



Canopies and Glazed Extensions On Commercial Forecourts – A Design Note

REPORT ON THE RESPONSES TO THE CONSULTATION

August 2018

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The Consultation

The Council produced a Design Note on Canopies and Glazed Extensions on Commercial Forecourts, intended to provide guidance on future development of canopies and glazed extensions on commercial forecourts. The Council consulted on the document between 5th July 2018 and 2nd August 2018.

The consultation was undertaken by email and letter to a range of consultees, including local business groups, conservation and heritage groups, disability groups, town councils and other relevant bodies. In addition, a notice was published in the Lytham St. Annes Express. Site notices were displayed in St. Annes, Lytham and Kirkham town centres and in Ansdell and Wesham district centres. In addition, posters were displayed on community notice boards in shops in St. Annes, Ansdell, Lytham and Kirkham.

35 individuals, businesses and other groups responded to the consultation. The remainder of this document provides analysis of these responses.

Overall Profile of Responses

Number of responses

In total there were responses from 35 different individuals, groups, companies or other bodies.

The 35 responses included responses from two town councils (Kirkham and St. Annes on the Sea), two local groups (Lytham St Annes Civic Society and Lytham Heritage Group), one national government organisation (the Equality and Human Rights Commission), the Council's Building Control department, one business owner (The Deacon), and 28 individuals.

General Nature of Responses

No specific format was provided for responses, and therefore the respondents were able to express themselves freely in prose. A small number provided a lengthier response, one including photographs, but most responses were brief (around 100 words). The large majority were received by email.

Whether Directly Related to the Document

Of the 35 responses, notable is that only 16 of these made any mention of the consultation document. The remainder (the majority) did not acknowledge it within the response. Therefore, it is highly possible that many or most of those who failed to mention the consultation document, have not read it or seen it. Conclusions that can be drawn from this include:

- The subject is regarded as a sufficiently important issue that people were prepared to have their say and express a view without necessarily requiring the background and measures proposed by the Council;
- The invitation to comment on the broad subject was sufficient to prompt individuals to respond;
- Public notices in the street and on public notice boards were effective in prompting responses;
- In cases where responses do not include mention of the document, it is at least possible if not probable that the views of the respondent have not been informed by the content of the document. This creates some difficulty in using those responses to assess the effectiveness of the document; such responses may be limited to setting out broad views on the subject, and analysis then is limited on the extent to which the document is in accordance with those views;
- The scrutiny of the document itself is more limited than the overall number of responses to the consultation suggests.

Response to the Document

Of the 16 respondents which acknowledged that the consultation related to the document, 8 respondents positively indicated support for the overall contents of the document.

One respondent specifically stated that the document was not supported and that they had concerns with it. This was the response from the business The Deacon.

Support for the design requirements set out in the document was specifically given by 6 respondents.

The respondents that supported the contents of the document were keen for the Council to actively implement it:

“The Design Note quite properly addresses the importance of the canopies and glazed extensions being appropriate to the buildings and the surroundings. It should form the basis of clearly understood and robustly applied planning consents.”

Some expressed feelings that it had come too late:

“the horse has already bolted and a lot of damage has been done”

Issues Raised in Broader Responses

Appearance and impact on the character/heritage of the area

There were 18 respondents who raised concern over the appearance of new developments.

Descriptions of new developments involving canopies or glazed extensions included the following:

“goldfish bowl”

“campers’ awning”

“monstrous carbuncle”

“monstrosity”

“cheap eyesore”

“a la B&Q”

“garden shed”

“brutal modern steel and glass”

Scale was raised as an issue:

“The size of some of these additional constructions is totally unnecessary.”

Some respondents stressed the importance of appeal to visitors:

“Lytham is unique and we need to ensure it stays that way to appeal to visitors looking for something different. Closed in conservatories make places look cramped and take away some of our appeal to visitors. Visitors should be our main focus”

“We have a beautiful town which visitors and residents enjoy. Why oh why are you allowing these eyesores on our lovely buildings”

Some stressed the importance of heritage:

“canopies should be in-keeping with the architecture locally and reflect the previous design of area (ie Victorian)”

“The canopies, verandas and external extensions are not in keeping with the historic buildings and uniqueness of Lytham”

Another response noted that historically Clifton Street was lined with traditional canopies but this did not apply to Clifton Square,

“where the post office and three banks were all elegant and highly decorative Edwardian premises, with interesting detailing on the facade above the ground floor”

Specific premises were mentioned in raising concerns. The Deacon was raised as a concern by 14 respondents, Farina by 8, Spago by 2. One respondent raised concern over an establishment that they named as Taglieri’s; it is believed this is also a reference to Farina.

Certain respondents who had raised concerns about some newer developments, such as the Deacon, identified Ego and Capri as good examples that should be replicated.

A smaller number of respondents expressed broad approval for the appearance of the new developments. Six respondents approved of enclosed canopies:

"Some, like The Deacon, look really good and are very appealing. Others, like Farina & Co...encroach slightly too far...this despite it looking good"

"The present new canopies are more tasteful to Lytham. I understand Farina's has NOT been passed, yet this a great asset to Clifton Street and looks good compared to others"

"...canopies and glazed extensions allow businesses to trade in bad weather. I would rather see glazed units rather than boarded up shops as we see in other towns."

some of whom expressed disapproval of older examples:

"Some of the existing canopies in Clifton Street are terrible and not in fitting with Lytham. Examples of bad canopies, Banardos, Entwistle green, Taveners"

One respondent raised issues with the physical condition of an older-style verandah. The query has been referred to the Building Control department.

Access/Obstruction

Concerns over obstructions to access on pavements were raised by 16 respondents, making it almost as significant an issue as appearance in terms of specific issues raised. Issues were raised in relation to specific premises, particularly the Deacon and particularly relating to its enclosure by planters on the Clifton Street side:

"Deacons in old RBS, have extended a long way beyond the Pizza Express line, and acquired what actually are public trees. And in so doing, have made the passage between their build out and the post box, BT box and other street furniture very narrow, its now very constricted and a family with pram really struggled to get through"

A number of respondents made very specific comments regarding the impact of the developments on the elderly and disabled, particularly those with mobility difficulties or sight impairment:

"Taglieri's new extension is causing great difficulty to pedestrians who are now squeezed on to a narrow footpath area. I am severely sight-impaired and feel that I am at greater risk because of the narrowness of the footpath, which is also quite uneven at that point. When there are people using mobility scooter and other mobility aids, or indeed where people with buggies, I am unable to see them until they are right next to me. One or other of us could well end up in the road."

"My elderly (91) godmother...cannot get past farino at all on her mobility scooter"

Passage for those with prams, small children and dogs was also raised.

A specific comment was made regarding a dropped kerb being obstructed by a temporary barrier in St Annes, resulting in wheelchair users being forced into the road. This may be a matter where the highway authority could intervene, but falls outside the direct scope of the consultation.

Some respondents queried the ownership of the forecourts and the Piazza, also whether there is a legal requirement to allow access through.

The response from Lytham Heritage Group notes that the properties on Dicconson Terrace would previously had enclosed front gardens, and therefore there was never previously “free circulation of pedestrians between forecourts”.

Pedestrianisation or making Clifton Street in Lytham one-way was put forward as a solution to some of the issues there, interestingly both by those supporting new developments and those opposed to them.

Economic benefits

There were 7 respondents who expressed support for the economic benefits of developments involving canopies, including investment and the development of new enterprises.

Some of the comments made in support of developments involving canopies included:

“...far better to have a bustling town centre than empty units which remain unused often due to the ridiculous planning constraints that make empty buildings economically unviable to renovate”

“Development and investment should be encouraged. These developments add value to the businesses and the wider high street. At a time when many high streets across the country are in crisis, the planning office should be doing everything in its power to encourage innovation and support local businesses. These canopies and extensions add to the atmosphere of the high street, particularly when they are full of punters, bringing money into the local economy.”

Although there was widespread general support for the café culture that has developed,

“[we] welcome commercial developments which make it a town for visitors and residents to enjoy a place bustling with a variety of street cafes, shops and bistros.”

“this nod to café culture is very welcome in our lovely town to sit and enjoy the floral displays and take in the ambience”

a small number of respondents queried whether there were now too many cafes and restaurants, and whether this was to the exclusion of a wider range of uses including comparison shopping.

“...the council set a very dangerous precedent in allowing the Lytham Piazza area to become the Covent Garden of the North!”

One respondent suggested that further cafes would cause others to fail, but this would be an issue of trade competition and therefore should not represent a consideration. The issue of the mix of uses within the various commercial units was not covered within the scope of the consultation document, which is focussed on design.

Enforcement

Concerns over enforcement of planning controls were raised by 15 respondents. Some of these were keen for the Council to use the contents of the note to enforce against existing developments. Others who had not acknowledged the note were keen to see developments enforced against where they had not been granted planning permission. Several respondents raised concerns about control over obstructions to pavements, such as planters, as well as the enclosed developments.

Comments made by respondents included:

“Do the council have any planners? Can businesses do anything they want?”

“If the Design Note is to be effective, enforcement action needs to be taken against those properties that are not compliant - after all, they knew the capacity of the buildings they were buying and should not be allowed to then build a ground floor extension wholly out of character with the building and the conservation area it is located in.”

“the planning department appears to be toothless in the face of costly legal action against wealthy and influential businessmen”

Summary and Implications

The overall response gives broad support to the overall thread of the document to control the design of proposed canopies to sit comfortably within the overall street scene and to respect the historic streetscape. Support for such controls was not universal but there exists clear broad concern amongst the large majority of respondents about the effects of some new proposals/developments, very particularly The Deacon and Farina. The Note provides effective guidance to allow control of the type of development that is the subject of the concerns of representors. Even for those representors who have not acknowledged or referred to the Note, the guidance in the Note is supported by the broad sentiment and the particular concerns regarding the appearance and effect on character of certain developments. Where concern exists about older canopies, such as Entwistle Green, these too would be contrary to the provisions in the Note.

However, a significant number express concerns about the issue of street space. This extends beyond the issue of the canopies themselves, to the paraphernalia associated with the land use on the forecourts. The guidance within the Note imposes requirements that any proposal does not obstruct a public highway or pavement, and that it would not significantly obstruct free circulation of pedestrians within and between private forecourts. This control extends to the structures only, but is the limit of feasible control through planning, and is considered to impose reasonable tests. Beyond planning, additional controls are provided through highways legislation.

Whilst the issue of crowding of pavements presents difficulties for some people, where streets are busy this is an inevitable side effect. The Council cannot require that the full width of all of the forecourts remains clear in order to provide for those using mobility scooters on pavements. Commercial premises are free to display goods outside or provide tables and chairs within their own private forecourts. Whilst not as wide as with forecourts open, a footway width remains in all locations but sometimes when busy this requires that pedestrians give way to one another. Where forecourts fall within the highway, controls are available through highways legislation, and where there are issues such as those raised by respondents these issues will be a matter for those responsible for that legislation. The document highlights this matter within the section Other Considerations: some additional text to reinforce this will help provide clarification.

The issue of enforcement is one taken seriously by the Council. Enforcement action has been taken where development is unacceptable and where planning permission has not been obtained. Businesses have been given prompt and clear direction where construction has been started that is not in accordance with approved plans. The Council has been, and will remain, proactive in addressing this issue.

Whether specific changes requested by respondents should be taken up is considered in the following sections.

Possible Changes to Document

Building Control

The Council's Building Control Department has requested that the document contains a footnote:

"Your proposals may also require Building Regulations consent, please contact them to discuss your proposals: Webpage www.fylde.gov.uk/buildingcontrol Email buildingcontrol@fylde.gov.uk Direct Dial 01253 658674"

Other requests from the Building Control Department were the inclusion of references to the need to consider:

1. Safe structural design and materials– wind loadings and fixings should be considered, safety glazing and manifestation.
2. Fire safety – enclosure of seated areas may affect the means of escape and should both be subject to a new Fire risk assessment and may require a Building Regulations application.
3. Fire hazards - gas heaters, features using flames and radiating heaters and the proximity to combustible materials (a Fire risk assessment should consider any risk or hazards).
4. Drainage – The surface water off the roof of any extension must discharge into a gully and not onto a public paved area.

The design note, although produced initially for planning purposes, need not be exclusively related to issues covered strictly by planning law. There would be benefit for applicants in their attention being drawn to these issues through the document. Therefore, it is recommended that the above be added to the Other Considerations section of the document.

Access/obstruction

It is considered that some additional text will highlight a little more clearly to applicants the other legislation that will need to be considered, with respect to the issues relating to the highway. The following text is proposed:

- Where a canopy extends over an existing highway, a licence under Section 178 of the Highways Act 1980 is required. Where the applicant seeks to trade as a street café on the highway, a licence from Fylde Council under Section 115 of the Highways Act 1980 is required. Whether a forecourt forms part of the highway is a matter determined by highways legislation.

Appearance

Although as stated above, the Note is broadly in accordance with the sentiments proffered, it is considered that a small number of amendments are made to the text to ensure that the guidance is effective. These relate to three main elements:

- A reference to Conservation Areas should be added to the last bullet under the Principle of Canopies and Forward Extensions section, to ensure that development harmful to Conservation Areas would not be endorsed by its omission;
- A requirement for appropriate materials should be added to the list of design criteria, reflecting criticism of particular examples that were given consent historically.

- The character of existing canopies should only be replicated where they are themselves of appropriate design. This reflects on a representation that identified existing long-standing canopies of poor appearance. It is important that the guidance does not encourage the replication of these.

Suggested Changes not to be Taken Forward

The representation from one of the establishments that would be subject to the requirements of the Design Note have proposed a number of changes to the document. In particular, the following amendments are proposed:

“canopies and forward extensions will not normally be permitted where... [criteria listed] unless it can be demonstrated that the benefits of the proposal outweigh any harm caused.”

This approach applies a simple harm vs benefit test within the Note itself which would have the effect of largely negating the criteria within the Note. Decision-making under planning law provides the Development Plan as the statutory starting point for decision-making unless other material considerations indicate otherwise. The planning balance test within the Framework is such a consideration, as will be the guidance within the Note. It will be for the decision-maker to apply weight to each consideration in order to decide any application. To incorporate a harm vs benefit test within the Note would have the greatly lessen the effect of the Note and it is likely that the Note would fail to realise its purpose in consequence. Therefore it is not recommended that this proposal is taken forward.

“The canopy shall seek to retain the open character and visual permeability of the frontage.”

It is not considered that visual permeability through glazing is in any way sufficient to mitigate the harm that enclosed structures can cause. The physical nature of glazing is such that it fundamentally alters perceptions of the building form and the overall street scene, with the original frontage line entirely lost where any extension is created, disrupting and obstructing views along the street into the distance (which can include views of the sea as mentioned by another representor); physical permeability is also obstructed. It is therefore not considered that this proposed amendment be taken forward.

a number of references are made to the conservation of historical assets which already benefit from legislative protection and do not need to be reiterated in this document

The protection of historic assets, whilst in part is provided by a specific separate piece of legislation, is wholly intertwined with the planning application process which controls the form of development where this falls short of actual demolition, but where it has an impact on the heritage asset. This is recognised in the Framework which provides extensive policy on how applications that would affect an asset or its setting are assessed. To take up the suggestion made would not concord in any way with the approach of the Framework. It would also disregard the significance of heritage assets within the affected areas. The Council sets great importance on the heritage assets of the borough, which provide an important draw as part of the overall attraction for the visitor economy. Therefore, it is not recommended that this amendment be taken forward.