

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2274/0F1
2.	Proposed Development:	CHANGE OF USE OF GROUND FLOOR FROM A BETTING SHOP (SUI GENERIS) TO A BAR (USE CLASS E)
3.	Location:	54 MARKET PLACE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations & Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>SITE AND LOCATION</p> <p>This application relates to 54 Market Place, a small end of terrace property situated within the Whitehaven Town Centre and within the Whitehaven Conservation Area.</p> <p>The ground floor of the building was previously in use as a betting shop (Sui Generis Use) and is currently vacant. The building does not benefit from any private amenity space or dedicated off street parking.</p>

PROPOSAL

Planning Permission is sought for the change of use of the ground floor to create a bar (Class E). The proposal does not include any external alterations, other than the addition of a fascia sign.

Internally, the configuration will remain the same with the creation of a bar, dance floor and seating area and staff room. Two WCs are available.

The proposed hours of opening are Monday to Sunday, including Bank Holidays – 12pm until 2am.

RELEVANT PLANNING APPLICATION HISTORY

Alterations to existing shop front, approved in January 2000 (application reference 4/99/0717/0 relates);

Conversion of upper floors to four flats, replacement of the windows on the first and second floor and the replacement of the shop front, approved in November 2019 (application reference 4/19/2313/0F1 relates).

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Environmental Health

Environmental Health have no objections to this development subject to the suggested condition outlined below.

The bar will require a Premises Licence under the Licensing Act 2003 and relevant conditions will be agreed between the proprietors and statutory agency consultees. The Premises Licence would deal with much of the day-to-day activity of the bar and address potential issues around hours of opening, noise, anti-social behaviour and nuisance.

As such, it may be appropriate to apply a general condition on the operating hours:

Restriction on Hours of Opening

The use of the bar shall not be carried out outside the hours of –

Monday, Tuesday Wednesday, Thursday, Sunday 12.00 – 00.00
Friday, Saturday, Sunday preceding a Bank Holiday 12.00 – 02.00
Boxing Day & New Year Eve 12.00 – 02.00

Reason: To safeguard the residential amenity of nearby occupiers.

Conservation Officer



Cumberland Council

1st Response

Though presumably much altered and rebuilt, the block of building between Market Place and Swingpump lane is visible in essentially its current outline on the Pellin map of Whitehaven dating from 1695. We can therefore say that the origins of the building are likely 17th century, from the first few decades of modern Whitehaven's existence.

Conclusion: Request further information

Assessment

- Externally, little change is proposed. I would therefore view the impact on the character and appearance of the conservation area as neutral, if you don't consider the currently impression caused by the vacant building, and positive if you do. Similarly, I would view this as having an overall positive impact on the building itself by giving it a use.
- It would be helpful to have an indication of the proposed signage design – appearance, whether illuminated etc. I would draw attention to our Shop Front Design Guide here, which contains advice on such contexts Shop Front Design Guide.
- As the building apparently has origins in the 17th century, and a long, complex history of alterations, I would be happy to view the interior and offer advice on the building where appropriate as it is a non-designated heritage asset.

2nd Response

No objections.

Highways

Cumberland Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have no objection to the proposed development as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued 2 no. properties.

No responses have been received as a result of this consultation process.

PLANNING POLICIES

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ER6 – Location of Employment

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other service areas: Roles and Functions

Policy ER8 – Whitehaven Town Centre

Policy ENV4 – Heritage Assets

Development Management Policies (DMP)

Policy DM6A – Managing Non-Retail Development in Town Centres

Policy DM7 – Takeaways, Pubs and Clubs, Betting Shops, Pawnbrokers and Amusement Arcades in Towns and Local Centres

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

Policy DM27 – Built Heritage and Archaeology

Emerging Copeland Local Plan (ELP).

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

The policies relevant to this proposal are:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS3PU: Settlement Hierarchy



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Policy DS6PU: Design and Development Standards

Strategic Policy E1PU: Economic Growth

Strategic Policy E2PU: Location of Employment

Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy

Strategic Policy R2PU: Hierarchy of Town Centres

Strategic Policy R3PU: Whitehaven Town Centre

Policy R9PU: Non-Retail Development in Town Centres

Strategic Policy BE1PU: Heritage Assets

Policy BE2PU: Designated Heritage Assets

Strategic Policy CO4PU: Sustainable Travel

Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework 2023 (NPPF)

Planning (Listed Building and Conservation Areas) Act 1990

Conservation Area Design Guide SPD (Adopted December 2017)

ASSESSMENT

Principle of the Change of Use

Policy ST1 of the CS and DS1PU of the ELP seek to encourage the creation of new businesses.

Policy ST2 of the CS and DS3PU of the ELP designate Whitehaven as Copeland's Principal Town where the majority of development should be located.

Policy ER8 of the CS and R1PU seek to ensure that the vitality and viability of the town centre is maintained and where possible, enhanced.

The proposal is for the change of use of the property from a vacant betting shop to a bar. Based on the supporting policies within the local plans, the change of use is acceptable in principle and the development will support the re-use of the property. There are a number of bars in the surrounding locality, therefore it is considered that the use is in keeping with the area and would add to the night time economy.

Impact on Residential Amenity

A key issue raised by this application is the impact on the amenity of surrounding residential properties as a result of the potential noise and disturbance created by the use as a late night bar.

Paragraph 127 of the NPPF seeks positive improvements to the built environment in order to improve people's quality of life by improving the conditions in which people live. The closest

residential flat is located further down the street to the south with other residential flats located above the retail properties on Market Place. The unit was previously in use as a betting shop and therefore had more limited opening hours and with less potential for noise disturbance.

Paragraph 127 also specifically relates to residential amenity for both present occupiers and any future occupants. This is emphasised in Policy DM7 of the Copeland Local Plan and R9PU of the ELP which states that proposals for pubs and clubs will be permitted within the defined town centres, provided that they are not detrimental to residential amenity. The opening hours of the bar as submitted specifies that the premises would be open until 2am each day. Environmental Health submitted consultation responses recommending an earlier closing time of 12am on Monday to Thursday and Sunday. A management plan was submitted as part of the application detailing the measures to be taken by the owners to ensure that patrons will egress quietly and with as little impact on the surrounding properties as possible.

Other issues, such as the provision of entertainment and anti-social behaviour issues can be controlled by the premises license rather than through the planning process.

On this basis, it is considered that this proposal will comply with paragraphs 91 and 127 of the NPPF, Policy ER8 of the Copeland Local Plan and Policy R9PU of the emerging local plan and it is considered that there are no planning grounds to refuse the application. The modest scale of the premises will limit numbers using the bar and the hours of operation can be controlled through an appropriately worded planning condition and ultimately governed by the Premises Licence.

Effect on the Conservation Area

Policies ENV4 and DM27 of the Copeland Local Plan and BE1PU and BE2PU of the emerging local plan relate to the protection and enhancement of the Conservation Area and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DM10 of the CS and DS6PU of the ELP require good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.

Section 72 requires that: *'special attention shall be paid to the desirability of preserving or*



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	<p><i>enhancing the character or appearance' of a conservation area.</i></p> <p>54 Market Place is situated in a prominent location within the Whitehaven town centre and lies within the Conservation Area. Part 16 of the NPPF states that the significance of the heritage asset should be considered against putting a building to a viable use in order to achieve and contribute towards making sustainable communities and encouraging economic vitality.</p> <p>The unit has been empty for some time and it is considered that the use will significantly improve the appearance of the building and allow it to have a positive effect on the Conservation Area.</p> <p>The proposed signage will fall to be considered under the Advertisement legislation.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This proposal will provide a use for a vacant building that is located within the town centre. It will enable the creation of a new business and add vitality to the town centre. These benefits carry significant weight within the planning balance.</p> <p>The night time economy can add a vitality and viability to the town centre and this has to be balanced against any potential impacts on residential amenity. It is considered that the building being brought back into use would provide significant benefits and any possible harm relating to neighbouring amenity can be adequately mitigated by restricting the opening hours. Any subsequent noise issues raised following the operation of the bar can be dealt with under the Environmental Protection legislation.</p> <p>The required premises licence will impose additional controls in order to support the planning conditions.</p> <p>Overall, this is considered to be an acceptable form of development which accords with the guidance set out in the NPPF and the adopted Local Plan.</p>
8.	<p>Recommendation: Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended</p>

by the Planning and Compulsory Purchase Act 2004.

2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

Application form, received 11th October 2023;
Site Location Plan, scale 1:1250, received 11th October 2023;
Proposed Ground Floor Plan, scale 1:50, received 2nd October 2023;
Rodeos Whitehaven Management Plan, received 11th October 2023;
Proposed Signage, received 7th November 2023.

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The use hereby permitted must not be open to the public / customers outside the following times:

Monday, Tuesday, Wednesday, Thursday and Sunday – 12:00 – 00:00

Friday, Saturday, Sunday and Bank Holiday – 12:00 – 02:00

Boxing Day and New Years Eve – 12:00 – 02:00

Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality and in accordance with Policy ST1 of the Copeland Local Plan.

4. The operation and management of the bar must be carried out at all times in accordance with the Rodeos Whitehaven Management Plan submitted on 11th October 2023 and written by Miss Kelsey Hall.

Reason

To ensure that the amenity of the neighbouring properties is protected and in accordance with Policy ST1 of the Copeland Local Plan.



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Statement	
<p>The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>	
Case Officer: Sarah Papaleo	Date : 23/11/2023
Authorising Officer: N.J. Hayhurst	Date : 27/11/2023
Dedicated responses to:- N/A	