

<b>No.5</b>	<b>APPLICATION NO.</b>	2018/1006/FUL
	<b>LOCATION</b>	Premises Known As The Timber Yard Moorgate Ormskirk Lancashire L39 4RT
	<b>PROPOSAL</b>	Change of use to flexible use consisting of use classes A2, D1, D2 and A4 and alteration/extension of building to provide bar lounge and outdoor seating area.
	<b>APPLICANT</b>	Unite Developments
	<b>WARD</b>	Knowsley
	<b>PARISH</b>	Unparished - Ormskirk
	<b>TARGET DATE</b>	19th November 2018

---

## **1.0** **SUMMARY**

1.1 The application seeks planning permission for flexible uses in an accessible edge of centre location. The applicant has demonstrated suitability of the location by way of a sequential test and whilst concerns over the potential impacts on local amenity exist it is considered that, subject to suitable conditional controls, the development can be made acceptable in planning terms. Operational development to facilitate the uses has taken place and is considered policy compliant.

## **2.0** **RECOMMENDATION**

2.1 That **temporary** planning permission be **GRANTED** subject to conditions.

## **3.0** **REFERRAL**

3.1 The application was to be determined under delegated powers, however, Cllr Dowling has requested it be considered at planning committee to assess the impact of the proposed development on neighbouring amenity.

## **4.0** **THE SITE**

4.1 This matter relates to a former builders yard and part of a single storey commercial building attached to a flexible use A2/D1/D2 unit incorporating a gym, exercise rooms and beauty salon to the eastern side of Moorgate within the Key Service Centre settlement area of Ormskirk. The site lies approximately 40 metres to the south of Ormskirk Town Centre. To the north of the site is a village hall/guide hut, to the east is a railway line, to the west is West Lancs Wellbeing Centre (Age UK) and residential units on Bridge Avenue, and, to the south are residential properties and Moorgate Nursery School and Early Years Centre. Moorgate is a one-way street here.

4.2 The unit and extension is about 10 x 13 m accommodating a toilet, store, kitchen and bar facilities. Access is via two openings in the frontage wall secured by high steel rail gates. The wooden-clad single storey extension measures approx. 3.2 x 9.3 metres with a mono pitched tin roof sited substantially below a pre-existing canopy – presumably serving to shelter a former loading bay. A low platform has been built in front (west) of the extension accommodating a temporary/lightweight gazebo shelter. The concrete yard area is approx. 19 x 24 m with high walls to the road frontage, eastern and northern boundaries; stacks of timber palettes and picnic benches provide seating and table facilities in this area.

## **5.0** **THE PROPOSAL**

- 5.1 The application seeks the retention of the lean-to extension, the raised deck platform and the change of use of the site for flexible uses including A2 (financial and professional services), A4 (drinking establishments), D1 (non-residential institutions), and D2 (assembly and leisure). The current use is a licensed A4 use.
- 5.2 The proposed hours of use of the site for A4 purposes are: 11.00-22.30 hours Monday to Friday; 11.00-00.00 hours Saturdays; and, 12.30-22.30 hours Sundays and Bank Holidays.
- 5.3 The permission also seeks regularisation of the extensions described at 4.2 above.

## **6.0 PREVIOUS RELEVANT DECISIONS**

- 6.1 2015/0810/COU - GRANTED (14.12.2015) Change of use from child's soft play centre to gym with beauty salon and separate building with flexible mixed usage of A2 / D1 & D2 (part retrospective).
- 6.2 E/2017/0210/UAU – Enforcement Authorised (8 October 2018) Without planning permission the change of use of land and building to a drinking establishment (A4 Use) and the erection of a building extension.

## **7.0 OBSERVATIONS OF CONSULTEES**

- 7.1 LCC (Highways) (26.10.18) - no objection - the proposed development should have a negligible impact on highway safety and highway capacity within the immediate vicinity of the site.
- 7.2 Environmental Health (16.11.18) – Concerns raised with respect to potential for noise impacts arising from music and patrons activities on nearby land uses; recommends temporary permission with planning conditions to address concerns that cannot be covered under the terms of a premises licence.

## **8.0 OTHER REPRESENTATIONS**

- 8.1 2 letters from nearby residents objecting on the following bases:

Contrary to policies GN5 and IF1 as sequentially preferential sites available within the allocated town centre.

Contrary to Policy GN3 in that the development displaces 18 parking spaces approved for use in conjunction with the adjacent site (gym).

The loss of parking facilities increases on-street parking competition which causes congestion and highway safety concerns – particularly at drop-off/collection times for activities on the adjacent site and has resulted in a rise of traffic using Moorgate in the wrong direction when there is a queue to exit via Park Rd.

The adjacent site is used for children's sleepovers and will cause potentially frightening and disruptive noise.

Area to the rear of the Guide HQ has been littered and used as a toilet.

Increased noise in the locality.

Increase in risk of crime and vandalism.

- 8.2 New Ormskirk Residents Group (26.10.18) – objects on the grounds that the proposed uses are not compatible with the site; are contrary to policy GN3 due to the proximity with residential properties and evening activities at the Age UK Centre; and, there is no specific parking attached to the establishment.

- 8.3 Ormskirk Girl Guide HQ (05.11.18) – Adjacent building used for meetings with 3-15 year olds including twice yearly sleepovers. The Guide HQ site has experienced people urinating to the rear of the hall.  
Concerns over vehicles travelling wrong way on Moorgate since gym and bar opened potentially due to displacement of parking.  
Prevention measures (gates to Guide Hall) would assist in preventing anti-social activities to the rear of the hall.

## **9.0 SUPPORTING INFORMATION**

- 9.1 The application is accompanied by a sequential assessment of alternative locations and part detail of the licence conditions applied to the site.

## **10.0 RELEVANT PLANNING POLICY**

- 10.1 National Planning Policy Framework (NPPF) and West Lancashire Local Plan 2012-2027 Development Plan Document (WLLP) provide the policy framework against which the development proposals will be assessed.

The site is located within a Key Service Centre (Settlement area) as designated in the West Lancashire Local Plan.

### **National Planning Policy Framework policies:**

Building a strong, competitive economy  
Ensuring the vitality of town centres

### **West Lancashire Local Plan (2012-2027) policies:**

SP1 – A Sustainable Development framework for West Lancashire  
GN1 – Settlement Boundaries  
GN3 – Criteria for Sustainable Development  
GN5 – Sequential Test  
EC1 – The Economy and Employment Land  
IF1 – Maintaining Vibrant Town and Local Centres  
IF2 – Enhancing Sustainable Transport Choice

## **11.0 OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION**

Principle of Development – Town Centre Use on Edge of Centre site

- 11.1 Policy IF1 states that *appropriate town centre development will be encouraged within town and local centres, followed by edge of centre locations, in line with national policy. Retail and other main town centre uses will only be considered in out-of-centre locations if a specific local need is proven for the proposed development and there is no suitable site available within a town, village or local centre. When considering edge of centre and out of centre sites, a preference will be given to accessible sites that are well connected to the town centre.* It is therefore incumbent on the applicant to demonstrate that the site is sequentially the most suitable for the proposed use. The expected methodology for this test is set out in Policy GN5 of the WLLP. For clarity, the 'need' assessment is not considered applicable to an edge of centre site.
- 11.2 The site was previously considered for a combination of uses including A2, D1 & D2; this was found acceptable in principle as those uses are considered appropriate as town centre uses and offered a flexibility in the use of the wider site to align with the NPPF and Policy EC1's promotion of economic growth. It was recognised that the 2015 permission

would bring alternative viable uses to a formerly vacated site. The proposed A4 Use is also considered an appropriate town centre use. The submitted sequential assessment identifies numerous sites including development opportunity sites and existing vacant units; these are discounted on the basis of availability, viability and suitability for the nature of the proposal. Of the identified sites the majority appear legitimately discounted; the most likely alternative being that of the former Aurora Bar on Moorgate, approx. 100m to the north-east. However, the accommodation that that building provides is considered to be at significant odds to the niche style of bar created on the application site which is of an informal nature and seeks greater interaction with the outside space than could be safely and suitably accommodated on Moorgate. Having reviewed the limited vacant units within the town centre I would agree with the findings of the assessment and given the accessibility of the site consider the siting of the establishment to be justified in principle subject to assessment of other relevant WLLP policies.

#### Building Extension - Design and Appearance

- 11.3 The site is fairly well self-contained due to high boundary walls on three sides and the building on the other. Previously only glimpses through the two access gates provided any substantial view of the yard and building element, however, these have recently been screened by timber boards. The former use of the site was a builders' yard and therefore had little in the way of high visual quality. The approved use of the site for parking (see below) would not have improved this significantly. The presence of benches/tables and informal seating through use of wooden pallets and occasional planter, if anything, improves the yard which is otherwise devoid of positive character.
- 11.4 The design and appearance of the extension does not appear out of place in the context of a former builder's supplies yard – appearing as a simple timber store against the similarly utilitarian appearance of the adjacent part of the main building. The more recent decking area also has little material impact in the locality and therefore does not result in any significant planning harm in itself. A temporary canvas shelter sited on the decking is not visible from outside the site.
- 11.5 Some graphics with the words 'The Timber Yard' are spray stencilled on the internal faces of the boundary walls, the upright element of the original canopy (above the recent extension) and the external face of the boundary wall on to Moorgate. With the exception of the latter these are barely visible from outside the site. The graphics on the Moorgate frontage are relatively benign due to their narrow line-width design, scale and limited colouration. No significant impact arises from this aspect of the development. I therefore conclude that the development accords with Policy GN3 of the WLLP with respect to design and appearance.

#### Impact on Adjacent Land Uses

- 11.6 Policy GN3 seeks to protect levels of local amenity. The site sits alongside community halls (a Girl Guide hall immediately adjacent) and opposite a Wellbeing Centre which are likely to see daytime and/or early to mid-evening use that could be impacted by virtue of noise, disturbance and unsociable activity that sometimes associates with drinking establishments. Furthermore, residential properties lie within about 30 metres on Moorgate, 40 metres on Bridge Ave to the northwest (opposite), and about 52 metres to those on Moss View on the eastern side of the railway line. Authority to proceed to enforcement action was obtained primarily due to the likely impact of uncontrolled hours of opening to the public and noise outbreak. It is therefore appropriate to consider whether such impacts can be made acceptable through use of planning condition/s to provide suitable protection of amenity for the surrounding land uses.

- 11.7 The matter of amenity was recently considered in detail at WLBCs Licensing Committee that resulted in a heavily conditioned licence for operation during the following hours: Monday – Thursday: 11.00 – 23.00 hrs; Friday & Saturday: 11.00 – 00.00 hrs; and, Sunday 12.00 – 23.00 hrs. Further consultation with WLBC Environmental Protection Services identifies that, whilst no noise complaints have been received by them since the current operator took over the site there are concerns in respect of potential noise impacts, not least because the nature and terms of any site licence can be changeable and cannot prevent certain activities – particularly the playing of live and recorded music under the terms of the Live Music Act. It is also notable that the premises consist of a small bar area and large outdoor yard. The building is poorly sound insulated, with one wall made of timber (although some effort to improve its insulation properties have taken place) and a corrugated sheet roof with numerous gaps around the structure. (The conditions of a licence cannot require the upgrade of the building envelope). Additionally, the bar was only operating on an intermittent basis through the summer period. The licence controls therefore offer little reassurance over the longer term if the use is to be retained.
- 11.8 In general, licensed premises invariably bring noise from patrons. Noise is particularly an issue from outside areas and from patrons arriving at and leaving the premises. Late at night this becomes more of a problem as this type of noise can cause sleep disturbance. In this location patrons in the yard area and also people leaving the premises late at night could cause noise disturbance to nearby residents. Whilst residential occupiers can generally reasonably expect undisturbed sleep from 23.00 hours some provision must be given due to the close proximity of the town centre and the mixed use nature of the area - including nearby facilities such as The Cricketers and 22 Club.
- 11.9 Furthermore, in terms of recorded playback or live music events, despite the level of enclosure, playing of anything other than background music (incidental to the enjoyment of the premises) in the yard area will have significant potential to cause disturbance especially during later hours. Limited volume recorded music and acoustic live music is considered likely to be acceptable inside the building providing windows and doors are closed.
- 11.10 As reflected in the licence application it is considered that with conditional controls in terms of hours of use and sound levels from music, it is possible that the impact on nearby residents and land uses could potentially be suitably managed to acceptable levels. Consistent with the findings of the Licensing Committee I consider that similar restrictions under the planning regime in terms of opening hours and restrictions on the playing of live or recorded music are likely to provide sufficient comfort and control to achieve a policy compliant form of development. However, unlike the licencing regime, there is little flexibility to review or amend any controls should the proposed restrictions prove insufficient. Under the circumstances it is important to strike a reasonable balance between protection of local amenity and avoidance of overly burdensome restrictions on a business.
- 11.11 Given that the operational development has already been carried out and is found to be acceptable, I consider that there is justification to contemplate the issue of a temporary permission to enable review of this matter after consistent operation of the A4 or other flexible uses within this site. In my view this will provide a suitable mechanism to review any adverse impacts of the development in terms of local amenity should they take place.

#### Highways/parking

- 11.12 The wider site comprises of two large buildings that are adjoined and have a combined floor area of 1486sqm. There is a car parking area to the south of the buildings which is

marked out for 14 spaces and 21 spaces available on the site forecourt – although access to the majority of the frontage can be impeded by on-street parking. The yard area of the application site is marked out for 12 spaces but was shown to accommodate up to 18 on the 2015 planning permission. Parking in the vicinity is otherwise limited to on-street parking restricted to one-hour only during the hours of 8am to 6pm Monday to Friday; the Lunesdale pay and display car park on the junction of Park Road and Moorgate, about 40 metres away; or, other centre car parks. The surrounding roads are restricted to resident permit holders or limited hours parking.

11.13 The Director's report to the Planning Committee for the 2015 application highlighted that the site was in a very sustainable location and that the proposals under that application were unlikely to result in any significant adverse impact on highway safety or capacity. The level of parking to be provided was considered sufficient given the accessibility of the site by means other than private motorised vehicle. However, by utilising the yard area, the proposal effectively reduces this provision by 18 spaces. Due to the flexible use permission on the site it is difficult to prescribe a minimum limit for parking provision. I do have some concern over the displacement of this provision, however, visits to the locality during the daytime have shown good use of the southerly parking area, whilst limited parking has taken place on the frontage (now restricted for use by staff). It is not clear if this is because of restricted access or low demand. Complaints suggest that the development has led to limited parking and has resulted in drivers hunting for spaces who will often travel the wrong way down this one-way street. This issue seems to have been a concern that was raised by the District Guide Association at the time of the 2015 application, suggesting it was a pre-existing concern more likely to be associated with specific peak periods or shopper parking. However, if the proposals exacerbate this issue then additional highway safety concerns might arise. Consultation with the highway authority concludes that the sustainability of the site and accessibility by forms of transport other than private vehicles and the proximity of parking provision in and about the centre mean the development is unlikely to materially impact on highway safety or capacity in the locality. The accessibility and availability of other parking facilities also justifies the absence of parking provision. This is considered equally applicable to the approved uses as the current bar use. Given the above I consider the absence/reduction of parking provision would not give rise to sufficient planning harm to warrant refusal of permission on that basis and the proposal is therefore acceptable under the terms of Policies GN3 and IF2 in respect of highway safety and parking.

#### Other Matters

11.14 Although the site forms part of a wider ownership of land the unit subject of this application can be described as distinct and separately occupied and therefore a separate planning unit. The proposed permission allows flexibility in its use some of which trigger Permitted Development Rights under the Town and Country (General Permitted Development) (England) Order 2015 that might introduce additional undesirable impacts on the locality. In the interests of planning control and general amenity I consider it appropriate to remove those rights to ensure the impacts of any changes of use can be appropriately controlled by the Local Planning Authority.

#### Planning Balance

11.15 In this instance, given that there is some residual concern in terms of local amenity impacts and alleged concerns in terms of antisocial behaviour, however, that there is no objection to the operational development elements, I consider it appropriate to recommend a temporary permission for a 12 month period with conditions reflecting those of the current licence but with additional restriction in relation to the outside playing of live and/or recorded music.

## **12.0 RECOMMENDATION**

12.1 That **TEMPORARY** planning permission be **GRANTED** subject to the following conditions:

### **Conditions**

1. This permission is valid for a limited period only expiring on 10 January 2020 by which date the use hereby authorised shall be discontinued unless a further permission for this use has been granted by the Local Planning Authority.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-  
Plan references 0868-02-01-001 and 0868-02-02-002 received by the Local Planning Authority on 24 September 2018 and 0868-02-05-001 and 0868-02-03-002 Rev. A received 18 October 2018.
3. The use hereby permitted shall only take place between the hours of 11.00 - 23.00 hrs. Monday to Thursday; 11.00 - 00.00 hrs. Friday and Saturday; and, 12.00 - 23.00 hrs. Sundays and Bank Holidays.
4. Noise from music and associated sources (including DJs and amplified voices) shall not be audible at the boundary of any neighbouring residential premises.
5. No live or recorded music other than background music shall take place in the outside seating area of the premises at any time.
6. All doors and windows shall be kept closed, other than for access and egress, at all times the premises is used for live or recorded music other than background music.
7. Patrons shall not be permitted to eat or drink products served at the premises in the yard area after 22.00 on any day.
8. Deliveries of goods/services and collections of waste from the premises shall only take place between the hours of 0800 and 2000 Monday to Saturday and at no time on Sundays and Bank Holidays.
9. Prior to the installation of any mechanical ventilation and odour filtration systems within the premises, full details of the systems to be installed shall be submitted to and approved in writing by the Local Planning Authority. Once approved the system shall be installed and maintained in situ thereafter and no other such system shall be installed without the written approval of the Local Planning Authority.
10. Notwithstanding the Provisions of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) or any subsequent Orders or statutory provision re-enacting the provisions of that Order, the use of the land and building shall be limited to A2, A4, D1 or D2 Uses as defined by the Town and Country Planning (Use Class) Order 1987 only and for no other purposes.

### **Reasons**

1. To assess the effect of the development upon the amenities of the neighbouring area and to enable any future applications to be decided on this assessment, thereby ensuring compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
4. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
5. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

6. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To safeguard the amenity of nearby land users from excessive noise intrusion and so ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
10. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

### **Reason for Approval**

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

SP1 - A Sustainable Development framework for West Lancashire

GN1 - Settlement Boundaries

GN3 - Criteria for Sustainable Development

GN5 - Sequential Test

EC1 - The Economy and Employment Land

IF1 - Maintaining Vibrant Town and Local Centres

IF2 - Enhancing Sustainable Transport Choice

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority.