

**Application Recommended for Approve with
Conditions**

COU/2022/0732

Bank Hall

Town and Country Planning Act 1990

Change of Use of former Community Centre from (Class F2) to Charity Retail with Ancillary Advice Services (Class E)

Vincent Farrel Community Centre, Temple Street, Burnley, Lancashire BB11 3BD

Background:

The application is presented to committee as it is contrary to a local plan policy.

The application property is a single storey, pitch-roofed building comprising a 145sq.m hall plus 55sq.m office/toilets. There is a car park adjacent with 10 spaces marked out. The site is in a mixed-use area to the west of Burnley town centre. The last known use of the building was as a Community Centre. It is within the development boundary of Burnley as defined in the adopted Local Plan.

In 2022 the LPA received a pre-application request for advice on its potential to change from 'community centre' to a shop for the sale of 'essential goods' to the local community (PRE/2022/0529). The use suggested is very similar to that the subject of the current planning application. The advice given was that the loss of a community facility (without appropriate justification) may be resisted as contrary to Para. 93 of the NPPF, which states:

93. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a. plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b. take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c. guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*

Proposal:

As description this is a change of use from F2 to E, with 'charity retail and ancillary advice services' the inclusion of "advice services" is the lever to enable the proposal to be considered retention of the community facility. The submitted Planning Statement describes the use as;

'The proposal is for a change of use of the premises from a community centre (Class F2) to a retail store for Age UK (Class E). The shop will become the ninth outlet operated

by Age UK Lancashire. Opening Times will be 9am to 4.30pm Mondays to Saturdays Delivery times will be very limited and will be scheduled to 2 days per week. 2 days out of 5 Mon-Fri (10am-4pm). The property is planned to operate as a retail outlet which will sell donated clothing, Bric a Brac and small items of furniture it will also include an area inside to accommodate for planned will writing and information and advice services. In addition there will be an area which will offer printed material on all services offered by Age UK Lancashire and all staff/volunteers will be trained to be able to signpost charity users. The use will therefore have a dual purpose in that it will generate income through its retail activities to help fund the delivery of the various support services the charity offers to older people in the local community.'*

*Please note that subsequent to submission of the application, the Agent has requested that the hours of opening be altered to include Sundays.

No division of uses is shown within the planning application as precise areas for each activity are not known, and the Agent wishes it to be considered a Class E use with ancillary elements rather than a mixed use.

For clarity Class E (commercial retail and services) of the use classes order includes

- **E(a)** Display or retail sale of goods, other than hot food
- **E(b)** Sale of food and drink for consumption (mostly) on the premises
- **E(c)** Provision of:
 - **E(c)(i)** Financial services,
 - **E(c)(ii)** Professional services (other than health or medical services), or
 - **E(c)(iii)** Other appropriate services in a commercial, business or service locality
- **E(d)** Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
- **E(e)** Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- **E(f)** Creche, day nursery or day centre (not including a residential use)
- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
 - **E(g)(i)** Offices to carry out any operational or administrative functions,
 - **E(g)(ii)** Research and development of products or processes
 - **E(g)(iii)** Industrial processes

Relevant Policies:

Burnley`s Local Plan July 2018.

SP1 – Achieving Sustainable Development

SP4 – Development Strategy

SP5 – Development Quality and Sustainability

TC1 – Retail Hierarchy

TC2 – Development within Burnley and Padiham Town Centres

EMP4 – Office Development

EMP5 – Rural Business and Diversification

IC3 – Parking

IC5 – Protection and Provision of Social and Community Infrastructure

National Planning Policy Framework 2021

Site History:

PRE/2022/0529 – pre-application advice request.

Consultation Responses:

Highways – a landscaping scheme incorporating visibility splays with controlled plant heights is requested at the junction of the car park with the highway and conditions to this effect are suggested.

The planning case officer considers the submission of a landscape scheme to be unnecessary given that planting exists and that a condition restricting the height of obstructions within stated visibility splays to 900mm would be reasonable.

Policy – formal consultation was not undertaken but a view sought by the case officer as follows:

‘With regards to TC2, footnote 62 which refers to small scale rural or local uses relates to paragraph 5.3.21 of the Local Plan which says ‘The NPPF also states that this sequential approach should not be applied to small scale rural offices or other small scale rural development (see policies EMP4 and 5). The Local Plan also proposes specific exemptions e.g. in District Centres (Policy TC6), local and rural offices and facilities (Policy EMP4 and EMP5), and for uses in the Weavers’ Triangle (Policy TC5). Therefore, if the proposal is for a shop, the applicant would need to do a sequential test. In addition, policy IC5 – Protection and Provision of Social and Community Infrastructure would need to be considered.’

Objections/Comments:

Diocese of Salford (building owner) – supports the application. The building hasn’t been booked for a community centre use ‘for some time’ and that use is no longer considered viable.

Article 35 Statement:

The Local Planning Authority has acted positively and proactively in determining this application, in accordance with paragraph 38 of the National Planning Policy Framework, by assessing the proposal against relevant planning policies and all material considerations, identifying matters of concern within the application as (originally submitted) and negotiating acceptable amendments to the proposal with the applicant in order to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

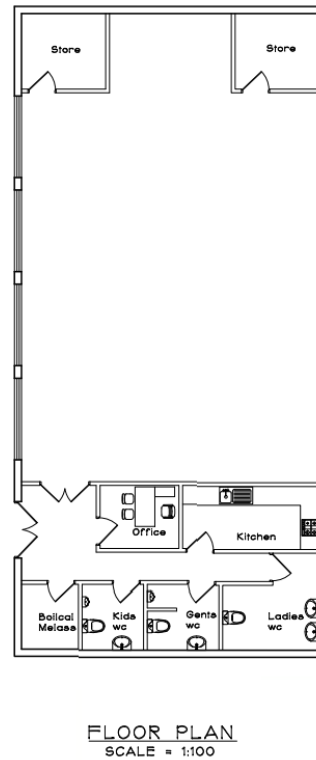
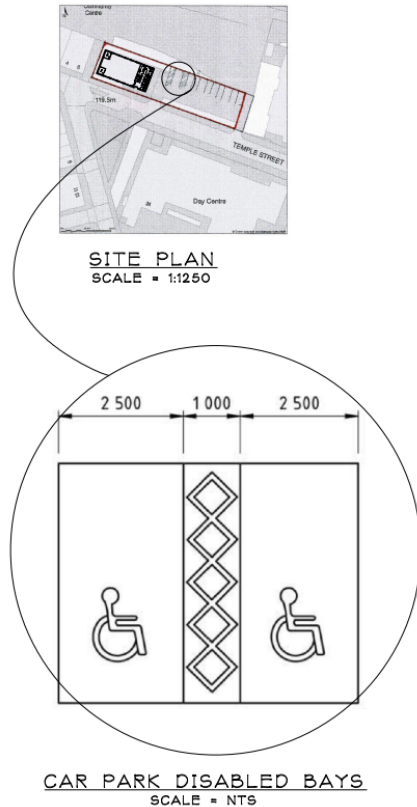
Visuals:



View of Building and Car Park



Existing and Proposed Floor Plan



Planning and Environmental Considerations:

The main issues for consideration in the determination of this application include:

- Principle
- Impact upon Neighbouring Amenity
- Parking/Access
- Impact upon Town Centre
- Loss of Community Facility

Principle:

The property is within the Development Boundary of a Principal Town (i.e. Burnley) as identified within the Adopted Burnley Local Plan. Policy SP4 states:

2) In addition to those sites specifically allocated for development in policies elsewhere in this Plan, new development will be supported within the Development Boundaries as defined on the Policies Map where it is of an appropriate type and scale bearing in mind the role of the settlement in the hierarchy and where it satisfies the following overarching criteria and other relevant policies of this Plan:

- a) It makes efficient use of land and buildings;*
- b) It is well located in relation to services and infrastructure and is, or can be made, accessible by public transport, walking or cycling; and*
- c) It does not have an unacceptably detrimental impact on residential amenity or other existing land users.*

3) *In considering the acceptability of development proposals on unallocated sites within these Development Boundaries, consideration will also be given to:*

- a) Whether schemes appropriately re-use existing buildings and infrastructure; or*
- b) Whether schemes make use of previously developed land that is not of recognised high biodiversity value.*

In this instance the proposal accords with SP4 if the re-use of the building is considered appropriate. For this you are referred to consideration under Policy IC5 in this report.

Impact upon Neighbouring Amenity

To front (south) – faces highway and a daytime drop-in centre. No conflict.
To rear (north) – faces a car park. No conflict.
To side (east) – existing car park abuts an access and a grassed area with what appear to be dwellings beyond. No change in circumstances proposed. No conflict.
To side (west) – blank elevation of building abuts a yard to what appears to be a dwelling. No change in circumstances proposed. No conflict.

Parking/Access

No additional floorspace is to be created. Policy IC3 requires one parking space per 20sq.m for a **non-food retail use, which the proposal is**. The total floorspace of the building including offices and toilets is 200sq.m, therefore the 10 available parking spaces will suffice and the proposal accords with IC3.

Retail Hierarchy

Local Plan Policy TC1 states:

‘New retail development should be of an appropriate scale according to its location within the retail hierarchy’

The site is not within the Town Centre of Burnley as defined within the Local Plan, therefore the need for an Impact Assessment has to be considered. The threshold stated in the Local Plan is 1000sq.m and the floor area of the building is 200sq.m, therefore no Impact Assessment is required in this instance.

NPPF – ‘Ensuring the Vitality of Town Centres’ states:

7. Ensuring the vitality of town centres

87. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

88. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and

scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

90. When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

(a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

91. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.

In this instance it is considered that a Sequential Test would serve little purpose, as it would merely state at considerable expense to the applicant that Burnley town centre contains many buildings that are presently unoccupied, that could be used for retail purposes and therefore accommodate a use of the manner and scale proposed.

However, it is felt that the proposal has merit given the intended user is a charity, the intention is to sell goods in the manner of a charity shop to persons living nearby, and ancillary elements such as provision of advice are intended to serve the local community. Given the number of charity shops in Burnley presently, it is not considered that the proposal will impact upon the vitality and viability of the town centre.

The planning application, if approved, would allow any use that falls within 'E' including all types of retail. As such it is the view of officers that the proposal is acceptable on balance only if the applicant is the user given that the intention is for the operation to serve the local community. Therefore it is suggested to impose a 'personal permission' condition as set out in DCLG Guidance.

DCLG Paragraph: 015 Reference ID: 21a-015-20140306 states:

'A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.'

Having discussed this matter with the Agent, he feels that it would be inappropriate to enure consent to an individual who's name appears on the planning application form, as the individual is an employee of the Charity and should he leave, the Charity wouldn't be able to continue the use. He feels it more appropriate to grant a personal consent to 'Age UK Lancashire, Wellbeing Centre, Moorgate, Ormskirk, L39 4RY'. Age UK Lancashire is both a Registered Charity and a Limited Company, so it is suggested that any personal permission should be in the name of the Charity, quoting the Charity Number (1142294) It is considered that this would satisfy the DCLG guidance.

The officer's 'on balance' opinion is supported further by the spirit of Local Plan Policy TC2, which states:

'Proposals for comparison retailing (A1 Use Class) that do not comply with 1) b) due to a lack of suitable sites are required to be located in accordance with the following sequential test:

Burnley: a) Edge of Centre locations (300m of the Primary Shopping Area); other Town Centre locations; edge of centre locations (300m of the Town Centre Boundary); out of Centre.'

In this instance the site is 297m from the eastern boundary of the Primary Shopping Area of Burnley town centre as defined on the Local Plan.

Loss of Community Facility

Local Plan Policy IC5 states:

The Council will, where possible and appropriate:

'a) Safeguard existing social and community infrastructure, subject to a continued need or likely future need or demand for the facility in question; and require alternative comparable or improved provision where a development scheme would result in the loss of important social and community infrastructure;'

It is not known what the intended use of the building was when constructed, however it is evident that the last known use was as a community centre, and this is reflected in the current application description. A community centre falls within the definition of 'social and community infrastructure' contained in 5.7.19 of the Local Plan, and IC5 (a) will apply therefore.

The Agent argues that the use has ceased, and states:

'The diocese, who are the site owners and landlord of the building, do not have an intention to re-open the premises as a community centre and are very keen to work with Age UK Lancashire to deliver a charity shop for the benefit of the local community. Age UK Lancashire will work closely with local businesses and Voluntary, Community and Faith organisations, as well as the Diocese, themselves to provide a thriving charity shop that will serve and involve the whole community. The shop will employ 4 full time staff and a team of volunteers and with the majority of these being from within the local community in Burnley.'

The Case Officer asked the Agent for a letter from the Diocese confirming its intentions regarding the building, and a letter was received on 25.01.2023. The letter states that use as a community centre has waned to the point that it is no longer viable, it has been empty for 'some time' and that the Diocese has no intention of bringing back into use as a community centre. The Diocese supports the current proposal.

Conclusion

The proposal is contrary to Policy in that it is a retail use outside the town centre without substantiation via a Sequential Test, and it involves the loss of a community facility.

However the proposed user is Age UK Lancashire, a charity whose intention is to operate a charity shop with ancillary advisory facilities, so it isn't a conventional Class E use in that respect. Very much on balance it is considered that a permission personal to Age UK Lancashire in its capacity as a Charity is the correct decision.

Recommendation:

That planning permission be approved subject to the following Conditions and Reasons:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the following approved plans and Statement:

Drawing No. PL01 A – Site and floor plan, received 19.12.2022

Drawing No. PL02 – Existing/proposed front and rear elevations, received 19.12.2022

Drawing No. PL03 – Existing/proposed side elevations, received 19.12.2022

Location plan, received 19.12.2022

Block plan, received 19.12.2022

Planning Statement with Appendixes, received 03.01.2023

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

3. The use of the building and associated land as 'Charity Retail with Ancillary Advice Services (Class E)' shall only be undertaken by Registered Charity No. 1142294, being Age UK Lancashire, Wellbeing Centre, Moorgate, Ormskirk L39 4RY.

Reason: For the avoidance of doubt as this planning permission is personal to Age UK Lancashire (Charity No.1142294) only and does not enure with the land.

4. Notwithstanding details shown on the submitted plans, the use shall not commence until 45° visibility splays have been provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.9 metres above the nearside carriageway level which would obstruct the visibility splays, and the visibility splays shall be retained and maintained free of obstruction at all times thereafter for the lifetime of the development.

Reason: To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility, in the interests of highway safety.

5. Notwithstanding details submitted within the planning application, opening hours shall be 09.00 – 17.00 Monday to Sunday inclusive.

Reason: For the avoidance of doubt and to safeguard the amenity of nearby residents.

