varied by 07/2022/00148/VAR to allow for the external seating area to be used until 22:00hrs (Amended description)

Officer Recommendation

Approval with Conditions

Date application valid

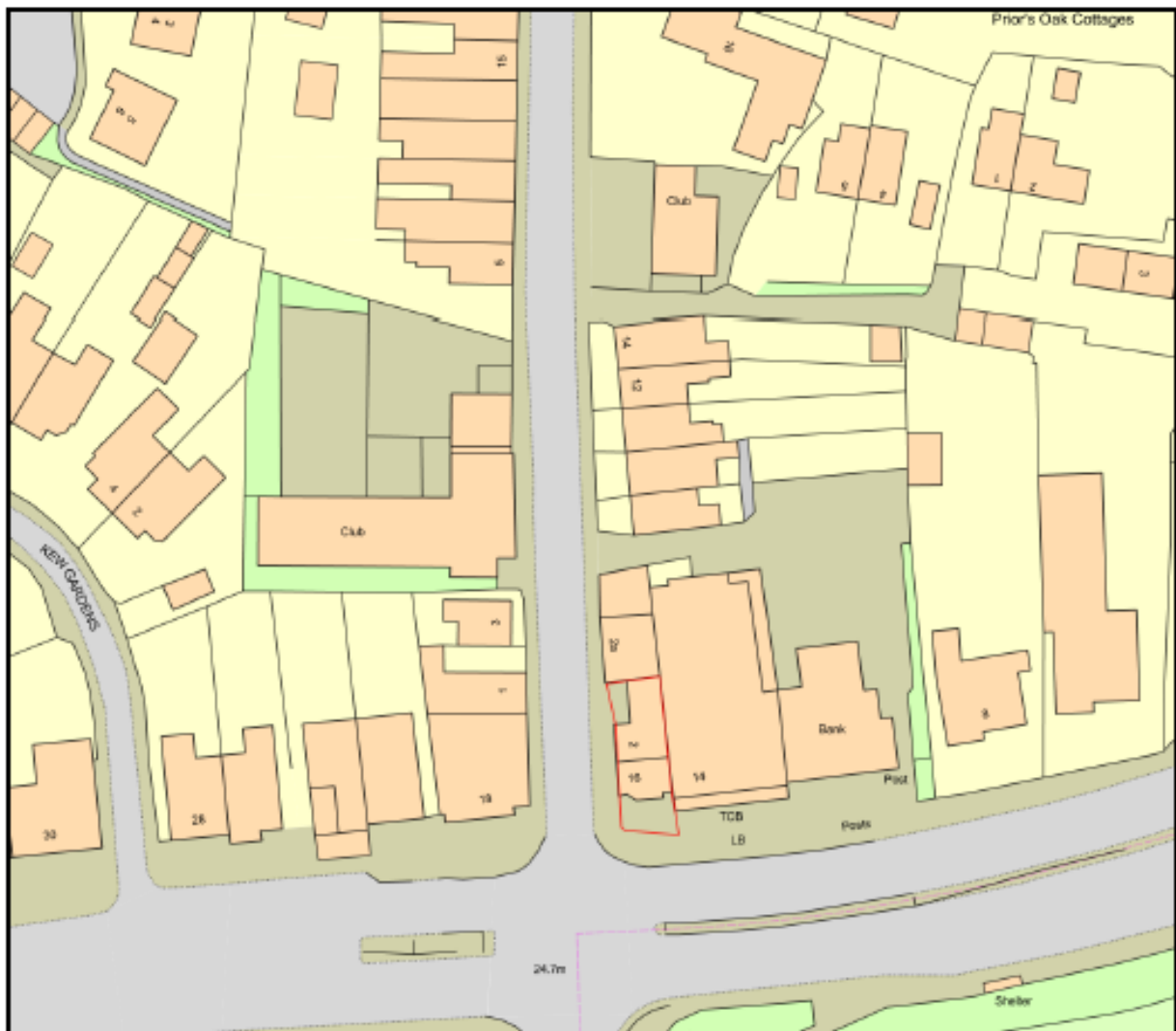
25.10.2023

Target Determination Date

20.12.2023

Extension of Time

Location Plan



1. Report Summary

1.1 The application relates to the drinking establishment known as 16 On The Hill and proposes a variation of conditions 9 and 11 of planning approval 07/2019/5994/COU to allow for the external seating area to be used until 22:00hours.

1.2 Members will recall at the November planning committee meeting 2 similar applications for adjacent drinking establishment premises, The Gin Jar Ale and Fairham's came before committee. Both were approved contrary to the Officer recommendation.

1.3 Given that this current application for 16 On The Hill is on the corner of Liverpool Road/Priory Lane and has a commercial premises above and with reference to the neighbouring drinking establishments, this application is recommended for approval subject to the imposition of conditions.

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 an Air Quality Management Area. The property was previously used as a cafe with seating to the forecourt area on Liverpool Road before changing to a drinking establishment, known as 16 On The Hill. 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 apartments are 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/Cafe to a Class A4 Drinking Establishment. Approved

07/2022/00148/VAR for the variation of condition 4 to allow for patio heaters to be installed and condition 14 to extend the hours of operation. Approved

07/2022/00778/FUL for the erection of pergola structure to the front. Approved. Condition 3 was imposed, as follows: *"The use of the pergola hereby approval shall only be used between the hours of 11:00 hours to 20:00 for the consumption of food and drink."*

07/2023/00952/VAR for the variation of condition 3 of planning approval 07/2022/00778/FUL to extend the hours of use of the pergola until 22:00 hrs is currently pending.

4. Proposal

4.1 The application proposes Variation of Condition 9 and 11 of planning approval 07/2019/6994/COU as varied by 07/2022/00148/VAR to allow for the external seating area to be used until 22:00hrs. In the interests of clarify, the conditions are set out below:

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 20:00 for the consumption of food and drink."*

Condition 11: *"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 their unauthorised usage."*

4.2 The proposal is to extend the hours of use until 22:00hrs.

5. Summary of Publicity

5.1 Neighbouring properties were notified and a site notice posted with 2 letters of representation being received, one objecting, commenting as follows:

- object to the variation of condition 9 to protect the amenity of neighbouring residents.
- Patrons of this establishment already use the outdoor area way beyond the current condition time of 8pm, which already causes regular noise disturbance in the area.
- Extending this condition time will only exacerbate this issue, as patrons will be out on the pavements until much later, as the operators are unable to manage this effectively.
- If this is passed then neighbouring bars are also likely to apply for extended use of outside areas and before we know it we could potentially have 5 drinking establishments, within a very concentrated area, with patrons on the roadside creating noise into the late evening.

One letter was received in support commenting as follows:

- 16 on the hill should be allowed to get the outside to 10pm will be great for Penwortham.
- for small businesses will do good and it good in the community like the big corporation bar across the road

6. Summary of Consultations

6.1 **County Highways** have no objections to the variation of condition 9. I feel it will have a negligible impact on highway safety.

6.2 **Environmental Health** advise that the premises are in very close proximity to residential properties, in particular the flats above. The current restriction at 2000 hours preserves the amenity of residents close to the application premises. As evening/night-time progresses the background sound levels in the area will begin to drop off, which will exacerbate any intrusive patron noise due to use of the external seating area.

6.3 Environmental Health's recommendation is to refuse the application to extend the use of the external seating area, to prevent dis-amenity to residents in the near vicinity.

6.4 **Licensing** has no objections to this variation.

7. Material Considerations

7.1 Background

7.1.1 The application property had been used since 2016 as a cafe known as 'Bread and Butter' and was subject to a change of use permission in July 2019 from an A3 Restaurant/Cafe 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.

7.1.2 A number of conditions were imposed on the change of use permission with condition 9 restricting the hours of use of the external seating area until 22:00hrs. Additionally, condition 11 required that tables and chairs be removed by 20:00hrs and the proposal include the variation of this condition unto 22:00hrs.

7.1.3 Whilst considering this current application it waws noted that planning approval 07/2022/00778/FUL for the erection of pergola structure to the front was approved with

condition 3 imposed, as follows: *"The use of the pergola hereby approval shall only be used between the hours of 11:00 hours to 20:00 for the consumption of food and drink."*

7.1.4 As this condition also restricts the use to 20:00hrs it will need to also be varied. The applicant was advised and submitted application 07/2023/00952/VAR. Additionally, the applicant would need to vary the premises license through a minor amendment application.

7.2 Residential Amenity

7.2.1 At first floor above 16 On The Hill is a commercial property although there are residential apartments above the adjacent Craft and Crust and Gin Jar Ale premises.

7.2.2 Condition 9 was imposed on the parent permission for the change of use of the premises to a drinking establishment in order to protect residential amenity, Environmental Health have objected to this variation to allow the use of the external seating area until 22:00 as they consider that the current restriction at 2000 hours preserves the amenity of residents close to the application premises. As evening/night-time progresses the background sound levels in the area will begin to drop off, which will exacerbate any intrusive patron noise due to use of the external seating area.

7.2.3 As such Environmental Health's recommendation is to refuse the application to extend the use of the external seating area, to prevent dis-amenity to residents in the near vicinity.

7.2.4 However, given that the first floor is a business premises and with reference to the 2 drinking establishments at 14 Liverpool Road, known as The Gin Jar Ale and Fairham's, together with the Craft and Crust restaurant, it would be inconsistent to then restrict this drinking establishment until 20:00 hours.

7.2.5 During consideration of this application, it was noted that an additional condition was imposed on planning approval 07/2022/00778/FUL for the erection of a pergola over the external seating area, as below:

The use of the pergola hereby approval shall only be used between the hours of 11:00 hours to 20:00 for the consumption of food and drink.

7.2.6 The applicant was advised and has submitted application 07/2023/00952/VAR for the variation of condition 3 of planning approval 07/2022/00778/FUL to extend the hours of use of the pergola until 22:00 hrs. This application is pending and will be considered along with this current application.

7.3 Conclusion

7.3.1 Together with the previous amended condition 4 which allowed for patio heaters to be installed, the proposal will enable greater use of the external area during the colder months. Given that the first floor is in commercial use and the fact that neighbouring premises are allowed to use their outside areas until 22:00hrs, this application is recommended for approval.

RECOMMENDATION:

Approval with Conditions.

RECOMMENDED CONDITIONS:

1. The development, hereby permitted, shall be carried out in accordance with the submitted approved plans Dwg 1603 Ground Floor Layout; 2010 Proposed Plan and Elevations

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 22:00 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. Within 2 months of 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

10. Table and chairs provided to the outside area shall only be provided between the hours of 11:00 to 22:00. Outside of these hours they must be removed to prevent their 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

Central Lancashire Core Strategy

Policy 17: Design of New Buildings

South Ribble Local Plan

E4 District Centres