

Planning Committee

Wednesday 06 September 2017

Late Observations Schedule

Schedule Items

<u>Item</u>	<u>App No</u>	<u>Observations</u>
1	17/0129	<p><u>Bryning with Warton Parish Council:</u></p> <p>Object to the revised proposal for the following reasons:</p> <ul style="list-style-type: none">• Disappointed that limited regard has been had to previous comments raised.• The applicant were doubtlessly aware of the Neighbourhood Plan but there seems an absence of any encouragement to liaise with the Parish Council.• The Parish believe that the proposal does not conform with and is in conflict with the Neighbourhood Plan.• Uses & Quantum - No 1 bedroom properties, is this acceptable?• Layout - There are a number of statements in Miller Homes Proposed Overall Site Layout which need clarification (1. Lanes of street to be more organic... shared spaces... replacing footpaths with service strips. 2. Footpaths reviewed and service verge indicated where possible. 3. Tree lined avenue to North side of highway introduced during development.• Scale - In previous responses the Parish has made it clear that its preference would for any scheme to include new bungalows opposite existing bungalows to avoid any potential overlooking and to reflect the nature of the existing housing stock. In total there are 71 x 2.5 storey houses (over 1/5), this mix is deemed inappropriate and in conflict with objective 3 and Policy BWNE2 of the Neighbourhood Plan.• Landscape & Open Space - No details of open space maintenance required by condition 6 of the outline consent. Lost opportunity if the green buffer boundaries do not provide perimeter footpaths for recreational use, especially to Hillock Lane which has no current footpath and is part of the National Cycle Network Route 62. Provision of a footpath/ cycle path parallel to Hillock Lane would be a safer option and of benefit to existing and new communities. It is unclear how much existing hedgerow will be retained. Will it be retained on Church Road/ Hillock Lane junction and Fir Grove and Beech Avenue?• Appearance - The Design and Access Statement speaks of drawing on the local vernacular, yet there is one bungalow and 75 2 1/2 storey dwellings. Some of the 2 1/2 storey dwellings will be on the much higher ground on the northern site which we do not believe was the Planning Inspectors intention and certainly not in keeping with the rural setting. This is in direct conflict with Objective 3 and Policy BWNE2 of the Neighbourhood Plan.• Access - NDP objectives specify the need for integration and enhancement. The pedestrian/ cycle link to Hillock Lane is a blind exit, what are the plans to make this a safe exit? We remain unconvinced that the 2 bus stops on Church Road are a safe location.• Phasing Plan - what are the committed timescales for providing the required Method Statement and Mitigation License from Natural England.• Sustainable Transport - No provision of electric vehicle charging points or cycle storage. <p><u>Officer Comment to Bryning with Warton Parish Council:</u></p> <ul style="list-style-type: none">• Uses & Quantum - Policy H2 requires the provision of smaller bedroom properties, specifying provision of 1-3 bedroom dwellings only. The proposal provides for 67% 2-3 bedroom properties and therefore accords with the requirements of Policy H2.

- **Layout** - The statements referred to by the Parish are a response by the applicant attempt to improve the visual appearance of the proposal by reducing the amount of hardstanding within the development. Footpath provision within the development has been reviewed, and replaced in certain areas of the site by grassed service strips within larger garden areas, namely to some secondary roads. The main road through the south site is now tree lined. This is in order to provide additional green space within the scheme and soften the appearance of the development.
- **Scale** - Policy BWNE2 of the neighbourhood plan requires new development to demonstrate good design, respect local character and where possible, reinforce local distinctiveness. There are 2 1/2 storey dwellings within the scheme and the Parish argue that this is out of character with bungalows which adjoin the site, including those on Beech Road/ Fir Grove, and, would encourage overlooking. Notwithstanding, it is considered that the locality is comprised of a range of scale from bungalows to 2 storey dwellings, indeed 2 storey dwellings are sited next to each other on Beech Road. Furthermore, Condition 6 of the outline consent imposes scale restrictions on the reserved matters to be no greater than 2 1/2 storeys. There are no rear dormers to these dwellings and so they will be viewed as 2 storey dwellings from existing dwellings on Beech Avenue. Separation is sufficient to safeguard the amenity of neighbours on Beech Avenue. The Committee Report advises it would be prudent to remove permitted development rights from proposed dwellings adjacent to Beech Avenue (plots 306-328) to ensure the Planning Authority has control over any future alterations. Given the existing mix of scale and the restriction imposed by condition of the outline consent, scale of 2 1/2 storeys is considered to be acceptable.
- **Landscape & Open Space** - The submission has not included detail of open space maintenance, in the absence of this information a condition requiring this information has been suggested to Members (condition 11). There are no footpaths within the landscaped buffers of the development, however the main objective of such space is to act as a landscape break to the built form, its size alone restricts any use to an informal event by new residents. Pedestrian and cycle linkages from the development to the existing network on Church Road are proposed. As well as a link to Hillock Lane, though it is acknowledged that there is no footpath to this carriageway. Comment from the Highway Authority is outstanding, however will be considered prior to determination of the proposal. Submitted landscape drawings indicate hedgerow to be retained within the development and indicates retention of that to Hillock Lane/ Church Road junction and that adjacent to Fir Grove. Loss of hedgerow has already been accepted on Church Road to facilitate access to the development as approved by 16/0567, this current proposal makes provision for replacement of that hedgerow which will form a continuous hedgerow to the Church Road frontage of the development.
- **Appearance** - The Planning Inspector considered residential development of the site to be acceptable, subject to a control of scale by condition. Condition 6 requires dwellings to be a maximum of 2 1/2 storeys and specifically does not impose restrictions as to where such dwellings should be located. The submitted Storey Heights plan details the location of the 2 1/2 storey dwellings, the majority of which are located centrally on the site. Land levels over both sites dictates a variance of ridge heights stepped across the development, as such the slightly higher 2 1/2 storey dwellings would be disguised within the scheme and are not therefore considered to look out of character.
- **Access** - Comment from the Highway Authority is outstanding but will be considered by officers prior to determination of the application if not received in time to update members. The Highway Authority will consider access arrangements for the proposal. Condition 18 of the outline consent requires a scheme to be agreed for the provision of an hourly bus service between Lytham and Kirkham. 16/0567 also granted consent for the staggered access arrangement and bus stop

locations on Church Road, condition 4 of this consent requires implementation of the bus stops. The approved location of the bus stops is as depicted in this current submission.

- Phasing Plan - Condition 12 of the outline consent requires an updated great crested newt survey together with a scheme of mitigation measures prior to any development on the site. Natural England and Ecology consultants will be consulted prior to discharge of this condition.
- Sustainable Transport - The scheme has not made provision for sustainable travel such as electric vehicle charging or cycle storage though it is noted that this is not a requirement of the outline consent. The applicant has contributed toward sustainable travel by enhancement of the bus network and garaging/ private amenity space does offer opportunity for cycle storage within the development.

3 objection letters have also been received relating to:

- provision of 2 and 2 1/2 storey dwellings do not reflect local character.

Officer Comment:

This matter is referred to in the Committee Report and above comment to the Parish Council.

- Drainage - As acknowledged by United Utilities there is a long history of frequent pipe blockages, and old inadequate infrastructure. There is nothing on these proposals to provide any reassurance that these problems have been addressed. This is an attempt to bypass requirements or even debate them. Increased risk of flooding due to discharge into a stream adjacent to Hillock Lane. Existing fields flood, where will this water go? the small ponds proposed? certainly not into an existing sewer. A new sewer is required to remove the surface water to safeguard existing properties.

Officer Comment:

This matter is referred to in the Committee Report.

- It is impossible to tell how much hedgerow will be retained specifically to the southern boundary. Please provide a clear statement about how much will be retained.

Officer Comment:

This matter is covered in the Committee Report. Submitted landscape drawings indicate retention of hedgerow on the site. With regards to the northern site, hedgerow to the south, east, north and a portion of the western boundary to Church Road is shown for retention. A portion to the western boundary has been agreed to be removed to facilitate access arrangements approved by 16/0567, subject to replacement planting which is provided within this current submission. To the south, hedgerow to the west, south and east adjacent to Fir Grove has been shown for retention. The outline approval requires agreement of measures for the protection of retained trees/ hedgerows during the construction period.

- Concerns for the hedgerow forming the southern boundary of the north site. Objection is raised to any loss of this hedgerow, and that this would not provide for required levels of security due to gaps in the planting arrangement. There may also be future maintenance issues of the hedgerow with new neighbours and it is suggested that the applicant provide for a maintenance easement and it is appropriate to re-define the boundary of neighbours to include this easement.

Officer Comment:

Submitted landscape drawings indicate retention of this hedgerow, and it is recognised

that gaps within the planting would not provide for appropriate levels of amenity to both existing neighbours and those occupying the development. As opposed to provision of a maintenance easement as suggested by the objector, the applicant has confirmed provision of a 1.8m overlap fence line to the development side of the hedgerow. The fence would be constructed an appropriate distance from the hedge to ensure its retention in longevity. The fence will act as a secondary boundary treatment to the hedge, retaining the soft form of hedgerow to existing dwellings whilst ensuring that there are no gaps along this boundary for pets to escape the development from and would ensure appropriate levels of amenity.

- Bus Stop location on the bend of Church Road are not safe.

Officer Comment:

This matter is referred to in the Committee Report and above comment to the Parish Council.

- Proposal does not confirm with and is in direct conflict with the adopted Neighbourhood Plan.

Officer Comment:

This matter is referred to in the Committee Report and above comment to the Parish Council.

Annotated Separation

The Committee Report refers to an annotated separation distance of 22m between 60 Church Road and housing within the development. Revised drawings indicate this separation to be 21m and the applicant has confirmed that this was a typo error on the drawing. Notwithstanding, a 21m separation distance between dwellings is still considered to provide an acceptable level of amenity for this neighbour.

Revised Drawings:

The applicant has submitted revised landscape and construction drawings in order to minimise the amount of information required to be discharged by condition. This information is currently being assessed by officers, if acceptable conditions will be attached to the approval notice ensuring development proceeds in accordance with the revised drawings.

Neighbour Comment on Revised Drawings

A local resident and Parish Councillor has made reference to the inclusion of the revised landscaping and other drawings on the council's website prior to the consideration of this item without the Parish Council and residents being given any opportunity to comment on them. He suggests that this cannot be an open way for the council to assess the application and requests that the application be deferred from consideration at the Committee Meeting

Officer Response

The revised plans are part of the evolution of the development and are all intended to address officer concerns with earlier submissions and matters raised by residents and other consultees. The Recommendation (see below) is to delegate any approval to officers pending the consideration of further comments and so would allow for his comments and any comments from other parties to be considered in advance of any decision being finally made. Officers do not see that there is a need to defer this item from consideration at the meeting.

Revised Recommendation

The recommendation is to be revised to correct a couple of technical drafting issues and to introduce the flexibility to allow conditions to be amended beyond highway matters

if needed. The revised recommendation would therefore read as follows with the bold text indicating changes:

*That the authority to determine this application be delegated to the Head of Planning & **Housing** subject to receipt and consideration of the Local Highway Authority's comments, and, that **any reserved matters approval** granted be subject to any necessary revision and conditions resultant of the Local Highway Authority comments **or other matters that arise**.*

2 17/0140 Additional condition

The officer report provides a series of conditions aimed at ensuring the nature and scale of the kennelling use does not cause any undue noise disturbance to existing and future surrounding residents. The noise report supporting the application confirms that no more than 16 dogs will be kennelled at the site and it is appropriate that a condition is imposed which confirms that scale of use, with the following wording suggested:

That the kennels hereby approved shall not be used for the kennelling of any more than 16 dogs at any one time.

Reason: To provide appropriate control over the scale of the kennelling use to protect neighbouring residential amenity from undue noise disturbance in accordance with the findings of the Noise Report submitted with the application and Policy EP27 of the Fylde Borough Local Plan.

Additional Neighbour Representation in Objection

The following comments have been received from planning agents acting for a direct neighbour.

"We remain concerned that the proposed development, which would appear to include kennel space immediately adjacent to our clients' property, will be grossly detrimental to their amenity by way of noise, disturbance and smells. Our clients advise that the applicants have already sited one kennel on the party boundary and that they are already experiencing unacceptable levels of noise and disturbance with dogs barking and crying throughout the day and night. They are also experiencing impacts on their amenity from smells from dog faeces which is affecting their quality of life. We understand that our clients have already raised these issues with the local authority some two months ago, but have yet to receive a response in relation to the current situation on site.

The proposed development will make an already difficult situation worse, and will detrimentally affect our clients' quality of life and their amenity to an unacceptable level. Whilst we would therefore ask for this application be refused for the reasons set out above, we would be willing to remove our objection if:

- 1. The application is deferred pending a member site visit such that councillors can review the impact of the existing situation on our client's amenity in advance of determining the application; and/or*
- 2. The application be deferred from determination to allow our clients the opportunity to meet on site with both the case officer and the applicant, to discuss their concerns, and seek to agree an amended location for the kennel which is currently proposed adjacent to our client's property to a mutually convenient location.*

As it stands, the proposal will create unacceptable levels of noise, disturbance and smells to the detriment of our client's amenity, as well as those who will reside in the homes adjacent to the site which have recently benefitted from planning permission."

Officer Comments on Representation

The representation refers to noise and odour concerns from the proposal that are addressed in the officer report. It requests that the application is deferred from consideration for a site visit and negotiations over the location of the kennels. This is a decision that Committee could take, but officers are content that the proposed location is acceptable.

6 17/0534 **Additional Neighbour Representation in Objection**

Further correspondence has been received from one of the neighbours to the site on Hastings Place that claims to represent the views of 5 other properties.

Summary

The representation states that the application should be refused on 2 grounds:

- 1) *"that there has been no change of circumstances in respect of circumstances in respect of the premises which require an extension of the opening hours of the forecourt which the Planning Committee deemed were necessary on 29 June 2016 "in the interests of preserving the amenity of occupiers of neighbouring and residential properties as required by Policy EP27 of the Fylde Borough Council Local Plan"*
- 2) *"That the Planning Condition 3 (9pm closing of the forecourt) has never been complied with by Barrique ever since the condition was imposed 29 June 2016. It has been disregarded and ignored. By granting consent it would undermine the integrity of the Planning process, it would condone contempt of a quasi-judicial order enforceable at law and would set a precedent which should serve only to encourage others to avoid compliance with planning conditions and the regulatory planning process".*

The representation is detailed and so, in line with normal protocols, the main points are summarized here:

History

Highlights the applicant, the directors of the business and the Companies House Register reference to the business being 'public houses and bars' rather than the provision of off-licence sales or delicatessens.

Refer to the conversion works undertaken to this premises in early 2016 being undertaken without planning permission and listed building consent and in defiance of instructions from the local planning authority to cease work until such consents were obtained. Argue that the council should prosecute the applicant for the works to a listed building in the absence of the required Consent.

Highlights that the premises is not just the building, but also includes a curtilage area to the front which accounts for a significant part of their trading area and is used to site tables and chairs under large umbrellas. This aspect of the premises is said to impact on local residents.

The letter includes extracts from an email to FBC planning that highlights this issue in the consultation to the planning application for the use, and then quotes extracts from the report to Committee when the use was approved in June 2016.

Various elements of the use of the premises in breach of the planning controls are then listed:

- The external terrace is regularly used beyond 9pm and this closing time has never been enforced

- The applicants have personally used the external area beyond 9pm
- Stated examples of breaches of the condition requiring doors to be closed after 9pm are given
- The erection of large umbrellas and heating / rugs has allowed the area to be used year round
- There have been occasions in 2017 when live music nights have occurred with the doors and windows open

The letter also refers to the variation of the Premises License and challenges that that was undertaken correctly procedurally.

Specific reference is made to activity since April 2017 when usage has increased due to good weather and the clocks change led to a complaint to the planning office about a range of issues – hours of outside use, nuisance, gas storage, early refuse collection, music. It is alleged that the planning officers did not action this. (Note: this is incorrect as the planning officers met with the operators and the Licensing Officer to highlight these issues and measures have been introduced to address the complaints raised).

The letter explains that a review of the Premises License was brought as a direct consequence of the council not enforcing the planning conditions that had been imposed on the premises. This led to action from the applicant and a series of steps were introduced to minimise disturbance, with the operation of the forecourt beyond 9pm a matter that was not resolved and so subject to consideration in this planning application.

Comments on Report

The suggestion in the report that comments have been ‘isolated’ is disputed. They refer to various emails and phone calls from a number of properties over the past 12 months of this, whereas the report relates to those received in respect of this planning application. Reference is also made to those residents that attended the Premises License Review and put evidence to that.

The report states that the site is causing undue disturbance to nearby residents contrary to the assertion in the report summary.

The reference to the condition being imposed as a ‘precautionary approach’ is challenged as this is not stated in the Committee report in 2016. The letter again highlights that complaints have been made about the operation of the premises throughout the time that it has traded. These have covered planning issues, but also licensing and health and safety breaches with gas cylinders stored adjacent to the highway in an insecure manner.

Conclusions

Provides history of the Market Hall which was opened in 1848 and has been a closed building since 1897. The conservation area status and presence of listed buildings is highlighted as is its character as a *“peaceful, calm, quiet, tranquil and contemplative oasis close to the heart of Lytham.”* The existing licensed premises (The County and Zest) are at its extremities and so do not affect that.

Barrique is described as a bar and any representation otherwise is false and undertaken to mislead the authorities and neighbours as they would have faced stricter assessment and control of a bar was first proposed.

The letter explains that the objection is not aimed at the premises, but is *“to the operators, Lytham Wine Company Ltd, to their deceptions and misrepresentations, to*

their failure to adhere to proper regulatory procedures, to their breaches of the criminal law and health and safety law and health and safety law and to their policy of acquisition of licenses and permissions by creeping attrition.” They letter refers to this proposal as an example of that whereby they operate the premises ‘illegally’ and rely on this as support for their proposed variation of the controls that were put in place.

The application makes reference to the extension being for just a single extra hour, and so the neighbour suggests that 1 hour less be imposed as this would certainly improve residential amenity and limit public nuisance.

The letter concludes with a comparison of the previous situation whereby there was no bar or other business activity in the Square on Sundays to the current where there is activity at the premises 15 hours a day for 365 days a year. As they sought these hours in July 2016 it is suggested that they should remain at that time now as a fair and reasonable time for the business to operate.

The letter also refers to the retention of the existing hours as a way of maintaining the integrity of the planning process due to the growing disquiet with the changing character of Lytham in the evenings as crime and disorder has increased along with parking, litter and criminal activity. One way of addressing this is the retention of the condition in its current form and the enforcement of any braches of that condition.

Officer Comments

The background to the site is correct: the conversion was undertaken in advance of planning permission being granted and requests to cease work until that time were ignored. There have also been some complaints from the letter author to the planning office about the operation of the premises at the time that the conversion to the current use were underway in spring 2016 and again in spring 2017.

It was the complaints in spring 2017 that highlighted that the premise were operating outside of their lawful planning hours, alongside the other complaints. A Planning Officer visited the premises with a Licensing Officer to discuss the complaints and a series of measures were introduced to help the business operate in a way that minimized the complaints that were raised and to address a health and safety issue from the storage of gas canisters.

The outstanding issue was that the premises were operating outside of the lawful hours both internally and externally, and so the applicant advised that they would submit an application in an attempt to vary the lawful planning hours and so regularize that situation, hence this application.

The letter makes no reference to the extension of the internal trading hours and so it is assumed that this is not an issue.

It makes a request that the hours of use of the external patio area are retained at a 9pm closure. This matter is addressed in the agenda report and it is not suggested that any alterations to the recommendation are required.

Additional Neighbour Representation in Support

Comments have been received from a local resident in support of the application. Their brevity allows them to be included in full as follows:

“My name is Marc Hawe and I have lived at number 12 Hastings Place since early 2017. Neither myself or any of my family members have any business association with Barrique or any of its associated companies.

Number 12 Hastings Point is probably the closest property to the forecourt outside Barrique being only about fifteen metres away. To date I have yet to encounter any nuisance problems from Barriques use of the forecourt. Because of the proximity of my address to Barrique I pass by on most days at differing times."

Officer Comments

None

10 17/0602

Revision to Description

In preparations for Committee it was noted that the Description of Development on the agenda papers is incorrect with a typo and omission of the reference to a cafe element. That has been revised and the proposal should be considered as the following:

RETROSPECTIVE CHANGE OF USE FROM YOUTH CENTRE (SUI GENERIS USE) TO ARTS, MUSIC AND CULTURAL EVENTS VENUE AND CAFE (MIXED A3 & D2 USES)

Revision to Recommendation

The building is two storey with this proposal relating to the ground floor only. The neighbour notification should therefore have been undertaken with the first floor occupiers, but this was omitted in error.

These notification letters have now been sent, but the decision on the application cannot be made until they have had the statutory 21 consultation period to respond, and any comments that are received have been considered. To enable this to occur the officer recommendation should be changed to delegate the authority to determine the application to the Head of Planning and Housing so he is able to consider any comments in advance of issuing a decision.

Consultee Comments

The Local Highway Authority have commented to raise no objections to the development stating:

The Highway Development Control Section does not have any objections regarding the proposed mixed events venue with cafe and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.