



PLANNING COMMITTEE: 19<sup>TH</sup> JANUARY 2023

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Report of: Corporate Director of Place & Community

Contact for further information:

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SUBJECT: PLANNING APPLICATION 2022/0827/FUL

PROPOSAL: Variation of Condition No 7 of Planning Permission 2016/1151/FUL relating to opening hours

ADDRESS: Eden Tearoom And Galleries, Course Lane, Newburgh, Wigan, Lancashire, WN8 7UB

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Wards affected: Burscough West

## 1.0 PURPOSE OF THE REPORT

1.1 The report advises Planning Committee on an application which seeks to vary condition No 7 of Planning Permission 2016/1151/FUL relating to the permanent extension to the later opening hours of the business.

## 2.0 RECOMMENDATION TO PLANNING COMMITTEE

2.1 That a temporary 3-year permission be GRANTED subject to conditions

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## 3.0 THE SITE

3.1 The application relates to Eden Tea Rooms and Gallery which is located to the northern side of Course Lane. The building itself is set back from the road frontage by about 15 metres. There are 3 egresses to the site which all lead to an area of hardstanding / parking to the front of the unit. The remainder of the frontage is grassed.

3.2 To the rear, north of the site is an agricultural building and beyond this is agricultural land. To the east and south are residential dwellings. To the west is agricultural land.

- 3.3 The building operates as a gallery on the ground floor with tea rooms above. The main entrance is via a front access doorway which serves both the gallery and tea rooms. The business employs 20 local people on a part time and full-time basis.
- 3.4 The site is located within the Green Belt but lies adjacent to the settlement boundary of the Rural Sustainable Village of Newburgh.

#### **4.0 THE PROPOSAL**

- 4.1 Planning permission is sought for the variation of condition no. 7 imposed on original planning permission 2016/1151/FUL. The Condition reads

*'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.'*

*Reason: 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.'*

- 4.2 It is noted that to date two temporary permissions have been granted to allow for the variation of the hours outlined above, to allow for events and functions to run during the weekends and evening and to diversify the business. The most recent extant permission 2021/0991/FUL is due to expire on 13.01.2023 and permits the following extension of hours:

*08:00 - 21:00, Sunday.  
08:00 - 22:00 Monday to Thursday.  
08:00 - 00:00 Friday and Saturday.*

- 4.3 The current application seeks to extend these same hours on a permanent basis
- 4.4 A Licence application was approved by the Council on the 9 September 2020. The hours approved under the Licence differ from the planning permission granted and are as follows; Sunday to Thursday 08:00 to 23:00, Friday and Saturday 08:00 to 23:00 unless there is a pre-arranged function when the terminal hour will be 01:00. The licence grants permission for alcohol to be served on the premises and for live and recorded music indoors. The licence is subject to strict conditions. However, planning and licensing are separate legislative regimes, and the existence of a licence does not override the need for the applicant to obtain planning permission for extended opening hours.

#### **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 **2021/1248/FUL** Use of vacant barn as a location for artisan retails stalls. Installation of fire doors in rear elevation, enlargement of roller shutter doors in front elevation. Retrospective change of use of land and laying of hard standing to the east and west of the yard and the south side of the barn **Refused**
- 5.2 **2021/0991/FUL** Variation of Condition No 1 of Planning Permission 2020/0439/FUL to allow the premises to operate later opening hours and in order to cater for functions at the weekends and to diversify the business. To extend operating hours to Sunday 08:00 - 21:00; Monday to Thursday 08:00 - 22:00; Friday to Saturday 08:00 - 00:00 **Temporary 1 Year Permission Granted (relates to the current application)**

- 5.3 **2021/0745/CON** - Approval of details reserved by condition no 3 of planning permission 2020/0785/FUL relating to a signage scheme to prevent users of the premises from over spilling onto adjacent land.  
**CONDITION APPROVED**
- 5.4 **2021/0626/CON** - Approval of Details Reserved by Condition Nos. 6, 7 and 12 of planning permission 2020/0439/FUL relating to details of outdoor seating and smoking areas; a scheme detailing the layout and surfacing of the parking and turning areas and details of additional external lighting.  
**GRANTED**
- 5.5 **2021/0365/FUL** - Retention of grass protection mesh.  
**GRANTED**
- 5.6 **2021/0242/FUL** - Retention of hardstanding to the side and rear of the existing building. **REFUSED**
- 5.7 **2020/1242/CON** - Approval of Details Reserved by Condition Nos. 6, 7 and 12 of planning permission 2020/0439/FUL relating to details of outdoor seating and smoking areas; a scheme detailing the layout and surfacing of the parking and turning areas and details of additional external lighting.  
**REFUSED DISCHARGE OF CONDITION**
- 5.8 **2020/0808/ADV** - Retention of V sign on the forecourt and retention of the internally and externally mounted signs on the front face of the building.  
**ADVERTISEMENT CONSENT GRANTED**
- 5.9 **2020/0786/FUL** - Retention of hardstanding to side of existing building.  
**WITHDRAWN**
- 5.10 **2020/0785/FUL** - Retrospective application for the retention of the changes from the approved plans of planning permission 2016/1151/FUL - retention of metal gates and fencing to the frontage of the site, aggregate to the car parking surface, relocation of cycle rack and bin store provision, marking out of car parking spaces and not to install 1m & 2m high fencing to side and rear of grassed area.  
**GRANTED**
- 5.11 **2020/0727/FUL** - Retention of two satellite dishes on the front elevation of the building. **GRANTED**
- 5.12 **2020/0624/CON** - Approval of Details Reserved by Condition No 8 of planning permission 2016/1151/FUL relating to details of mechanical ventilation and odour filtration systems. **CONDITION APPROVED**
- 5.13 **2020/0546/FUL** - Variation of Condition No 2 imposed on planning permission 2016/1151/FUL to substitute approved plan 04 for plan reference 1499-005 to incorporate an outdoor seating area and a pergola. **WITHDRAWN**
- 5.14 **2020/0515/NMA** - Non-material amendment to planning permission 2016/1151/FUL - Relocate disabled parking bays. **WITHDRAWN**
- 5.15 **2020/0439/FUL** - Variation of condition no 7 imposed on planning permission 2016/1151/FUL to allow the premises to operate later opening hours and in order to cater for functions at weekends to diversify the business. To extend operating

hours to Sunday 08:00 -21:00; Monday to Thursday 08:00 - 22:00; Friday - Saturday 08:00 -00:00.

**TEMPORARY PERMISSION OF 1 YEAR GRANTED (relates to this application)**

**Appeal:**

**2020/0045/02** - Variation of condition no 7 imposed on planning permission 2016/1151/FUL to allow the premises to operate later opening hours and in order to cater for functions at weekends to diversify the business. To extend operating hours to Sunday 08:00 -21:00; Monday to Thursday 08:00 - 22:00; Friday - Saturday 08:00 -00:00.

**APPEAL DISMISSED**

5.16 **2017/0950/CON** - Approval of Details Reserved by Condition No's. 3, 9 and 10 of planning permission 2016/1151/FUL relating to sustainable drainage principles and surface water sustainable drainage scheme, external lighting, and one-way system.  
**CONDITION APPROVED**

5.17 **2017/0651/CON** - Approval of Details Reserved by Condition Nos. 3, 4, 5, 9, 10, and 11 of planning permission 2016/1151/FUL relating to sustainable drainage principles & surface water sustainable drainage scheme, external facing & roofing material, landscaping scheme, external lighting, one-way system, access, and parking & turning areas  
**PART APPROVED / PART REFUSED**

5.18 **2016/1151/FUL** - Internal and external works to building including extensions to front and rear; recladding and glazing; revised roof and creation of mezzanine floor; car parking; to create retail and cafe units and ancillary facilities  
**GRANTED**

5.19 **2013/1338/PNC** - Application for determination as to whether prior approval of details is required - Change of use to a flexible use of Class A1 (Shops), Class A2 (Financial and Professional Services), Class A3 (Restaurants and Cafes), Class B1 (Business), Class B8 (Storage or Distribution), Class D2 (Assembly or Leisure) from an agricultural building  
**GRANTED**

5.20 **2010/1215/COU** - Change of use of existing farm shop to B1 and/or B8 uses. (Re submission of planning permission 2009/0701/COU including details of hours of operation)  
**GRANTED**

5.21 **2009/0701/COU** - Change of use of existing farm shop to B1 and/or B8 use  
**REFUSED (DISMISSED AT APPEAL)**

5.22 **1997/0036** - Use of building for farm shop/sale of garden requisites/local needs provisions, creation of car park and alterations to access  
**REFUSED**

5.23 **1993/0888** - Application for determination as to whether prior approval is required for details - glasshouse  
**GRANTED**

**Adjacent barn / land to the rear**

5.24 **2021/1248/FUL** - Use of vacant barn as a location for artisan retail stalls.

## **REFUSED**

- 5.25 **2020/0809/FUL** - Use of the building for storage and staff facilities in association with adjacent cafe and gallery and occasional use for public events such as an artisan market (no more than 21 days each year) together with the retention of hard standing areas, the enlargement of fire doors and the use of the neighbouring field as an overspill car park (only to be used for days of the public event).

### **REFUSED**

- 5.26 **2018/0072/CON** - Approval of Details Reserved by Condition Nos 3, 4, and 6 of planning permission 2017/0738/FUL relating to a scheme for the separate foul and surface water drainage of the site; external facing and roofing materials and details of the materials to be used in the construction of the hardstanding.

### **CONDITIONS APPROVED**

- 5.27 **2017/0738/FUL** - Replace existing greenhouses with new agricultural building.

### **GRANTED**

- 5.28 **2016/1245/FUL** - Replace existing greenhouse with new agricultural storage building **GRANTED**

- 5.29 **2016/0951/PNP** - Application for Determination as to Whether Prior Approval is required for Details - Agricultural storage building

### **WITHDRAWN**

## **6.0 CONSULTEE RESPONSES**

### **6.1 Environmental Health (03.11.2023)**

The application is for a permanent extension of opening hours (08:00 -21:00, Sunday; 08:00 – 22:00 Monday to Thursday; 08:00 – 00:00 Friday and Saturday)

I have reviewed the applicants previous noise management plan that suggest 5min  $L_{Aeq}$  for internal music. It is unclear how these levels have been quantified. External noise breakout seems to have been left to be measured subjectively which is not taking into account late night vehicle movement. In such situations a calibration certificate should have been submitted to ensure levels are set and quantified

As the amplification equipment has no effective control, I am not confident that music internal levels are adequately controlled, and I therefore request a condition requiring the installation of a noise limiting device to control music levels

The premises supervisor can then ensure that amplified sound does not cause a public nuisance by ensuring that entertainment noise ( $L_{Aeq}$ ) should be controlled to 10dB below the background noise level ( $L_{A90}$ ) without the entertainment noise present, in each octave band at the nearest noise sensitive location.

Given the uncertainty I would ask that prior to later hours are brought into use a more robust noise management plan should be submitted showing how the premises would be managed to limit noise and disturbance from the associated activity. Such activity should include but not be limited to how the management will control noise and associated with people congregating outside the premises and vehicle movements to and from the site.

In addition, given the location of the premises there is still some concern regarding the level of noise and disturbance that is likely to be generated from the requested

later operational hours. Therefore I would request that the following conditions be included in any grant of permission:

- 1) An appropriate automatic noise control device should be fitted to all amplified sound equipment. The device must be:
  - a) Set so that the volume of any amplified sound emanating from the premises does not cause a public nuisance. A Compliance Certificate should be supplied to the Planning authority for the installation of the unit before any extended hours can be agreed  
For information: The compliance certificate must contain the following
    - 5-minute LAEQ,
    - Frequency analysis between 125Hz – 40Hz.
  - b) The devices must be fitted to all power outlets to the premises (i.e to the main distribution unit)
- 2) Prior to the first operation of the later opening hours, an Operational Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include but not be limited to the measures required to control and minimize noise associated with the operation of the premises to ensure that the noise output from the premises is controlled so as not to cause disturbance
- 3) The permission hereby permitted shall be limited to a period of 3 years from the date of the decision notice.

## **6.2 LCC Highways (31.08.2022)**

The previous application 2020/0439/FUL was granted temporary permission to enable the planning authority to assess the impact of the extended operating hours on nearby neighbours. Due to Covid restrictions the operation of the site was restricted and therefore the applicant submitted a further application (2021/0991/FUL) and a temporary permission again granted

LCC Highways have no record of any issues regarding traffic or parking in relation to the site. LCC have no objections to the proposed opening hours and is of the opinion that the proposal should have negligible impact on highway safety and capacity within the immediate vicinity of the site

## **7.0 OTHER REPRESENTATIONS**

### **7.1 Newburgh Parish Council (30.09.2022)**

Question to be addressed in review the application is whether sufficient information has been provided to the Council to make a full assessment of the impact on neighbouring properties of evening events held on the Eden premises. The following observations area made:

- The Parish Council objects to the application
- The list of evening event claimed to be held to date (from 1 July 2022 until 22 September 2022) by Cass Associated differs from the list on Eden Website, the latter being fewer
- From their observations neighbouring residents question the actual no of events held, the timings and attendance numbers
- Of the social event since Feb, only 4 are timetabled beyond 10pm future events only 3 scheduled to run until 12am

- Of the 90 evening workshops listed by Cass (between July and Dec) only 10 are programmed to finish beyond 10pm
- The uncertainties about numbers, timings and attendance at evening events lead to the conclusion that there is as yet inadequate evidence to test the effectiveness of the NMP in protecting nearby residents from disturbance
- It still remains to be demonstrated that the concerns raised in the Appeal Decision (2020/0045/02) about noise impact can be satisfied
- Newburgh Parish Council has stated from the beginning of the Eden operation that it wishes the local business to succeed
- The timing of the workshops and events with few requiring very late hours suggests the Councils original request to Eden to amend its evening opening hours should be revisited
- In the meantime, the current permission should run its course in the hope that realistic assessment can be made

7.2 16 neighbour representations were received in respect of the proposal, a summary of which are outlined below:

***Significant inaccuracies/ misleading information relating to Event Schedule***

- Cass Assoc Workshop & Events List is inaccurate and misleading- many events have not taken place
- Programmed workshops show many discrepancies. Alternative witnessed schedule submitted as part of representation. Realistic timetable cross referenced against social media concludes only 2 events past 9:30pm
- Summary of events not a true reflection of the actual use: there have been less events/ less attendees and much shorter hours
- Council should question the evidence submitted/ should be treated with caution. Eden Website, Facebook & Instagram do not reflect the submitted details
- Parish Council highlighted concerns which reflect those of residents relating to incorrect information
- Planners have a duty of care to ensure evidence is factually correct. Application should be placed on hold until proper enquiries are made including requesting invoices, attendance sheets
- Schedule indicates several functions with large numbers finishing at 11pm however these do not appear to have taken place
- Time frame Jan to date I have not witnessed many events exceeding 8/9pm
- Many of the submitted events on the schedule (pottery/ life drawing) finish earlier than the times state and had significantly less attendees than stated
- I am only aware of one late night event taking place and this coincided with BBQ at one of the new houses- it was very noisy and voices carried
- None of the variance of events have been provided which would impact the level of harm for neighbours (level of smokers, music levels, transportation)

***Trial Period- Insufficient events/use to grant permanent permission***

- Obvious from recorded/ documented evidence by neighbours that flaws in 'so called' factual evidence which is inaccurate/ misleading. Details directly conflict with resident observation. These conflicts don't give accurate picture or test the effectiveness of the NMP
- Given the inaccuracies of the events schedule it can't be considered full/ robust test of the NMP or take account of previous concerns
- The submitted events schedule was submitted in July thereby not providing a full picture of confirmed or actual events over 12 months.
- Only two thirds of the 12-month period have expired at the point of submission

- The above 'inaccuracies' and reality of event profiles serve to indicate why there appear to be no complaints regarding late openings
- Current temp permission does not expire for 4 months and therefore does not include an assessment of Christmas Season which is typically busier/ noisier- therefore cannot be satisfied the NMP has been tested
- Too soon to give permanent license when trading has been quiet due to economic conditions and covid
- Reliance on trial period to test impact on noise and light is flawed- not enough later evening events have taken place to test the appropriateness of the NMP
- Impact of events has not been sufficiently tested for impacts on neighbours- suggest a further 2-year temp permission granted or reapply for reduced hours
- Further trial period required to account for uncertainty and misrepresentation of data
- WLBC reminded of previous Inspector's decision that information doesn't demonstrate impact from noise with building doors open- this remains the case for the current submission
- Only two events have taken place past 10pm in the last two years- begs the question why the applicant wants permission until midnight
- A new application with earlier closing time would enable business to grow at same time protect neighbour amenity

#### ***Limitations of Noise Management Plan (NMP)***

- NMP does not/ can't guaranteed noise nuisance would be prevented
- Amplified noise from outside areas can't be controlled by the conditions
- Strong reliance on Marshalls
- Regardless of trial period there shouldn't be a reliance on people complaining
- Details of Complaints Procedure and Named Complaints Officer still not provided/ published
- Lack of public engagement

#### ***Limitations of Acoustic Report***

- Report does not robustly demonstrate noise levels from within or outside of the building can be controlled to levels required at boundaries
- Breakout tests didn't consider worse case scenarios- (ie with doors open and at night) or measure comings and goings in evening

#### ***Appropriateness and requirement for 'Late Night' Opening Hours***

- Unsociable hours proposed are not appropriate in the green belt will harm the tranquillity of the green belt- cause loss of privacy, light and noise nuisance
- Refusal would still allow the tearoom business to operate under the currently approved hours up to 6pm
- Sunday/ B Holidays should be 6pm to allow neighbours peace & quiet

#### ***Light & Noise Pollution, Loss of Privacy, Parking Issues***

- WLBC are reminded of the large no of written reps about neighbour amenity on the previous applications
- There are already instances where front seating has been used for smoking
- Key holders have left lights on whole area, so the building remains illuminated
- Significant expanse of windows means when dark and later openings neighbours are disturbed by fully lit venue- could be exacerbated by strobe/ flashing lights likely at evening events
- Vehicle headlights shine into neighbouring properties when leaving at night
- As an adjacent property I fear late night event will result in banging car doors and noise late at night affecting quality of life



- In later evenings/ dark visitors could look directly into neighbours' houses
- Already parking issues in Sandy Lane- the extension of hours will exacerbate

***Precedents set in locality***

- There have been recent restrictions and refusal of application in similar establishments locally (Apple cast and Wedding Venue at Ring O Bells) which are comparable to the current application.
- Cass Assoc comparisons with Red Lion Pub of little value, not comparable venues or settings. The historic public house is a substantial building. Tea Rooms is glass fronted agricultural building

**8.0 SUPPORTING INFORMATION**

- 8.1 Planning Statement: Cass Associates- 22.07.2022
- 8.2 **(Revised)** Schedule of Uses: Cass Associates- 03.11.2022
- 8.3 Email Correspondence: (Agreement to 3 Year temporary extension of permission) Cass Associates- 01.12.2022

**9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 DPD provide the policy framework against which the development proposals will be assessed.
- 9.2 The site is located within the Green Belt.
- 9.3 **National Planning Policy Framework**  
Building a strong and competitive economy  
Protecting green belt land  
Conserving and enhancing the natural environment
- 9.4 **West Lancashire Local Plan (WLLP) 2012-2027 DPD**  
Policy GN1 – Settlement Boundaries  
Policy GN3 – Criteria for Sustainable Development  
Policy EC2 – The Rural Economy  
Policy EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
Policy IF2 - Enhancing Sustainable Transport Choices
- 9.5 **Supplementary Planning Document**  
Design Guide (2008)  
Development within the Green Belt (2015)

**10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

Background and context

- 10.1 Planning permission was granted for the conversion of the building from an agricultural building to retail and café uses and ancillary facilities under application reference 2016/1151/FUL. Condition 7 of this permission restricted the hours of opening to between the hours of 08:00 – 18:00 Monday to Saturday and 09:00-18:00 on Sundays and Public / Bank Holidays. These hours were those requested by the previous applicant at the time.

- 10.2 Application 2020/0439/FUL sought permission to extend these hours on a permanent basis to opening hours of Sunday 08:00-21:00; Monday to Thursday 08:00 – 22:00; Friday to Saturday 08:00 – 00:00. The Council assessed the application and concluded that a 1-year temporary permission should be granted so that the business could operate within the hours requested and the Council could carry out an assessment as to whether the conditions of the planning application and licence were effective in preventing noise and disturbance to neighbouring properties.
- 10.3 The applicants appealed the Councils decision to apply a temporary permission. This appeal was dismissed.
- 10.4 A second application seeking the permanent extension of the later opening hours was submitted under ref 2021/0991/FUL and was accompanied by a schedule of functions and workshops which had taken place in the 1-year period together with an acoustic monitoring report from a single event in that period. This timeframe however included lockdown restrictions as a result of the Covid 19 pandemic.
- 10.5 As such the business had only been able to operate under the allowance of the extended opening hours for a limited period and it was further generally accepted that business operations generally were impacted by people's natural caution in attending indoor crowded events even following the lifting of restrictions. Whilst the Councils assessment acknowledged that the workshops and events held were undertaken without significant impact on neighbouring properties, it was concluded that the number of events were sporadic, with modest attendance levels and the number of events taking place later into the evening very limited.
- 10.6 In this respect the evidence submitted was not considered to provide a full or robust assessment of potential noise and disturbance impacts that could result for neighbouring properties nor did the evidence sufficiently allow testing of the mitigation provided within the approved Noise Management Plan. On this basis a further 1-year temporary permission was granted which is due to expire in January 2023.

#### New Submission of Evidence: Event Schedules and Supporting Information

- 10.7 The second temporary permission covers the twelve-month period 12.01.2022 until 13.01.2023 and the current planning submission states the new application is made ' following a period when there has been evening events taking place in a more 'typical' pattern not constrained by Covid 19 restrictions'. An initial schedule of events and use of the building was provided for the period broken down by i) Workshops and ii) Social Events. A summary calculation of these events indicated 51 Workshops had/ were scheduled to have taken place, the majority finishing at 2200 with a small number at 2300. 19 Social Events were listed with attendance predominantly ranging from 25- 50 people with 3 events having 70+ attendees. 7 of the social events were indicated to have finished between 2300-0000.
- 10.8 The Planning Statement indicated that *'the pattern of use evident in 2022 so far is representative of the way in which the property/ business will be used in the future with reasonably regular evening craft workshops for small groups of people and more occasional social events typically represented by baby showers and birthday celebrations with a limited number of invited guests'*
- 10.9 Notwithstanding the above, the nature of the application(s) is such that the purpose of the consecutive temporary permissions was to allow the generation of robust evidence upon which the Council could effectively monitor both the scale and

volume of events upon neighbour amenity and test the mitigations provided by the Noise Management Plan. In this respect some initial limitations to the evidence provided were identified. Of note, the current application (and supporting evidence) was made to the Councils during July 2022 and as such the 'events period' still had over six months to run and therefore many of the stated events were 'prospective' rather than held (thus not enabling any complaints monitoring of future planned events) Moreover, the schedules were not supported with evidence typically expected such as receipts or attendance sheets etc and appeared to be utilising a measurement of 'place available' rather than confirmed attendance and specific start and finish times.

10.10 Furthermore, following initial statutory consultation on the application, significant local representation by way of comments from neighbours and the Parish Council (as summarised in section 7.1-7.2 of this report) raised consistent concerns and queries about the reliability and accuracy of the evidence presented in respect of the number and scope of events that had taken place to date compared to those 'observed' by local residents and in comparison to those advertised on the Businesses Social Media pages.

10.11 On the basis of the above the applicant was given the opportunity to provide evidence of the actual events programme and provide clarification on the queries raised. Whilst no accompanying 'evidence' of the events has been provided, the applicant has submitted a revised schedule of events/ usage for the period which shows a significant reduction and variance of the number of events, attendees no's and finish times. The revised schedule as submitted on the 3<sup>rd</sup> November 2022 is reproduced below:

#### **Workshops 2022** (submitted 03.11.2022)

<b>Date</b>	<b>Time</b>	<b>Class</b>	<b>Attendance</b>
Tues 5 <sup>th</sup> July	6-7pm	Pottery Taster Sessions	3
Thurs 7 <sup>th</sup> July	6-8pm	Pottery Wheel Experience	4
Tuesday 12 <sup>th</sup> July	7-8:30pm	Candle Making	10
Friday 29 <sup>th</sup> July	6-9pm	Paint a Pot	5
Friday 29 <sup>th</sup> July	6-9pm	Paint a Pot	5
Tues 16 <sup>th</sup> Aug	6-8pm	Pottery Wheel Experience	4
Tues 23 <sup>rd</sup> August	5-7pm	Pottery Taster Session	1
Weds 24 <sup>th</sup> August	6:30pm-8:30pm	Life Drawing	17
Thurs 25 <sup>th</sup> August	6-8pm	Pottery	4
Fri 26 <sup>th</sup> August	6-9pm	Paint a Pot	6
Thurs 8 <sup>th</sup> Sept	6:30pm-9pm	Pottery Course Wk1	6
Thurs 15 <sup>th</sup> Sept	6:30pm-9pm	Pottery Course Wk 2	6
Fri 23 <sup>rd</sup> Sept	6:30-8pm	Paint a Pot (Girl Guides)	15
Tues 27 <sup>th</sup> Sept	6pm-8pm	Pottery Wheel Experience	3
Weds 28 <sup>th</sup> Sept	6:30pm-8pm	Life Class	6
Thurs 29 <sup>th</sup> Sept	6:30pm-9pm	Pottery Course Wk 3	6
Thurs 6 <sup>th</sup> Oct	6:30pm-9pm	Pottery Course Wk 4	6
Tues 11 <sup>th</sup> Oct	5-6pm	Pottery Wheel Taster	5
Thurs 13 <sup>th</sup> Oct	6-8pm	Pottery Wheel Experience	4
Thurs 20 <sup>th</sup> Oct	6-7pm	Pottery Wheel Taster	4
Weds 26 <sup>th</sup> Oct	6:30-8pm	Life Drawing	12
Thurs 27 <sup>th</sup> Oct	6:30pm-9pm	Pottery Course Wk 1	5
Fri 28 <sup>th</sup> Oct	7pm-10pm	Paint a Pot	6
Thurs 3 <sup>rd</sup> Nov	6:30pm-9pm	Pottery Course Wk 2	5
Thurs 10 <sup>th</sup> Nov	6:30pm-9pm	Pottery Course Wk 3	5
Thurs 15 <sup>th</sup> Nov	6-7pm	Pottery Wheel Taster	4

Thurs 17 <sup>th</sup> Nov	6:30pm-9pm	Pottery Course Wk 4	5
Thurs 24 <sup>th</sup> Nov	6:30pm-9pm	Pottery Course Wk 5	5

### **Social Events 2022** (submitted 03.11.2022)

<b>Date</b>	<b>Time</b>	<b>Class</b>	<b>Attendance</b>
Fri 11 <sup>th</sup> Feb	6pm-11pm	Tapas Evening	145 (two sittings)
Sun 27 <sup>th</sup> Feb	6pm-9pm	Baby Shower	27
Sun 6 <sup>th</sup> March	6pm-9pm	Baby Shower	23
Sat 7 <sup>th</sup> May	6pm-11pm	80 <sup>th</sup> Birthday	40
Fri 29 <sup>th</sup> July	7pm-9:30pm	Paint a Pot/ Prosecco	6
Fri 26 <sup>th</sup> Aug	7pm-9:30pm	Paint a Pot/ Prosecco	6
Thurs 1 <sup>st</sup> Sept	7pm-9pm	Solo Exhibition Private View	70
Sun 18 <sup>th</sup> Sept	6pm-9pm	Baby Shower	25
Thurs 27 <sup>th</sup> Oct	6pm-9pm	Candle Making w Coffee	15
Fri 28 <sup>th</sup> Oct	7pm-9:30pm	Paint a Pot/ Prosecco	8

### **Impact upon living conditions of neighbouring dwellings**

- 10.12 The main issue in relation to this application is the effect that permitting the extended opening hours on a permanent basis would have on the living conditions of the residents of neighbouring dwellings with particular reference to noise and disturbance.
- 10.13 Policy GN3 of the Local Plan states that proposals for development should retain reasonable levels of amenity for neighbouring properties.
- 10.14 The consecutive temporary permissions of 1 year for extended opening hours were intended to provide a sufficient time period for the business to operate late night workshops / events and functions and to allow the Council to be able to assess the effectiveness of the conditions put in place to protect the amenity of neighbouring properties.
- 10.15 The justification put forward by the applicant within the Planning Statement (and upon submission of the revised events list) argues that the workshops and events that have taken place (and those scheduled) during a period when the Business is no longer affected by Covid restrictions. The schedules are therefore said to demonstrate 'a strong pattern of reasonably regular small group workshops in the evening and only occasional social events that is reflective of the proposed programme of future use'. It is further presented that the management of all events have been undertaken in accordance with the wide range of planning (and licensing) controls attached to the permissions and have not attracted any adverse complaints. As such it is suggested that the potential impacts arising from longer opening hours upon residential amenity have been suitably demonstrated (none arising) and thus a case made for the permanent extension of the opening hours.
- 10.16 Noting the above, it is acknowledged that the business operations from the period January 2022 onwards have not been subject to Covid restrictions and may indeed represent typically expected schedule of events for the future of the business. It is also accepted that there have been no formal reports of nuisance during this period.
- 10.17 Nevertheless, it remains the case that the principal concerns relating to this, and previous applications is the demonstration that the premises can operate a late-

night event/ function (at capacity) without impacting neighbouring properties. In this respect during the period of the extant temporary permission all but one of the Workshops finished before 9pm and recorded a maximum attendance of 17. From the 'Social Events' that have taken place only two finished in the later period of 11pm, a tapas event and an 80<sup>th</sup> Birthday, the latter of which had an attendance level of 40. Based on the revised submission, the profile of later night events remains exceptionally limited, and it is not considered it provide a full and robust assessment of potential noise and disturbance impacts that could be felt by neighbouring properties as a result of permitting later hours on a permanent basis.

- 10.18 The applicant makes reference to a previous submission of a noise monitoring test for a single event that took place in June 2021. It is noted that a full assessment of this evidence was undertaken for the previous application and the limitations of the evidence outlined in full at the time. As such whilst this can be given limited contributory weight to the case presented, I do not consider it overcomes the outstanding concerns regarding about the lack of evidence of late-night events taking place without disruption to neighbours to warrant a permanent extension of the opening hours at this time.
- 10.19 A principal concern consistently identified by the Environmental Health team is the impact to neighbouring properties when the front door or indeed side or rear doors are opened during an event to allow egress to the building. The noise management plan identifies that this will be managed largely by way of marshalling and training of staff. Concern does arise that this may be difficult for the proprietor to enforce, and it was previously considered that more evidence of these events taking place without disruption to neighbours was required.
- 10.20 The revised submission has been considered by the Environmental Health Team who have indicated that in reviewing the applicants previous noise management plan, it remains unclear how the suggested level of 5 min  $L_{Aeq}$  for internal music have been quantified. External noise breakout appears to have been left to be measured subjectively and does not take into account late night vehicle movement. In such situations a calibration certificate should have been submitted to ensure levels are set and quantified. Furthermore, as the amplification equipment has no effective control, concerns have been raised that internal music levels are adequately controlled. On the basis that the current later operating hours are to continue (even for an extended temporary period) it is therefore considered appropriate that the installation of a noise limiting device to control music levels be required and this could be secured by condition.
- 10.21 The above would enable the premises supervisor to ensure that amplified sound does not cause a public nuisance by ensuring that entertainment noise ( $L_{Aeq}$ ) should be controlled to 10dB below the background noise level ( $L_{A90}$ ) without the entertainment noise present, in each octave band at the nearest noise sensitive location.
- 10.22 Furthermore, given the uncertainty outlined, it is also considered appropriate that within one month of any temporary extension being granted, a revised and more robust noise management plan should be submitted showing how the premises would be managed to limit noise and disturbance from the associated activity. Such activity should include but not be limited to how the management will control noise and associated with people congregating outside the premises and vehicle movements to and from the site

10.23 On the basis of the above, on balance it is not considered that the temporary period previously granted has provided the applicant to demonstrate sufficiently that the permanent allowance of later opening hours would not have a detrimental impact on neighbouring properties. Consequently, I do not consider that it has been sufficiently demonstrated that the proposal would accord with Policy GN3 of the Local Plan. It is therefore recommended that a further 3-year temporary permission be granted, which would allow the applicants to continue to establish their business and run and operate later events and workshops whilst also providing the Council with the required assurances that the site can operate without impact and disturbance to neighbouring properties.

#### Other matters

10.24 Matters of highways and parking, ecology, impact to the Green Belt, and drainage were all assessed under application ref 2020/0439/FUL and were all found to be acceptable. As part of this submission these matters remain as previously approved and as such, I am satisfied that these elements remain acceptable under this proposal.

### **11.0 Conclusion**

11.1 Based upon the above I consider that a further temporary planning permission of 3 years should be granted to allow the applicant the opportunity to demonstrate that the site can operate more extensive late-night events in accordance with Policy GN3 of the Local Plan. It is noted that this suggested proposal has been presented to the applicant who has confirmed acceptance of the recommendation for the Planning Committees consideration.

11.2 Given the above, the proposed development is considered compliant with the NPPF and Policies EN2, GN1, GN3 and IF2 of the West Lancashire Local Plan 2012-2027 DPD and the application is recommended for approval.

### **12.0 Recommendation**

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

1. The hours hereby permitted (08:00 - 21:00, Sunday; 08:00 - 22:00 Monday to Thursday; 08:00 - 00:00 Friday and Saturday) shall be discontinued on or before the expiry of the period ending on 31.01.2026. Thereafter the premises shall only be open to customers between the hours of 0800 and 1800 Monday to Saturdays and 0900 and 1800 on Sundays and Public/Bank holidays.

Reason: To enable the Local Planning Authority to re-assess the proposal on the expiry of the permission having regard to Policy GN3; of the West Lancashire Local Plan 2012-2027 Development Plan Document.

2. An appropriate automatic noise control device should be fitted to all amplified sound equipment. The device must be:

Set so that the volume of any amplified sound emanating from the premises does not cause a public nuisance.

A Compliance Certificate should be supplied to the Planning authority for the installation of the unit before any extended hours can be agreed

For information: The compliance certificate must contain the following

- o 5-minute LAEQ,
- o Frequency analysis between 125Hz - 40Hz.

The devices must be fitted to all power outlets to the premises (i.e to the main distribution unit)

The approved scheme shall be implemented in its entirety and the equipment shall be properly maintained and operated for the duration of that use.

Reason: 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

3. Within one month of the date of this permission, an Operational Noise Management Plan shall be submitted in writing to the Local Planning Authority for approval. The plan shall include but not be limited to the measures required to control and minimize noise associated with the operation of the premises to ensure that the noise output from the premises is controlled so as not to cause disturbance. Within one month of the date of that approval, the approved Operational Noise Management Plan shall be implemented at all times thereafter.

Reason: 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. Deliveries / collections shall only be made between the hours of 08:00 - 18:00 Monday to Saturday and 09:00 - 18:00 Sundays and Public/Bank Holidays.

Reason: 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. Noise from entertainment (including any music and/or amplified voices) shall not exceed 30dB LAeq 5mins at the boundary of any nearby residential property at any time.

Reason: 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. The sound / audio system installed in the premises shall not be replaced or altered without a scheme being submitted for prior approval by the Local Planning Authority. Thereafter only sound/audio equipment approved in writing by the Local Planning Authority should be used within the premises.

Reason: 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. No additional mechanical ventilation/extraction, odour filtration systems or refrigeration equipment shall be installed on or within the building until details of that equipment have been submitted to and approved in writing by the Local

Planning Authority. The approved scheme shall be implemented in its entirety and the equipment shall be properly maintained and operated for the duration of that use.

Reason: 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. The outdoor seating and smoking areas for the site shall be in accordance with drawing Site Layout Plan 1499-004 received by the Local Planning Authority on 20.04.2022 and the Lighting Scheme Drawing Number: 20-15560-1B and agreed under application reference 2021/0626/con discharged on the 30.08.2022

Customers will not be permitted to use the outside seating areas after 21:00 and before 08:00 hours Monday - Sunday, except for smoking in the designated areas

Reason: 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. The scheme detailing the layout and surfacing of the parking and turning areas for the site shall be in accordance with drawing 'Proposed Site Layout Dwg No: 1499-004 received b REV 01 Received by the Local Planning Authority on 17.06.2020 and agreed under application reference 2021/0626/con discharged on the 30.08.2022

Reason: To allow for the effective use of parking areas and to ensure that the development complies with the provisions of Policies GN3 & IF2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

10. The foul and surface water drainage from the site shall be in accordance with the details submitted on the 05.09.2017 and agreed under application reference 2017/0950/CON which was discharged on the 02.11.2017.

Reason: to ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policies GN3 and IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

11. The external materials for the building shall be in accordance with the details submitted as part of application reference 2017/0651/CON and discharged on the 24.08.2017. i.e Roof and vertical cladding: Kingspan cladding panels - Basalt RAL 7012, Horizontal cladding: Havwoods H02150 Trekker Cladding Anthracite and Bricks: 65mm Forterra Wentworth Mixture as per document titled 'Discharge of conditions' received by the Local Planning Authority on 13.07.2017.

Reason: To ensure that the external appearance of the building is satisfactory and to prevent unsightliness and visual intrusion and so ensure that the development complies with the provisions of Policies GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

12. The landscaping scheme for the site shall be in accordance with drawing no 07A and document titled 'Discharge of conditions' received by the Local Planning Authority on 13.07.2017 and agreed under application reference 2017/0651/CON, discharged on the 24.08.2017.



Reason: To ensure that the landscaping of the site is satisfactory and that the development, therefore, complies with the provisions of Policies GN3 and EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

13. Mechanical ventilation and odour filtration systems shall be in accordance with the details agreed under 2020/0624/CON, discharged 28.09.2020. i.e
- Systemair AE53.2-1,5KW,D, Control Unit brochure received by the Local Planning Authority on 16.09.2020
  - Systemair AW 315E4 Sileo Axial fan brochure received by the Local Planning Authority on 16.09.2020
  - Email from agent with supporting information received by the Local Planning Authority on 16.09.2020.

Reason: 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.

14. External lighting shall be in accordance with the details submitted on the 25.10.2017 and agreed under application reference 2017/0950/CON, discharged on 02.11.2017. No additional external lighting shall be installed on site without the prior written consent of the Local Planning Authority.

Reason: 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.

15. The one way system and associated signage shall be in accordance with drawing no 08 submitted on the 05.09.2017 and agreed under application 2017/0950/CON, discharged on 02.11.2017.

Reason: To safeguard the safety and interests of the users of the highway and to ensure that the development complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

16. The bound material (tarmac) for the access shall be in accordance with drawing no 07A submitted on the 13.07.2017 agreed under application 2017/0651/CON, discharged on 24.08.2017.

Reason: To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard for road users and to ensure that the development complies 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:

Policy GN1 – Settlement Boundaries

Policy GN3 – Criteria for Sustainable Development

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.

### **13.0 SUSTAINABILITY IMPLICATIONS**

13.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

14.1 There are no significant financial or resource implications arising from this report.

### **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the Planning Division, except for such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Human Rights**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

### **Appendices**

None.

