

# Objection to Application for a Premises Licence - Eden Tearooms and Gallery, Newburgh

Emailed to [licensing.enquiries@westlancs.gov.uk](mailto:licensing.enquiries@westlancs.gov.uk) by Mrs [REDACTED] 22/8/20

Sir / Madam

I write as a Newburgh Village resident to object to the above licensing application.

May I first point out that I have no objection to alcohol being served in the building under the currently approved opening hours up to 6pm each day. These hours have been set by WLBC to safeguard the amenity of neighbouring properties and there is no reason to change them.

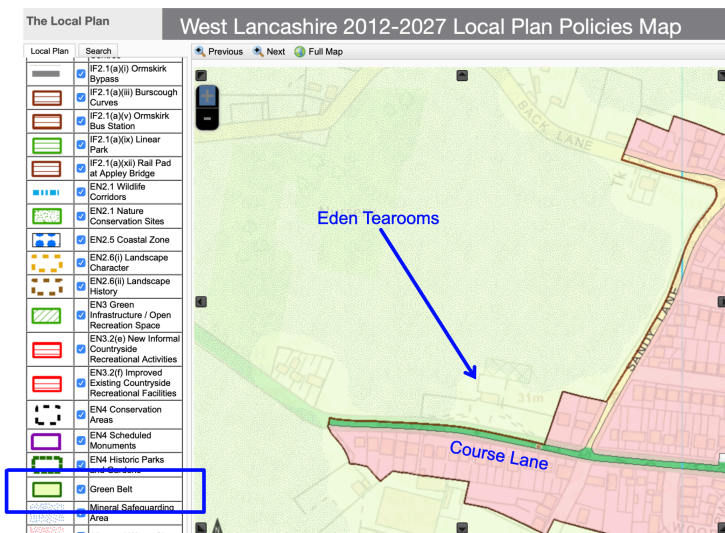
This licence application is a step change and seeks to create an altogether different use for the premises with evening functions and opening hours aligned to the liquor licence running to 1am.

My detailed comments are presented below. After an introduction they are structured around the four licensing objectives set out in Section 18 of the application. Comments on the conditions associated with the application are included where relevant.

## 1 Introduction

### 1.1 General

For people reading this who do not know Newburgh, it is important to realise that it is a small rural village made up of historic buildings, cottages and traditional housing surrounded by Green Belt with Grade 1 Agricultural Land.



The Eden Tearoom site is in fact on the Green Belt, fronting Grade 1 agricultural land. It is in a particularly rural environment which, after rush hour, is exceptionally quiet. Residential properties neighbour the site to the east, south and west, the closest boundary being only about 40m away from the cafe building.

Due to the nature of the cafe building and the openness of the site, anything done on the premises has a big impact on the Green Belt and the amenity of the local residents.

This licence application has come as a surprise to the village, even though it is actually the second application. The first was scrapped apparently because the applicant did not follow the correct procedure. I would have thought the applicant should have sought consultation with at least the neighbouring properties before submitting it because of the scale of change proposed.

There is a mismatch between the businesses making the applications. This licensing application is made by Eden Tearooms Limited and the planning application is made by Ditto Coffee Ltd. I'm not sure this is significant but it seems a bit strange.

I have no confidence that the enterprise would adhere to all the stated conditions associated with the licence application. They have broken many conditions of planning already. I won't go into them all here but they include; building hard standing areas on Green Belt, putting up additional signage, routinely taking deliveries earlier than permitted, using a barn for retail when it should only be for agricultural use and running a market without permission.

### 1.2 Opening Times

The Licence application is proposing opening times from 8am until 11pm during the week and from 8am to 1am at the weekend. I am not sure why such an early start time but it is the end times that are the issue.

- The licence application does not indicate that anything is planned in the tearoom after 6pm during the week. The proposed extended opening hours until 11pm during the week are therefore completely unnecessary.
- The proposed extended opening hours until 1am at the weekend, for late night functions, are unreasonable and completely out of character of the village, as reasoned below.

Condition 7 of the approved application 2016/1151/FUL states “The premises shall only be open to customers and deliveries/collections shall only be made between the hours of 0800 and 1800 Mondays to Saturdays and 0900 and 1800 on Sundays and Public/Bank Holidays“ The buildings, landscape and the neighbouring properties have not changed so there no reason to change these times.

The enterprise knew the opening times already imposed by WLBC when they took on the venture and should have used them solely in their business plan.

There is a mismatch between the end times of this licence application and the associated planning application. The end times in this licence application should be at least an hour earlier than the planning application to take into account the end of event time. My experience is that the end of event is normally about one hour after last orders and that does not include staff tidying up.

This licence application is running parallel with planning application 2020/0439/FUL for the same extended opening hours. I assume this licence application will be rejected if the planning application is rejected. It is interesting to note that over 120 objections have been submitted against the planning application. It is logical to imagine this licence application will attract the same objectors but I am concerned people may not be aware that they have to object to this licence application as well.

### 1.3 Licence Boundary



The proposed licence boundary (shown in blue) does not match the boundary of the site (shown in red) covers Green Belt and spills over onto the fields.

Temporary seating is currently being provided in a number of places on the site under provisions for COVID-19. It is presumed that a temporary “pavement” licence or similar, with a fixed review date, has been obtained. However, it can not be assumed that outdoor seating will be provided (see 4.1.2) so there is no reason for a permanent outdoor licence to be granted at all at this time.

I will explain later in this representation reasons why such a large license boundary would be detrimental to crime, disorder, safety and public nuisance and should only include the cafe building at this time.

## 2 Prevention of crime and disorder

The crime figures on the police.uk website show that there has been no anti social behaviour or drug use and only one theft reported on Course Lane within 250m of the Eden Tearoom site over the last three years since July 2017.

It is a well known fact that there is evidence of an association between alcohol and aggression. Obviously, many people who drink are never violent but it is the minority of visitors that would cause a fracas in the car park or cause a confrontation with local residents about say noise.

The proposed functions are already being advertised on social media over the north west so it can be expected that people from outside the village are very likely to attend the functions. The late night planning application has been made by the same person who is the director of Ditto Coffee operating in Liverpool and Manchester which would provide word of mouth advertising. This is worrying on a number of points:

- The cafe building has large ground floor and first floor windows over the full width of the building that overlook the neighbouring residents on Course Lane. These windows and the close proximity of the car park to the road, would give visitors from outside the village the opportunity to observe the local houses. Those with bad intentions could familiarise themselves with the workings of the houses in preparation for criminal activities like targeted robbery
- It is probable that some of the visitors to the proposed functions will take recreational drugs. The layout of the site provides many opportunities to carry out this illegal practice out of view in unlit areas, behind buildings or even in the car park. It would not be possible for the staff to police the whole site and there would be a worry that the local youth could get involved
- Litter is not an issue at the moment because there are no functions. Careless visitors, not bothered about where they are, would be more likely to drop litter further undermining the Green Belt location
- Vehicles left unattended, by visitors attending functions, in the unlit car park would offer opportunities for travelling thieves
- For whatever reason an individual has already been seen urinating on the site during daylight hours (The photograph of the perpetrator was taken accidentally when recording unapproved parking on unapproved hard standing that needs to be returned to Green Belt grass.)

This offence is probably out of the control of Eden Tearooms but add drink, darkness, an open site and only one toilet upstairs it is likely to be a common occurrence during late night functions.



The above points explain why it is very likely that the proposed late night functions would ruin the enviable crime and disorder statistics quoted above with incidents on and off the premises.

As described above Newburgh is a quiet rural village meaning its size does not merit a local police station. It is therefore policed remotely from nearby towns and, due to the low crime rate, I am pleased to say police are seldom seen in Newburgh. Should any of the above crimes or disorders occur during the late night events, it would be expected that the police would arrive too late to prevent or intervene.

### **3 Public Safety**

#### *3.1 Fire Safety*

The cafe building upstairs escape route was not designed for the late night functions.

If it had been, best practice principles would have located the emergency escape more safely, and at no extra cost, in the north east corner of the cafe building.

Should there be a fire at the west of the building there is currently a possibility that both escape routes (stair case and emergency exit) would be affected by the same smoke and flames at the same time. A north east corner location would reduce the likelihood of smoke and flames affecting both exits because they would be at opposite ends of the building. It would also reduce the average distance people needed to travel to evacuate the building. Both these factors would make emergency egress safer.

The operating schedule in the application quotes 40 covers now as a tearoom but it can be expected that the proposed functions would cater for many more people, a reasonable estimate would be 150 people, this increase will have an impact on the emergency escape measures. There is a kitchen at the west end and flammable materials present throughout in terms of soft furnishings, a wooden roof and floor, welsch dressers etc. Functions held upstairs would need an evacuation chair for disabled people, slowing down egress. The emergency exit leads into an enclosed area with a narrow gap in the corner, it is created from close-boarded fencing, and used to store waste bins and locate electrical equipment.

The above are worrying common sense comments. I would respectfully ask that the fire officer has been made aware of the proposed change of use.

#### *3.2 Personal Safety*

The car park was not designed to be used at night.

It was designed to serve the needs of a farm shop during daylight hours up to 6pm in line with the existing planning approval. If this licence application was successful the length and shape of the car park would make it impossible for the staff to monitor people from the main building. When dark, there will be indistinct areas which could be exploited maliciously.

External lighting is not permitted on the site after 6pm under a condition of the existing planning approval as it would be a statutory light nuisance imposed on the neighbouring residents. The buildings, landscape and the neighbouring properties have not changed so there no reason to change these times.

One of the licence conditions states that "cameras shall enable clear identification of persons on the premises." I doubt this can be the case for installed CCTV system especially at night.

The adjacent Green Belt land, the rear yard and behind buildings would provide areas that are not even covered by CCTV. During the proposed late night opening these areas would be dark, out of view and again, could be exploited maliciously by people on site against vulnerable others.

#### *3.3 Pedestrian Safety*

The access roads were not designed to be used by pedestrians in the dark.

During the proposed extended opening hours it is likely that people would want to enter or leave the site on foot by using one of the three access roads. All three access roads provide shared surface access simultaneously for vehicles and pedestrians. The west and centre access roads have an additional burden because they have no pavements leading to them.

The east access road has a pavement leading to it next to the main road but, like the others, this shared surface road is unlit. Even if vehicles were warned that pedestrians may be on the access road, at 3.8m wide there is no room for error and therefore pose a danger to pedestrians.

External lighting may help but it is not permitted on the site after 6pm under a condition of the existing planning approval as it would be a statutory light nuisance imposed on the neighbouring residents. There is no reason to change this condition as explained previously.

The situation is made worse if pedestrians with a disability were using the access road as may need more space, may be less aware of the dangers or unable to see oncoming cars.

As pedestrians are not separated from vehicles on the access roads they are unsafe especially in the dark during the extended opening hours proposed by this application.

## 4 Public nuisance

### 4.1 Noise

May I stress again that, in case the reader of this representation is unaware, after rush hour (say 7pm) the amount of traffic on the main road outside the Eden Tearoom site falls dramatically and, like the rest of this rural village, it is exceptionally quiet.

As an example of how quiet the village is, and demonstrate how noise carries in such an open environment, please note that I live on Woodrow Drive and can hear sheep bleating 200m away on the fields next to Tabbys Nook and can hear sports being played on the King George V playing fields 400m away - sounds that are in keeping with the character of the village. Once a year the Newburgh Fair is held at the school, and a jamboree is held at Tawd Vale, both can be heard clearly from Woodrow Drive but, as they are so infrequent and are for good causes, they are accepted.

The following subheadings discuss a number of the locations where noise would be generated when the rest of the village is quiet during late times proposed by the licence application.

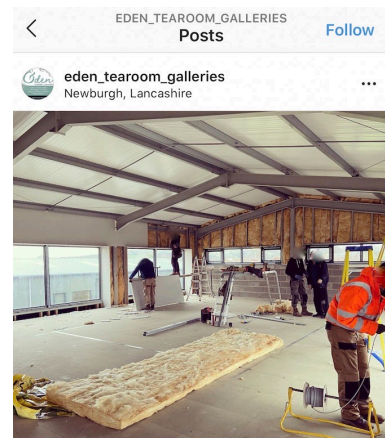
#### 4.1.1 From the main building

One of the conditions states noise from the venue “shall not be clearly distinguishable at the boundary of any neighbouring residential premises after 18:00hrs.” The combination of this unique cafe building and its location will make that impossible to achieve:

The cafe building was designed as a farm shop not a music venue:

- The walls and roof are metal clad offering very little sound attenuation
- The double glazing provided will be made from standard tempered glass not laminated acoustic glass
- The insulation used is thermal not acoustic as evidenced by photographs posted during the build.

(Acoustic insulation is more dense than that shown in the photograph or it is a completely different form altogether.)



- Regardless of a condition that states “all external doors and windows shall be kept closed when regulated entertainment is being provided” it can be expected that windows will be opened during events simply because the room would get hot. This statement is made on the basis that the windows are opened during the day now when there are much less people in the building

- The front door opens directly into the building. There is no acoustic lobby so the noise level outside would therefore rise every time the building is entered or vacated.

The above shortcomings add up to a building that is not fit for night time functions in the quiet Green Belt location. Music and amplified voices will travel and be disruptive to the whole village, especially to those in the neighbouring vicinity, at times when people are trying to sleep or get their children to sleep. It is unreasonable if people had to keep their windows closed to reduce the noise nuisance.

Setting the volume inside the building, so that the condition to “not clearly distinguishable at the boundary of any neighbouring premises,” would make the proposed functions so quiet they would be unfeasible. The same constraint has to be achieved when the front door (and or windows) are opened, this would make the proposed functions even more unfeasible.

Another condition states that “ the volume shall be under the control of the management.” I can imagine the management would want to keep the people, who have paid for the event, happy and play the volume at levels they would expect.

It can be expected that neighbouring residents will hear voices, music and amplified voices from the cafe building at their boundaries. In fact I would be surprised if I didn't hear music, or at least the bass sounds, at my boundary on Woodrow Drive 200m away.

#### *4.1.2 From outdoor areas*

Section 5 of the application states that the applicant intends to “provide a place for consumption of off-supplies within close proximity of the building” and one of the conditions states “The outdoor seating area to be ..” these two statements prematurely suggest that outside seating will be provided. The provision of an outdoor seating should not be assumed just because temporary seating has been provided under provisions for COVID-19.

The cafe building was designed as a farm shop without thought for permanent outdoor seating.

The front of the building is taken up with disabled and cycle parking, the area to the west needs to be returned to greenbelt, the area to the east is a route for vehicles and the back of the building is not “within close proximity.” There is no space available for it.

It is noted that another condition talks about “any outside area used for smoking” - the application does not mention a smoking shelter but it has to be assumed if one was proposed it would be separate to the outdoor seating area because another condition states the outdoor seating area “to be closed between 21:00 and 08:00hrs.” Again, for the same reasons, there is no place available for a smoking shelter in close proximity to the building. Smokers, or indeed anyone who want to get a breath of fresh air, could of course stand outside.

Should a seating area/smoking shelter be proposed in the future there would be objections from residents, regardless of its location, relating to noise from voices and glasses etc, drifting smell from smoke and loss of visual amenity. Another planning objection would be the increased footprint and its effect on the Green Belt location. It is worth remembering that the existing planning approval was granted in the knowledge that the build would be within the footprint of the demolished buildings.

A licence application should therefore only be made for a permanent outdoor seating area should one ever be proposed and accepted.

Other comments relating to noise nuisance are:

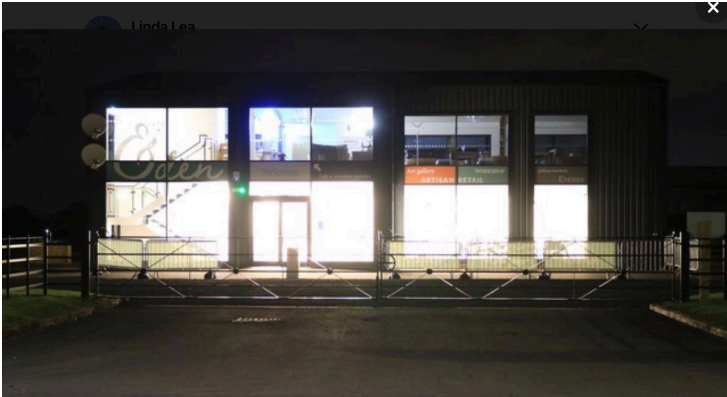
- Even though a condition states “that staff will “request customers to leave quietly” and another says “Notices displayed at public exits requesting people to respect the needs of local residents” it is highly likely that here will be raised voices from those who have had a drink as they say goodbye
- It is inevitable that there will be noise generated by visitors as they close car doors and boots and drive in and out of the car park

- The proposed licence boundary (see 1.3) would allow people to drink alcohol anywhere on the site and therefore make noise close to the neighbouring properties. This proposed licence boundary is therefore undesirable and not necessary.

#### 4.2 Light Nuisance

The cafe building was designed as a farm shop that closed at 6pm.

As stated in the introduction, the cafe building has large ground floor and first floor windows over the full width of the building. Internal lighting during the day does not cause an issue but during the extended opening hours proposed by this application the neighbouring properties would be subjected to statutory light nuisance. This would be exacerbated should strobe and flashing lights be used at the proposed functions.



There is already evidence of how the internal lighting lights up the outside and affects the residents from photographs posted on social media. Such a photograph of the south elevation when the lights were left on overnight shows how bad the situation is after dark.

Another light nuisance would be when vehicle headlights shine directly into the front rooms of Course Lane residents when leaving the car park. This would be compounded should the application be successful and many cars leave the car park together at the end of event time.

There is currently a condition that was part of application 2017/0950/CON that requires external lights to be operated within the times from 8am ON to 6pm OFF. These hours have been set under a condition of the existing planning approval as it would be a statutory light nuisance imposed on the neighbouring residents. There is no reason to change this condition as explained previously.

#### 4.3 Lose of privacy

As stated above, the cafe building has large ground floor and first floor windows over the full width of the building.

The windows overlook the neighbouring properties on Course Lane and provide the opportunity for visitors to look directly into these properties. This is possible during daylight hours and the view would be clearer when the lights were on in their front rooms during the extended hours proposed by this licence application.

Also, in the same vein, visitors could look directly into the lit front rooms of the neighbouring properties from the car park, whilst having a drink, because it is part of the proposed licence boundary (see 1.3.) This proposed boundary is therefore undesirable and not necessary.

This invasion of privacy would not be unacceptable.

### 5 Protection of children from harm

The site includes significant areas distant from the cafe building, including the car park, the adjacent Green Belt land, the rear yard and behind the agricultural building.

Should the car park/ access roads be used by children as a play ground, supervised or not by adults drinking, they would be in danger of accident from vehicle movements and from running onto the main road.

Most of the other areas are not covered by CCTV and during the extended opening hours proposed by this application would be dark and out of view. These areas could be exploited maliciously by people intent on causing children harm.

External lighting would have to be extensive to make a difference but, regardless, it is not permitted on the site after 6pm under a condition of the existing planning approval as it would be a statutory light nuisance imposed on the neighbouring residents. There is no reason to change this condition as explained previously.

## 6 Conclusion

I have no objection to alcohol being served in the building (and only in the building) under the currently approved daytime hours up to 6pm determined by condition 7 of Application 2016/1151/FUL.

This licence application for extended hours should be refused on the basis that residents, the public and children would not be adequately protected against crime, disorder, safety and public nuisance during the extended hours to 11pm during the week and 1am during the weekend.

The licence boundary should be refused and amended to only include the building for alcohol served during the approved times up to 6pm. The temporary arrangements for COVID-19 allow alcohol to be served outside now until central government guidance changes. If a future application is made for outside seating area, and it is accepted, a separate licence for that should be made at the time.

If the enterprise is so easily breaching the rules now, what can be expected if this application granted.

A refusal would still allow the serving/selling of alcohol as part of the tea room business under the currently approved hours up to 6pm.

Regards



Resident

Woodrow Drive  
Newburgh