



Appeal Decision

Hearing Held on 5 November 2019

Site visit made on 5 November 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/F2360/W/19/3226232

42 Liverpool Road, Penwortham PR1 0DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission under section 73 of the Town and Country Planning Act 1990 subject to conditions.
 - The appeal is made by Mrs Carole Rialas against the decision of South Ribble Borough Council.
 - The application Ref 07/2018/4700/VAR, dated 9 July 2018, sought to vary condition Nos 8, 9, 10, 12 and 14 of planning permission Ref 07/2015/1854/FUL granted on 25 February 2016.
 - The development proposed is conversion and extension of existing building to provide one Class A1/2 retail unit, one class A4 wine bar and formation of new vehicle delivery access off Liverpool Road.
 - The conditions in dispute are Nos 8, 9, 10, and 14 which state that:
 8. There shall be no live or recorded entertainment or music played at the premises, either internally or externally, unless agreed in writing at least 10 days prior to the event. Low level amplified background music is only permitted internally. Any amplified background music shall be routed and controlled through a sound limiter which shall be set by the Council's Environmental Health Department.
 9. The external seating area to be used by patrons of the A4 units shall be restricted to the area immediately to the front of the building facing Liverpool Road, as indicated on the approved plan Dwg 558-PO1 Rev A. This area shall only be used between 10:00 hours and 22:00 hours Monday to Saturday and 10:00 hours and 21:00 hours on Sundays and Bank Holidays. At no time shall the garden area to the west fronting Queensway be used by patrons.
 10. There shall be no external flood lighting or patio heaters installed in the outside area without prior consent from the Local Planning Authority.
 14. The use of the A4 premises hereby approved shall be restricted to the hours applied for, that is 09:30hrs to 23:00hrs Monday to Friday, 09:30hrs to Midnight on Saturdays and 11:00hrs to 23:00hrs on Sundays and Bank Holidays.
 - The reasons given for the conditions are:
 8. To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy.
 9. To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy.
 10. In the interests of the amenity of the nearby residents in accordance with Policy 17 of the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan 2012-2026.
 14. In the interests of the amenities of the adjoining residents and to accord with Policy 17 in the Central Lancashire Core Strategy
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of existing building to provide one Class A1/2 retail unit, one class A4 wine bar and formation of new vehicle delivery access off Liverpool Road at 42 Liverpool Road, Penwortham PR1 0DQ, in accordance with the application Ref 07/2018/4700/VAR dated 9 July 2018, without compliance with condition numbers 8 and 10 previously imposed on planning permission Ref 07/2015/1854/FUL dated 25 February 2016, but otherwise subject to the attached schedule of conditions.

Procedural Matters

2. Following submission of the appeal it was identified that the landowner of the site had not been notified prior to the submission of the planning application. The appellant subsequently served a notice on the landowner, who was also notified in writing of the appeal. On this basis I am satisfied that the landowner has had sufficient opportunity to comment on the appeal scheme and that as such, there would be no breach of natural justice.
3. There are a number of decisions pertaining to the site which have since been issued, however, the appeal relates to the Council's decision in respect of reference 07/2018/4700/VAR, which sought to vary planning permission 07/2015/1854/FUL.
4. The appellant requested that the appeal be dealt with by way of an inquiry. However, the Council confirmed it was happy for the appeal to proceed by way of written representations. Following my assessment of the evidence, I am satisfied that the hearing procedure that has been followed is appropriate to enable the evidence to be tested.
5. The Planning Practice Guidance states that, although conditions can be used to make a minor modification to a proposal, conditions that would make a development substantially different from that set out in the application should not be used. The appellant advised at the hearing that any live music would be ancillary to the A4 use and that no change of use would occur. Both parties agreed that S73 of the Town and Country Planning Act 1990 is therefore an appropriate mechanism to allow live music. I have therefore dealt with the appeal on this basis.

Application for costs

6. An application for costs was made by Mrs Carole Rialas against South Ribble Borough Council. This application is the subject of a separate Decision.

Background and Main Issues

7. Planning permission 07/2015/1854/FUL was granted at the site in 2016 for the conversion of and extension to existing bungalow to provide a retail unit within Use Class A1 and a wine bar within Use Class A4. The appellant submitted a section 73 application to vary a number of the conditions, reference 07/2018/4700/VAR. Although the section 73 application was approved, only condition 12 was changed in line with the appellant's request. The Council amended condition 8 to address concerns it had regarding the enforceability of the condition. The Council did not amend conditions 9, 10 or 14. Condition 12 was changed in line with the appellant's request.

8. Accordingly, the main issue is whether conditions 8, 9, 10 and 14 are reasonable or necessary in the interests of the living conditions of the neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

Introduction

9. The appeal site is within the District Centre of Penwortham, which is generally characterised by commercial uses, located on the corner of Liverpool Road and Queensway, a predominantly residential street. The appeal property comprises a bar with a seating area to the front of the building and a garden to the side. The garden backs on to a residential property, No 2 Queensway, a semi-detached dwelling with windows facing towards the appeal site. An outdoor seating area is located to the front of the building, along the frontage with Liverpool Road. A generous side garden, which is currently unused for seating, fronts onto Queensway and backs onto No 2 Queensway, a residential property with windows facing towards the appeal site and a close boarded fence between the two properties.
10. Policy 17 of the Central Lancashire Adopted Core Strategy (Core Strategy)(July 2012) states that the design of new buildings will be expected to take account of the character and appearance of the local area, including, amongst other things, criterion d) which seeks to ensure that the amenities of occupiers of the new development will not be adversely affected by neighbouring uses and vice versa. Policy G17 of the South Ribble Borough Council Local Plan (Local Plan) (July 2015) sets out design criteria for new development. Criterion a) seeks to ensure that the proposal does not have a detrimental impact on the existing building, neighbouring buildings or on the street scene by virtue of its design, height, scale, orientation, plot density, massing, proximity, or use of materials. Furthermore, the development should not cause harm to neighbouring property by leading to undue overlooking, overshadowing or have an overbearing effect.
11. The National Planning Policy Framework (the 'Framework')(2019) states that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to the impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 80 of the Framework states that decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity.
12. It is the appellant's position that the policies referred to relate to new development and are therefore not relevant to the appeal scheme before me. However, the conditions and their reasons were set out on the original decision which the appellant sought to vary. The appellant drew my attention to the *Tesco Stores Ltd v Dundee City Council* Supreme Court judgement (2012) verbally during the hearing. I accept that a policy has to be applied on the basis of its simple written meaning and that re-interpretation, i.e. making it mean what you want it to mean, is not appropriate. However, the reasons and associated policies would not cease to be of relevance once the development has been built since the attached conditions are fundamental as to why the

development was originally deemed to be acceptable by the Council. Accordingly, I attribute full weight to the policies.

Condition 8

13. The first clause of condition 8 attached to planning permission 07/2018/4700/VAR, states '*There shall be no live or recorded entertainment or music played at the premises, either internally or externally, unless agreed in writing at least 10 days prior to the event.*' During the hearing the Council asserted that the condition is more lenient than the previous condition as it allows the appellant to play live music, which the previous permission did not, but gives the Council the opportunity to let residents know of any forthcoming events and would also enable the event to be monitored.
14. The appellant raised concern that the notification period would be insufficient, given the need to secure agreement prior to the event. I have no substantive evidence that 10 days would be a reasonable notification period. Furthermore, the condition does not specify with whom it needs to be agreed in writing or what would be required of the appellant to enable such agreement to be secured. Moreover, if the purpose of the condition was to enable the Council to monitor the events, it is not clear what would happen as a result of the monitoring, for example, could it lead to future requests being declined? As such, the requirement '*unless agreed in writing at least 10 days prior to the event*' is not enforceable or sufficiently precise.
15. Condition 8 also states that '*Low level amplified background music is only permitted internally. Any amplified background music shall be routed and controlled through a sound limiter which shall be set by the Council's Environmental Health Department.*' The appellant raised concern at the hearing that S73 should not be used as an opportunity to improve a condition and that the imposition of a noise limiter would be an unreasonable burden on the business.
16. In the event that the appeal was dismissed, and the condition retained in its existing form, it would be possible for the appellant to revert to the original permission which, in this respect, is less onerous. Furthermore, it is not clear to me how this matter would be controlled over time since I would expect a sound limiter to require calibration and eventual replacement. As such, I conclude that this requirement is not sufficiently precise, nor is it reasonable. Indeed, during the hearing the Council agreed with the removal of the last sentence of Condition 8.
17. The Council amended the condition due to concern regarding use of the term '*Low level incidental background music*' which the Council did not consider was sufficiently precise due to an alleged discrepancy between what the Council and what the appellant consider to be low level. In particular, there was concern that previous sound leakage had been witnessed. During the hearing the appellant agreed that the term is well understood in terms of the licensing regime, but that nevertheless, the restriction is not necessary given the controls available to the Council under the Licensing Act.
18. The appellant asserts that there are no conditions on the premises licence restricting recorded or live music and that the premises are entitled to conduct such activities in law. As such, there would need to be a far stronger justification than has currently been offered by this Council to deprive the premises of their lawful rights under Derogation provisions: (Live Music Act

2012 and the Legislative Reform (Entertainment Licensing) Order 2014). The appellant's argument in this case seems to be that the starting point for regulation is the premises licence and, in this context I note that the Council's Environmental Health Officer (EHO) advised at the hearing it was found it would not be appropriate to impose a condition (on the licence) regarding live music because this is deregulated.

19. The Planning Practice Guidance advises when proposed developments could include activities that would be covered by the licensing regime, local planning authorities should consider whether the potential for adverse noise impacts will be addressed through licensing controls. Since I have not been provided with a copy of the premises licence through this appeal, it is not possible for me to determine whether the potential for adverse noise impacts would be addressed through licensing controls. Moreover, the PPG goes on to advise that Local Planning Authorities should not presume that licence conditions will provide for noise management in all instances and should liaise with the licensing authority.
20. The premises licence was not determined in a vacuum but in the context of the planning permission, including its conditions. Since playing live music would have been prevented by the planning permission, it would have been unnecessary for the licensing authority to consider whether conditions on the premises licence were required in this regard. Accordingly, even if I were to concur with the appellant that the licensing, planning and statutory nuisance regimes comprise a hierarchy of control, of which licensing is the most sensitive, it has not been adequately demonstrated that the planning condition is not required in this instance.
21. During the hearing the appellant advised that extensive noise monitoring has taken place at the site. However, I have not been provided with any such evidence through the appeal and am therefore unable to attribute this matter any weight. I also understand that sound proofing of the building has been carried out. However, it has not been demonstrated that this would be sufficient to prevent noise leakage from the building which could cause harm to living conditions. Thus, for the reasons given above, I am not persuaded on the evidence before me that there is no need to control the playing of music on the premises, in the interests of protecting the living conditions of nearby residents.
22. It was discussed at the hearing, what wording would be appropriate in the event that the condition, in its current form, did not comply with the tests set out in the Framework¹. Condition 8 attached to planning permission 07/2015/1854/FUL stated '*There shall be no live or recorded entertainment or music played at the premises, either internally or externally. Low level incidental background music is only permissible internally*'. The condition is a contradiction in terms as it seeks to prevent both live and recorded music at the premises, but allows low level incidental background music. In its current form the condition would not meet the tests.
23. Whilst I note the appellant's concerns about reversion to the original condition, since the term 'low level incidental music' is well understood, a reversion to the original condition, subject to minor wording changes, would be an appropriate means of ensuring that the appeal scheme would not harm the living conditions

¹ Paragraph 55

of nearby residents, whilst enabling the appellant to play music, live or otherwise. Thus, to ensure that the appeal scheme would not harm the living conditions of neighbouring residents, in accordance with Policy 17 of the Core Strategy, the requirements of which are set out above, I will amend the wording of condition 8 to read '*There shall be no live or recorded entertainment or music played at the premises, either internally or externally, except for low level incidental background music which is only permissible internally*'.

Condition 9

24. Condition 9 states that '*the external seating area to be used by patrons of the A4 Units shall be restricted to the area immediately to the front of the building facing Liverpool Road, as indicated on the approved plan Dwg 558-PO1 Rev A. This area shall only be used between 10:00 hours and 22:00 hours Monday to Saturday and 10:00 and 21:00 hours on Sundays and Bank Holidays. At no time shall the garden to the west fronting Queensway be used by patrons*'. The appellant sought to extend the ability for people to be outside at the front of the premises until 22:30 in the evening Monday to Saturday and to 22:30 on Sundays and to allow the use of the grassed area to 20:00 Monday to Sunday.'
25. There would be no limit on the number of people that could use the garden and, given its size, I consider it likely that during clement weather it would be well used by patrons. Whilst the appellant might be able to control extremes of behaviour through good management, this would not control noise levels arising from the normal use of the garden, such as people talking loudly. Whilst I accept that a small number of people can cause a noise or a nuisance, I consider it likely that people using the outside area so close to the boundary with No 2, would significantly increase the noise levels which would be experienced by the occupants of No 2 Queensway.
26. I acknowledge that the use of the garden area would be restricted to 20:00, however, given the proximity of the garden area to No 2 Queensway, I share the concerns of interested parties and the Council that the use of the area by patrons would cause harm to the living conditions of its residents. Since I have been provided with no substantive evidence of the noise levels that would be likely to arise from the use of the side garden, I cannot be certain that the use of the garden would not give rise to harm.
27. The appellant made the point at the hearing that 23:00 hours is generally considered to be night time and that as such, the increased hours requested are modest and not near sensitive hours. However, in this respect I am mindful of the concern raised by a number of interested parties in response to the application and appeal, which allege that noise arising from the use of the outdoor area is already causing disturbance.
28. Whilst enforcement action has not been taken by the Council to date, I do not agree that this may be interpreted as a lack of significance in terms of impact on residential amenity. The Council advise that their investigation into complaints ultimately led to the submission of application 07/2017/2583/FUL being submitted to address concerns. The appellant asserts that complaints were made at a time when she did not have control over the appeal site, however, whether or not this is the case, planning permission runs with the land.

29. The appellant has provided no substantive evidence that extending the hours would not give rise to harm. Furthermore, the EHO advised that, in response to complaints about alleged noise nuisance, he undertook an investigation which identified several incidents which could disturb neighbouring residents, but action was not taken as they did not fulfil the criteria necessary for them to be classified as a statutory nuisance.
30. The appellant asserts that the proposed increase in hours would bring the appeal site in line with Bon Bons at No 44 Liverpool Road. I was able to view Bon Bons, which is on the opposite corner of the street, in a similarly located corner position to the appeal site. I saw that there is limited seating to the front of the building and no seating to the side garden which fronts onto Queensway. The appellant asserted at the hearing that the premises license for Bon Bons allows the sale of alcohol, however, I have no substantive details of this and cannot be sure that it would be comparable to the hours requested by the appellant. Since the use of Bon Bons is a café, Class A3, I do not consider it to be comparable to the appeal site which has an A4 use.
31. The appellant asserts that conditions are on the licence, however, as set out above, these are not before me and it is therefore not possible for me to identify what matters would or would not be addressed by the licence. I acknowledge that there are a number of responsible authorities with powers and remit over the premises, however, this does not negate my obligations under planning legislation. Thus, for the above reasons, I find that condition 9 is necessary to ensure that the appeal scheme would not harm the living conditions of neighbouring residents, in accordance with Policy 17 of the Core Strategy, the requirements of which are set out above.

Condition 10

32. Condition 10 states that *'there shall be no external flood lighting or patio heaters installed in the outside area without prior consent from the Local Planning Authority.'* The appellant sought to vary the condition to allow the installation of patio heaters to the front of the premises. The lighting is therefore not in dispute.
33. The appellant asserts that the condition is not sufficiently precise, is unreasonable and is Wednesbury irrational. It is not clear what the appellant would have to do to obtain consent from the Local Planning Authority. The Council Officer made the point during the hearing that the Council has 'a downer' on patio heaters and would be unlikely to grant consent and raised concerns regarding the environmental effects of heaters. The Council's solicitor, however, confirmed that environmental concerns weren't stated and weren't the basis of the reason for the condition and that the Council would consider it on a case by case basis.
34. Whilst I accept that the use of heaters would be more likely to encourage people to use the outdoor seating area during the colder months, during the summer months the use of the outside area is less likely to be affected by the availability of patio heaters. As such, it is Condition 9 which would control the use of the outside area by restricting the times that it can be used by patrons of the appeal site.
35. I note the concern raised by interested parties regarding the environmental impact of the use of patio heaters. There are a variety of different types of

heater available, including electric heaters which would have lower emissions. Moreover, given the likely cost of powering a heater, I would expect them to only be used when required and for limited periods of time.

36. Therefore, I do not consider it reasonable to restrict the use of patio heaters to control occupancy of the outdoor seating area. Since the heaters would be located to the front of the building, I consider it highly unlikely that there would be any significant adverse effect on the living conditions of residents along Queensway. Accordingly, I consider that Condition 10 should be varied to enable the installation of patio heaters.

Condition 14

37. Condition 14 states '*The use of the A4 premises hereby approved shall be restricted to the hours applied for, that is 09:30hrs to 23:00hrs Monday to Friday, 09:30hrs to Midnight on Saturdays and 11:00hrs to 23:00hrs on Sundays and Bank Holidays.*' The appellant sought to extend hours of operation to accord with the licence application 'Mondays to Thursdays, Sundays and Bank Holidays 11:00 to 23:15 and 11 to 00:15 Fridays and Saturdays.
38. The appellant asserts that the requested extension is modest, however, as set out above, 23:00 hours is generally considered to be night time and is therefore a time when residents of nearby residential properties are likely to be trying to sleep. Any increase in noise levels at this time therefore has the potential to harm the living conditions of the occupants of No 2 Queensway. Whilst there are other establishments in the wider area which have different opening times, including some which are later, I am not persuaded that these are comparable to the appeal site. Furthermore, I must consider the appeal scheme on its own merits.
39. I acknowledge that the EHO did not object to the increase in opening hours and confirmed at the hearing that he has not received any recent substantiated complaints up to 23:00 hours, however, even a limited increase in opening hours has the potential to cause harm to living conditions. In the absence of a noise survey I am therefore not persuaded that the proposed increase in hours would not result in harm to the living conditions of the occupants of No 2 Queensway. Accordingly, I consider that condition 14 is necessary to ensure that the appeal scheme would not harm the living conditions of neighbouring residents, in accordance with Policy 17 of the Core Strategy and Policy G17 of the Local Plan, the requirements of which are set out above.

Other Matters

40. The appellant has raised concern regarding representations made by interested parties which she considers are vexatious as well as an alleged conflict of interest of two of the interested parties, as the Town Council lease the Venue. The Council confirmed at the hearing that no individual has been placed on the vexatious register. Moreover, in determining the appeal I can only have regard to the planning merits of the case, so am unable to give any weight to this particular concern.
41. The appellant states that their human rights have been breached. Article 1 of the First Protocol of the ECHR concerns enjoyment and deprivation of possessions. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. The appellant

has drawn my attention to *Bank Mellat v Her Majesty's Treasury (No.2)* [2014] 1 A.C.700 at 74.

42. There would continue to be limitations imposed on the appellant's business as a result of the appeal decision, which would represent an interference with their rights under Article 1 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established planning policy aims to protect the living conditions of occupants, in this case, I consider that greater weight attaches to the public interest.

Conclusion

43. For the reasons given above, I conclude that the appeal should succeed. I conclude that condition 10 should be modified in line with the appellant's request. I conclude that condition 8 is necessary but should be modified so that it would comply with the 6 tests and conclude that conditions 9 and 14 are necessary and should be retained without modification. I consider these restrictions are necessary to protect the living conditions of the occupants of No 2 Queensway, a matter which would outweigh the benefits to the business arising from the proposals.
44. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Since the development has already been carried out, I do not consider it necessary to include a condition relating to the commencement of development. Where it is evident that the conditions have been discharged, I have not re-imposed them. However, as I have insufficient information before me about the status of all of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
45. I therefore intend to grant a new planning permission that re numbers the relevant conditions necessary to be reimposed, includes new conditions 6 and 8 which modify the disputed conditions 8 and 10 of planning permission ref 07/2015/1854/FUL, and retains previously numbered conditions 9 and 14 as new conditions 7 and 12.

M Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Chris Wheetman BA (Hons) DMS MRTPI
Sarah Clover
Carole Rialas

CW Planning Solutions Ltd
Counsel
Appellant

FOR THE LOCAL PLANNING AUTHORITY

Janice Crook: Planning Officer
David Whelan: Solicitor
M.Gowlett: Environmental Health Officer

South Ribble Borough Council
South Ribble Borough Council
South Ribble Borough Council

INTERESTED PARTIES

Stephen Crookes
Mike Doupé
David Howarth
Michael Langfield
Jim Patten

Local resident
Local resident
County Councillor
Local resident
Pemberton Town Council

Schedule of Conditions

1. The development be carried out in accordance with the approved plans Dwg: D/0/1 Rev A Proposed Plans and Elevations or any subsequent amendments to those plans that have been agreed in writing by the Local Planning Authority.
2. That any tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall not take place during the nesting season, normally between March and August, unless the absence of nesting birds has been confirmed by further surveys or inspections and written approval has been given from the Local Planning Authority.
3. Details of the landscaping scheme for the site were submitted under discharge of conditions application 07/2016/0264/DIS and approved by letter dated 17 May 2016. The approved landscaping scheme shall be implemented in the first planting season following completion of the development and shall be maintained at all times thereafter to the satisfaction of the Local Planning Authority. This maintenance shall include the watering, weeding, mulching and adjustment and removal of stakes and support systems, and shall include the replacement of any tree or shrub which is removed, becomes seriously damaged, seriously diseased or dies by the same species. The replacement tree or shrub must be of similar size to that originally planted.
4. The development, including any works of demolition, was subject to a Construction Management Plan which was submitted under discharge of conditions application 07/2016/0264/DIS and approved by letter dated 17 May 2016. The approved Plan shall be adhered to throughout the construction period. The Plan provided for: I. the proposed times construction works will take place II. the parking of vehicles of site operatives and visitors III. loading and unloading of plant and materials IV. storage of plant and materials used in constructing the development V. the location of the site compound VI. suitable wheel washing/road sweeping measures VII. appropriate measures to control the emission of dust and dirt during construction VIII. appropriate measures to control the emission of noise during construction IX. details of all external lighting to be used during the construction X. a scheme for recycling/disposing of waste resulting from demolition and construction works
5. Prior to the installation of any external fixed mechanical plant, equipment, air conditioning units and/or condenser units or extraction systems being installed on the premises full details of the siting and noise levels to be experienced at the nearest properties and the fixings to be used shall be provided to the local planning authority for written approval. The approved system shall then be installed as agreed and thereafter maintained as approved. Any changes to the system shall first be agreed with the local planning authority in writing.
6. There shall be no live or recorded entertainment or music played at the premises, either internally or externally, except for low level incidental background music which is only permissible internally.
7. The external seating area to be used by patrons of the A4 Units shall be restricted to the area immediately to the front of the building facing Liverpool Road, as indicated on the approved plan Dwg 558- PO1 Rev A. This area shall only be used between 10:00 hours and 22:00 hours Monday to Saturday and 10:00 hours and 21:00 hours on Sundays and Bank Holidays. At no time shall the garden area to the west fronting Queensway be used by patrons.

8. There shall be no external floodlighting installed in the outside area without prior consent from the Local Planning Authority.
9. Times of deliveries shall be restricted to between 09:00hrs and 10:30hrs. Deliveries shall be taken from the front of the premises only with no deliveries to take place to the rear of the premises.
10. There shall be no waste collection between the hours of 19:00hrs and 07:30hrs Monday to Friday and 19:00hrs and 10:00hrs on Saturdays with no waste collection on Sundays or Bank Holidays.
11. The use of the A1 premises hereby approved shall be restricted to the hours applied for, that is, 08:30hrs to 18:30hrs Monday to Saturday and 10:00hrs to 17:00hrs on Sundays and Bank Holidays.
12. The use of the A4 premises hereby approved shall be restricted to the hours applied for, that is 09:30hrs to 23:00hrs Monday to Friday, 09:30hrs to Midnight on Saturdays, and 11:00hrs to 23:00hrs on Sundays and Bank Holidays.
13. The level of the new access shall be constructed 0.150m above the carriageway channel line of Liverpool Road.
14. The layout of the development shall include provisions to enable vehicles to enter and leave the highway in forward gear and such provisions shall be laid out in accordance with the approved plan and the vehicular turning space shall be laid out and be available for use before the development is brought into use and maintained thereafter.
15. Within three months of the permission hereby granted, a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Where the Local Planning Authority agrees a timetable for implementation of the Full Travel Plan, the elements are to be implemented in accordance with that timetable unless otherwise agreed in writing with the Local Planning Authority.
16. Details of the boundary treatments of the site was been submitted under discharge of conditions application 07/2016/0264/DIS and approved by letter dated 17 May 2016. Any fencing/walling erected pursuant to this condition shall be retained at all times thereafter.
17. All windows fitted in the side (west) elevation facing Queensway shall be non-opening and retained as such at all times thereafter as per the approved plan DS3764/17 D/01/1 relating to planning permission 07/2017/2163/VAR. Any alterations to the design of the windows or subsequent schemes for replacement windows shall also be approved in writing by the Local Planning Authority.
18. Notwithstanding the provision of the Town and Country Planning (Use Classes) Order 1987 (as amended) Paragraph 3(1) or any provision equivalent to this in any statutory instrument revoking and re-enacting this Order, the use of the proposed Wine Bar shall be restricted to the use applied for and no other use within Class A4 of the Use Classes Order or any other use class shall take place, unless the prior consent of the Local Planning Authority is obtained.

End of Schedule