

Full Planning Application
Retrospective Application for change of use from workshop (B2) to Bar (A4)
THE STACKHOUSES BANK PARADE BURNLEY

The application was reported to Committee on the 10th December 2020. The application was deferred to January's Committee at the request of Members to allow the objectors the right to speak.

Background

Site and Surrounding Area:

The application site is located to the east side of Bank Parade opposite its junction with Parker Street. It forms part of a two storey former industrial/warehouse building dating from the early-mid twentieth century that mainly comprises residential flats at ground and first floors with the exception of a former workshop (the application site). The building is notable for its distinctive red brick arched façade fronting Bank Parade and attached at the rear is a terrace of early C19 Stackhouses. The building is a Grade II Listed Building due to the architectural and historic interest derived from the Stackhouses to the rear. The later red brick warehouse addition does not make a significant contribution to special interest of the listed building. The site is also within the Top O' T h' Town Conservation Area.



Elevation to Bank Parade with those parts subject to the application highlighted in red for indication purposes.
(Image courtesy of Google Maps 2018)



September 2020

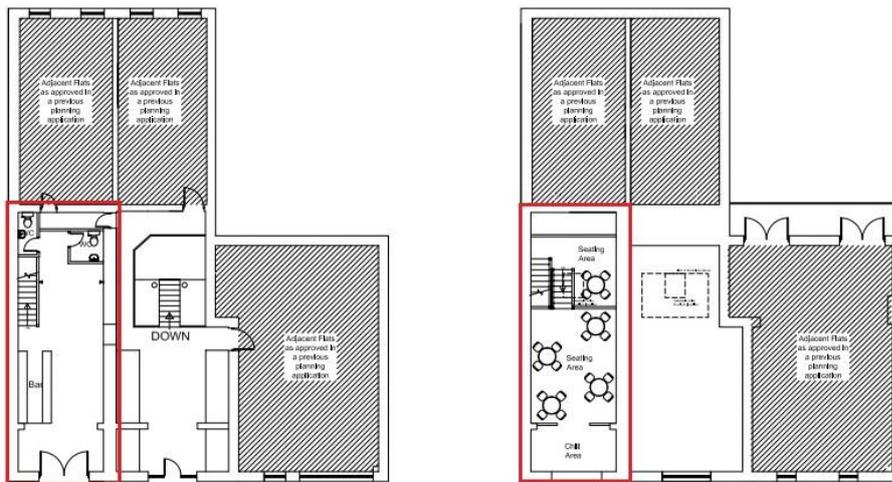
The site falls within the boundary of Burnley Town Centre as defined in the Local Plan. It occupies a peripheral location within the town centre and is characterised by a mix of residential and commercial uses including the Royal Mail Sorting Office and a Tyre Centre, health clinics, offices and light industry. Within 50m of the site is Aldo's Restaurant at (No. 58) and The Loom Makers Bistro at (No 49) which open into the late evening. The position of the site and the nature of the surrounding commercial businesses is such that this particular part of the town centre is subject to a significant amount of general noise and disturbance during daytime and evening hours.

The application site and adjoining flats benefit from an unimplemented planning permission for the remodelling, conversion and extension to form 10 self-contained flats under APP/2019/0056 and APP/2019/0057 granted in 2019.

Proposal

This application is seeking retrospective planning permission for a change of use of the ground and first floors of the premises from a workshop (Class B2) to a bar (Class A4). The conversion works were completed during the determination period and the bar has been operational since August 2020 as a live music/entertainment venue. The establishment is relatively small scale, covering an area of approximately 81sqm, with a ground floor bar area and WCs; and a first floor seating area for approximately 20 people.

The conversion works involved mainly cosmetic internal changes (re-decoration), the creation of a bar area; provision of WCs; and blocking up an internal doorway to the apartment foyer. It is to be noted that the works do not constitute alterations that affect the character of the listed building and accordingly there is no requirement for listed building consent.



Development as Implemented: Ground Floor Layout (left) and First Floor Layout (right)

No physical external alterations have been implemented or proposed and there is no requirement for ventilation/extraction system as hot food is not prepared on site. If subsequently required by the occupier, this would form the basis of separate applications.

The building is serviced from the Bank Parade for waste refuse and this will remain unchanged. The proposed opening hours are Monday to Sunday 09:00hrs to 23:00hrs daily. The proposal makes no off-road parking provision for customers or staff.

In response to the potential constraints to development, the application is supported by a Heritage Statement; Refuse and Recycling Statement; and Noise Impact Assessment.

Relevant Policies:

Burnley's Local Plan (July 2018)

- SP1 Achieving Sustainable Development
- SP5 Development Quality and Sustainability
- TC2 Development within Burnley and Padiham Town Centres
- HE2 Designated Heritage Assets
- IC1 Sustainable Travel
- IC3 Car Parking Standards

National Planning Policy Framework (2019)

Planning (Listed Buildings and Conservation Areas) Act 1990

Relevant Recent Planning History:

APP/2019/0056 and APP/2019/0057: Listed Building Consent and Planning Permission to erect four storey rear extension and conversion of existing building (comprising 3no. flats and workshop) into 10no. flats – Granted October 2019.

Consultation Responses:

LCC Highways: No objection to the principle of the development and advise the imposition of a condition to restrict deliveries to before 9.30am and after 3.00pm in order to avoid conflict with traffic (vehicular or pedestrian) in the interest of highway safety.

Environmental Health (Amenity and Air Quality): Raise no objection subject to the imposition of conditions to address the following concerns:

As the proposed use is located adjacent to residential property, noise generated internally and externally from its operation could potentially result in an adverse impact on health and quality of life. Although the submitted Noise Impact Assessment recognises that internally generated noise from the proposed use (affecting the flat currently occupied by a family member of the bar owner) could be mitigated against, giving details on how this might be achieved, it does not address concerns that evening and night-time noise from customers is something that could be adequately controlled.

Although the current alcohol licence permits the opening hours of 9am to 11pm during the premises licence consultation, Environmental Health clearly understood from the applicant that only *low-level* background music would be played, and that the premises was to be operated a 'tearoom and real ale bar'. There is a significant change to this understanding in that it is predicted (in the noise impact assessment) that levels of up to 82dB(A) from music could occur inside the bar. As such, it is reasonable to assume that the playing of music at this volume would make the main purpose of the bar more 'entertainment' with the consumption of alcohol, than that as previously understood, i.e. food and 'quiet' drinking. Assuming that the music levels could be regulated (e.g. using a broadband noise limiter) there remains concern that residents could be subjected to unreasonable levels of noise from patrons entering and leaving the premises and when smoking/talking outside the premises. Additionally, if there is 'loud' music of up to 82dB(A) being played inside the premises, this would naturally increase the volume of voices (including 'single event' LAMax noise caused by shouting/screaming). This additional noise source, which could increase the overall decibel level, is not something that the noise assessment has considered. I have concerns that this noise (in particular, the aforementioned 'single event' noise) could be heard inside habitable rooms of 54 Bank Parade, and potentially other nearby noise-sensitive receptors.

If the planning application should be approved, it is therefore recommended that:

- The operating hours are restricted to between 09:00hrs and 18:00hrs
- Only low-level background music may be played at any time. Low-level music is that played at a volume such that people (patrons and staff) do not have to raise their voices to hold a normal conversation
- No deliveries or collections (including waste and recycling) are made outside the hours of 9am to 6pm, Monday to Friday, and not on Sundays and Bank Holidays.

It has since been confirmed that Environmental Health would not object to the closing time being increased to 21.00hrs each day (consistent with the condition on APP/2014/0336 for the Loom Makers Bistro) if the agent can confirm that the applicant understands that the bar will only be permitted to have low-level background music at any time, which would prevent

a continuation of live music events. (*Officer Note: The agent has provided written confirmation that the agent understands and accepts the condition preventing live/amplified music and its implications on their operational needs*).

Streetscene: Raise an objection to the application on the basis the waste disposal arrangements set out in the Refuse and Recycling Strategy are illegal as the household waste centre does not take commercial waste. As there is no capacity inside the property for storage of waste and recycling containers, the applicant is advised to enter into a private commercial waste contract for daily collection. (*Officer Note: The applicant has agreed to enter into a commercial waste contract and the Refuse and Recycling Strategy has been revised to reflect this arrangement*).

Lancashire Constabulary Designing Out Crime Service: Recommend a number of detailed security measures to mitigate the risk of crime or anti-social behaviour affecting customers, staff and the local community.

Publicity: Six letters of objection have been received with the main material planning points as summarised:

- Noise disturbance
- No details of sound proofing and no acoustic survey to demonstrate that noise will not be generated to an unacceptable level or that it can be successfully mitigated (*Officer note: A Noise Impact Assessment has been subsequently submitted*).
- The constrained internal space will lead to overspill onto the highway/pavement (for example from smokers) and will lead to obstructions on the narrow pavement, blocking the access to the apartments, and the potential for unrestricted noise disturbance
- Use of highway for tables and chairs causing obstructions
- Addition of roof-lights (already fitted) would cause noise to travel to upstairs flats
- Potential for anti-social behaviour
- Security concerns

Planning and Environmental Considerations

The main issues relevant to the consideration of the application are:

- Principle of development
- Impact on designated heritage assets
- Impact on amenity (with particular regard to noise and disturbance)
- Highway safety and parking
- The adequacy of refuse and recycling provision

Principle of development:

The application site is located within the boundary of Burnley Town Centre, as defined in Burnley's Local Plan. Policy TC2 relates to development in Burnley town centre and states that main town centre uses (Classes A2, A3, A4 and A5) will be supported. Accordingly the proposed A4 use would, in principle, be a suitable use in this location and would comply with Policy TC2.

Impact on designated heritage assets:

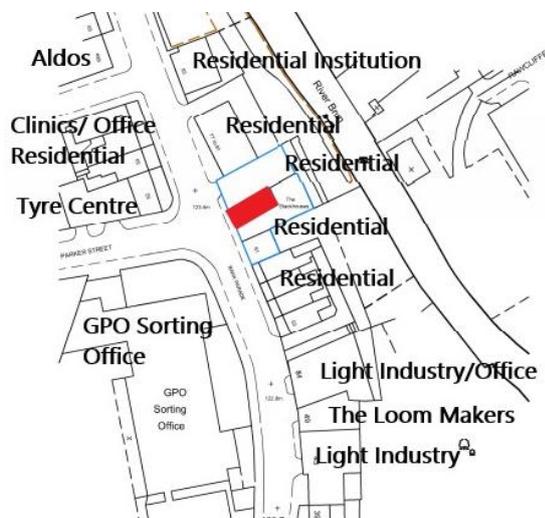
Policy HE2 seeks to protect the special interest of listed buildings and the special character of conservation areas. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 confer upon local planning authorities a duty to have special regard to the desirability of preserving the interest of a listed building or its setting and to the desirability of preserving or enhancing the character or appearance of a conservation area.

No external alterations have been carried out or proposed and as such the development does not make any meaningful difference to the character or appearance of the Top O' Th' Town Conservation Area. With regards to the listed building, the application property is not considered to contribute to the special interest of the listed Stackhouses. Moreover, the conversion works have been limited to minor, mainly cosmetic internal changes (re-decoration) with minimal intervention to the already substantially altered interior. The proposal is therefore considered acceptable and would preserve the special interest of the listed building. Accordingly, the development satisfies Policy HE2, the NPPF and the duty assigned by the LBCA Act.

Impact on Amenity

Paragraph 127 of the NPPF requires planning decisions to ensure a high standard of amenity for existing and future users. Similarly, Policy SP5 seeks to ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users. The nature of the use is such that the impact on neighbouring amenity has been assessed by reason of noise and disturbance.

In this case the application property forms part of a larger building containing three residential flats, two of which adjoin the application property at ground and first floor and a ground floor flat separated from the application property by the entrance foyer (No 61 Bank Parade). The adjoining property to the north (Nos 1-12 Stackhouses) is also in residential use. The application site is primarily surrounded by residential uses (east side of Bank Parade) with some commercial uses to the west and to the south including the Royal Mail Sorting Office and a Tyre Centre, health clinics, offices and light industry. Within 50m of the site is Aldo's Restaurant at (No. 58) and The Loom Makers Bistro at (No 49) which open into the late evening.



General Nature of Surrounding Uses (application site highlighted in red)

The nature of the use and the opening hours (Monday to Sunday 09.00hrs to 23.00 hrs) have the potential to result in noise and disturbance stretching into the late evenings and night. Given that site is situated in a part of the town centre where there is a concentration of activity and a level of disturbance from a range of sources over a prolonged period of the day, including uses that extend into the evening (Aldo's and The Loom Makers) and town centre traffic, some degree of noise and disturbance into the evening hours would not be unreasonable. However, a continuation into the late evenings and night would be unreasonable given that this is a time of day that neighbouring residents might reasonably expect to be quieter even in this town centre location.

Given the character, layout and proximity of attached buildings, suitable control of potential noise sources is likely to rely on the appropriate management of both amplified sound and noise from customers during the late evenings on or around the site. The Council's Environmental Health Officer (EHO) has reviewed the application and Noise Impact Assessment and considers the development would only be acceptable subject to conditions that will ensure the amenity of neighbouring residents and uses are protected from unacceptable levels of noise and disturbance.

Most notably, the EHO has objected to both the playing of amplified sound/music and the opening hours applied for. A condition limiting the playing of music to low level background music only is considered necessary to protect the amenity of nearby noise-sensitive receptors. A general opening hours condition is proposed to mitigate disturbance to nearby residents from customers leaving the venue, with the opening hours adjusted to ensure the premises close earlier (no later than 21:00hrs) which is consistent with the approach taken with the planning permission at No.49 (The Loom Makers). In addition, it is recognised that the collection of waste especially bottles is a noisy process and can cause sleep disturbance if carried out during night or early morning hours. Accordingly, the collection times will also need to be controlled by condition.

The imposition of these conditions are supported by officers and the applicant has confirmed their acceptance to the conditions (ie. in terms of meeting their operational needs) in the event that the application is approved.

The occupiers of an adjoining properties have raised objections on the basis of noise and disturbance from the playing of loud/live music; general comings and goings; and the congregation of customers on the pavement. However, the given no formal objection from the council's Environmental Health Team, and as conditions have been recommended to overcome any noise issues, it is considered that the proposal is acceptable in this regard.

The neighbour objections received in regard to this proposal have raised additional issues in regard to amenity including the potential for anti-social behaviour and security concerns. These matters could be dealt with under other legislation outside the planning process and would not justify the refusal of planning permission.

It is considered that the potential impacts of noise and disturbance experienced by the occupiers of nearby residential properties, including the flats above the premises, can be reduced to an acceptable level through imposition of planning conditions as set out above. Subject to the imposition of the recommended controls, it is considered the proposed use could take place without giving rise to an unacceptable detrimental impact on the amenities of neighbouring residential occupiers in this town centre setting and would therefore comply with Policy SP5. Moreover, if the proposed use were to result in unacceptable levels of noise and disturbance, separate legislation exists to control this.

Highway Safety and Parking

Policy IC1 seeks to ensure sustainable travel, highway safety and a safe and convenient means of access for all users. Policy IC3 requires the adequate provision of car parking in developments as appropriate to their nature and scale and taking into account the merits of the proposal, such as the accessibility of the site by public transport, walking and cycling; the availability of existing public parking provision or on-street parking nearby.

The site is unable to offer any off-street parking for customers or staff, however given this is a highly accessible and sustainable town centre location with good public transportation links and a number of opportunities available to park either on-street or in nearby public car parks, it is accepted that no off-street parking can be provided. The Highways Authority do not raise any objections to the proposal subject to a condition restricting deliveries before 09:30hrs

and after 15:00hrs for the reasons of highway safety. Subject to this control, the proposal is not considered to cause or exacerbate congestion, highway safety issues or on-street parking problems. It would therefore satisfy the relevant local plan policies IC1 and IC3 and the NPPF which aims to only prevent or refuse development on highway grounds where there is an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Refuse and Recycling

Policy SP5 requires refuse and recycling provision to be appropriate to the scale and type of premises and be adequate to ensure that no refuse or recycling material is stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

The waste generated from the bar is mainly recyclable waste such as glass bottles, cardboard, wrappings and smaller amounts of non-recyclable waste. The application site has no private outdoor space and as such refuse and recycling will be stored internally and collected on a daily basis by a private commercial waste contract. The proposed arrangement meets with the advice of Streetscene. It is recognised that the collection of waste, especially bottles, is a noisy process and can cause sleep disturbance if carried out in the night or early morning hours. Accordingly the collection times will also need to be controlled by condition. Subject to this control, the refuse and recycling provisions would comply with Policy SP5.

Other Matters

The issue of the use spilling out onto the pavement (tables, chairs and other paraphernalia) could be dealt with under other legislation outside the planning process and is not considered to be an issue that could justify the refusal of planning permission. As the pavement is outside the application site the grant of planning permission (should it occur) would not extend to this area and as such would not grant permission for its use or occupation by tables and chairs. In this instance it would therefore not be reasonable, appropriate or necessary to impose conditions restricting such a use (which in any event would be covered by the need for a highways licence).

Conclusion

Subject to suitable conditions, the development does not raise any significant concerns in terms of impact on amenity and is considered to be acceptable in relation to impact on designated heritage assets; highways and parking; and waste provision. Subject to conditions the development is considered to comply with the Local Plan and it represents a sustainable form of development and there are no material considerations which would outweigh this finding.

Recommendation: Approve subject to conditions set out below and maximum dB level to be specified in condition 3 by way of an update.

Conditions and Reasons:

1. The development hereby permitted shall not be carried out other than to the approved drawings and the specifications as indicated thereon except where modified by the conditions of this consent. The approved drawings are: HARRI/09A Dwg 03A (Proposed Site Plan at 1:100 Scale dated 15.05.20); and Drawing No. HARRI/09A Dwg 02B (Proposed Floor Plans and Elevations at 1:100 Scale dated 15.05.20) received on the 9th September 2020.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

2. The A4 use hereby permitted shall not be open to customers except between the hours of 09:00 and 21.00 hours on any day.

Reason: In order to safeguard the amenities of neighbouring properties from unacceptable levels of noise and disturbance in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

3. No amplified music/sound, over 75 dB shall be played at the premises at any time. This shall include, but is not limited to, live music/bands, speaker systems, microphones and karaoke. Only low-level background music may be played at any time. Low-level music is that played at a volume such that people (patrons and staff) do not have to raise their voices to hold a normal conversation.

Reason: In order to safeguard the amenities of neighbouring properties from unacceptable levels of noise and disturbance in accordance with Policy SP5 of Burnley's Local Plan (July 2018)

4. Provision shall be made for the storage and disposal of waste in full accordance with the approved Refuse and Recycling Statement and shall remain in place throughout the lifetime of the development. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

Reason: To ensure the provision of adequate facilities for the storage of refuse and recycling; safeguard the amenity of the occupiers of adjoining premises; prevent any obstruction on the highway in accordance with Policies IC1 and SP5 of Burnley's Local Plan (July 2018).

5. There shall be no deliveries to or collections from the premises (including waste and recycling) outside the hours of 09:30 and 15:00 on any day.

Reason: In the interests of highway safety and in order to safeguard the amenity of neighbouring properties from unacceptable levels of noise and disturbance in accordance with Policies IC1 and SP5 of Burnley's Local Plan (July 2018).

6. The roof-lights serving the A4 use as approved shall remain closed between the hours of 09:00 hours and 21:00 hours on any day.

Reason: In order to safeguard the amenities of neighbouring properties from unacceptable levels of noise and disturbance in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

Informatives

1. This permission does not give consent to any advertisement intended to be displayed on the site for which separate express consent may be necessary under the Town and Country Planning (Control of Advertisements) Regulations 2007
2. The applicant is advised that this planning permission does not override the need to obtain a licence for the tables and chairs/a-boards etc on the highway under the Highways Act 1980. The applicant should contact Lancashire County Council Highways for further information.