



PLANNING COMMITTEE: 23rd November 2023

Report of: Corporate Director of Transformation, Housing and Resources

Contact for further information:

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PLANNING APPLICATION REF: 2022/0626/FUL

PROPOSAL: Retrospective change of use from café to function room

APPLICANT: David A Lee and Sons Ltd

ADDRESS: The Aviary Restaurant, Blindmans Lane, Ormskirk, L39 3AD

REASON FOR CALL IN: Application has been called in by Cllr Dowling to consider the impact on residential properties.

Wards affected: Ormskirk West

1.0 PURPOSE OF THE REPORT

- 1.1 To advise Planning Committee on an application which seeks to retain the function room which has been in use since 2020 following the cessation of the café use in this space.
- 1.2 It is considered that subject to planning conditions, the retention of the use is acceptable in terms of design, access and amenity. There are no alterations to the external appearance of the building. The development is considered to be compliant with the NPPF and Local Plan in respect of amenity, impact on the Green Belt and other relevant matters.

2.0 RECOMMENDATION TO PLANNING COMMITTEE

- 2.1 That planning permission be **GRANTED** subject to conditions

3.0 THE SITE

- 3.1 The application site is located on the west side of Blindman's Lane and is a single storey building with planning permission to be used as a restaurant/café. More recently it has been acting as a function venue for weddings and other functions.
- 3.2 The site was a former agricultural barn, granted planning permission in 2020 to be used partially as a function room.

4.0 PROPOSAL

- 4.1 The application is for the retention of the change of use of part of the building from café to function space. There are no external alterations proposed to the building.
- 4.2 The building has partial consent for use as a function room under planning reference 2019/0913/FUL. It is understood that the use has been operational since 2020.
- 4.3 Additional information in relation to noise management has been received since the receipt of the planning application.

5.0 PREVIOUS RELEVANT DECISIONS

- 5.1 2019/0913/FUL – Change of use of former butchers to function room including entrance shelter and additional extensions (retrospective) and extension to function room – APPROVED 14 May 2020

2022/0624/FUL – Retrospective permission for water fountain, wedding gazebo and fence – Awaiting Determination

2015/0062/COU – Change of use of existing agricultural barn to A3 use (café). Various external fabric alterations including new windows, door openings and timber overcladding – APPROVED 20 April 2015

- 5.2 In respect of the building adjacent to the site:

2018/575/COU – Change of use from agricultural building to beauty salon – APPROVED 4 September 2018.

6.0 OBSERVATION OF CONSULTÉES

- 6.1 LCC Highways (08.08.2022) – no objection consider will have a negligible impact on highway safety and capacity.
- 6.2 Environmental Protection (26.10.2023) – no objection subject to conditions which are reflected in the proposed decision

7.0 OTHER REPRESENTATIONS

- 7.1 No other representations received.

8.0 SUPPORTING INFORMATION

- 8.1 Plans

8.2 Information in relation to noise management.

9.0 RELEVANT PLANNING POLICIES

9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 provide the policy framework against which the development proposals will be assessed. The site is located within the Green Belt as designated in the West Lancashire Local Plan 2012-2027.

West Lancashire Local Plan 2012-2027

GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
EC2 – The Rural Economy
IF2 – Enhancing Sustainable Transport Choice

Supplementary Planning Documents

Development in the Green Belt (2015)
Design Guide (2008)

10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF TRANSFORMATION, HOUSING AND RESOURCES

10.1 The main considerations for this application are:

1. The principle/impact on the Green Belt
2. Design and Visual Appearance
3. Residential Amenity

Principle of Development/Impact on the Green Belt

10.2 The West Lancashire Local Plan policy GN1, states that development proposals within the Green Belt will be assessed against national policy and relevant local plan policies.

10.3 Paragraph 137 of the NPPF states that the Government attaches great importance to Green Belts. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

10.4 Paragraph 150 notes that certain other forms of development are also not inappropriate within the Green Belt providing they preserve its openness and do not conflict with the purpose of including land in it. This includes '*the re-use of buildings that are of permanent and substantial construction.*'.

10.5 The building was granted permission to change its use from agricultural to a café/restaurant under reference 2015/0062/COU and thereafter a partial change of use to a function space under 2019/0913/COU. The reuse of the building is therefore appropriate within the Green Belt and is acceptable in principle.

- 10.7 It is considered the proposal would comply with the requirements of Policy GN1 of the West Lancashire Local Plan 2023-2027 and paragraph 149 of the NPPF.

Design and Visual Appearance

- 10.8 Policy GN3 of the West Lancashire Local Plan together with the Design Guide SPD is relevant to the assessment of the design and external appearance of the development and requires that development should be of a scale, mass and built form which responds to the characteristics of the site and its surroundings.
- 10.9 There are no alterations to the external appearance of the building and it is it considered to remain appropriate within its surroundings.
- 10.10 It is considered that the proposal is in accordance with Policy GN3 of the West Lancashire Local Plan and the Council's Design SPD.

Residential Amenity

- 10.11 There are a number of residential dwellings within the vicinity. The application for the change of use of the barn in 2019 under reference 2019/0913/FUL was granted subject to a number of conditions including noise limiter installation. Following the receipt of the planning application, further information was sought in relation to the provision of a noise management plan.
- 10.12 Environmental Protection have been consulted on the application and have responded following the receipt of the final noise management plan noting that the premises is already fitted with a noise limiting device which regulates the music output from the premises.
- 10.13 Environmental Health have worked with the premises proactively to set the noise limiter to a level which will ensure there is no detrimental impact on neighbouring residential premises when an event is being held. In addition, a noise management plan has been prepared which outlines processes in place to control activity. Subject to conditions Environmental Health has no objections to the proposal.
- 10.14 Paragraph 187 of the NPPF states 'Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.' Paragraph 188 states 'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning should assume that these regimes will operate effectively.' In this case, the noise issues are controlled via the licencing regime and therefore should be assumed to be working correctly. Environmental Protection have confirmed that there are no active complaints against the property in respect of noise.
- 10.15 It is considered that the imposition of a conditions regarding operational hours, adherence noise management plan and the continued use of the limiter the development will maintain levels of residential amenity and the retention of the extended function room use will comply with the requirements of Policy GN3 of the West Lancashire Local Plan 2012-2027.

11.0 CONCLUSION

- 11.1 The retention of the function room use will have a limited impact on the overall use of the building. There are no objections from Environmental Protection.
- 11.2 It is considered that subject to the imposition of conditions relating to the operational hours and noise, the application would not cause demonstrable harm.
- 11.3 The application is considered to be in accordance with the relevant policies of the NPPF and the West Lancashire Local Plan 2012-2027.

12.0 RECOMMENDATION

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

1. The development hereby approved shall be carried out in accordance with details shown on the following plans:

Proposed GA Plan received by the Local Planning Authority on 31st May 2022
Site Location Plan dwg no. LO4 received by the Local Planning Authority on 13th July 2022

Reason: 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.

2. The premises shall not be open to the public between the hours of 01.00 and 11.00 Monday to Sunday and Public Holidays.

Reason: In order to maintain appropriate levels of residential amenity in accordance with Policy GN3 of the West Lancashire Local Plan 2012-2027.

3. The premises shall operate in full accordance with the controls and measures outlined in the approved noise management plan received 26th October 2023 at all times.

Reason: In order to maintain appropriate levels of residential amenity in accordance with Policy GN3 of the West Lancashire Local Plan 2012-2027.

4. All amplified sound and speech the premises shall be routed through the electronic noise limiting device at all times when the premises is operational.

Reason: In order to maintain appropriate levels of residential amenity in accordance with Policy GN3 of the West Lancashire Local Plan 2012-2027.

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.

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.