

Our Ref: HB/KN0156/24

14 November 2024

Mr D Marno
Development Control
Bury Metropolitan Borough Council
3 Knowsley Place
Bury
BL9 0EJ

Via Planning Portal

Dear David ,

**Application for Retrospective Planning Permission
The Eagle and Child, Whalley Road, Bury, BL0 0DL
Planning Portal Ref. PP-13558299**

We are instructed by Daniel Thwaites Ltd to submit the enclosed application for retrospective planning permission for works within the beer garden at The Eagle and Child, Whalley Road, Bury.

Specifically, the application proposed:

“Erection of external bar, toilet block/ log store and pergola (Retrospective)”

The application has been submitted via the Planning Portal. In addition to the forms and Ownership Certificate A, the application comprises the following:

Drawings

- | | |
|---------------------------|------------|
| • Site Location Plan | I 546.00 |
| • Existing Plan | I 546.01 A |
| • Existing Elevations | I 546.03 |
| • Proposed Site Plan | I 546.02 A |
| • Proposed Elevations | I 546.04 A |
| • Bar Plan and Elevations | I 546.05 A |
| • Bar Detail | I 546.06 |
| • WC Blocks | I 546.07 A |
| • Pergola details | I 546.08 B |



Documents

- Carbon and Energy Statement
- Digital Connectivity Statement

The fee for this application is £578.00 which has been paid directly via the planning portal.

Introduction

The Eagle and Child is a popular and well used local pub / restaurant serving Ramsbottom and the surrounding area. Alongside the pub/ restaurant, the premises provides 5 guest bedrooms at first floor, together with a modest sized beer garden to the rear / north and a small car park providing 12 spaces to the front/ south. Access for pedestrians and vehicles is taken from Peel Brow

As public houses go, the Eagle and Child is modest in size and would undoubtedly have historically been a traditional Public House / drinking establishment serving a very local area. In order to remain financially viable and survive the premises have however had to adapt and evolve over time such that they are something very different today than they would originally have been. Initially this was by the introduction of a food offer which has gradually expanded over time and latterly by the introduction of a small number of bedrooms/ letting rooms. More recently the premises have also begun to offer pizza from the external bar / servery the subject of this application and accommodate small functions and events in the currently unauthorised garden tipi.

It is important to recognise that if the Eagle and Child had not evolved and adapted in the way it has it is unlikely that the premises would remain open today. It is also worth noting that the premises have experienced periods of vacancy in the past, including most recently between August 2010 and August 2011.

It is well documented that the hospitality industry is currently facing extremely challenging times (and has done so more a number of years) and that pubs are currently closing at an unprecedented rate. It is also worth noting that recent figures published in Summer 2024 indicate the Northwest as being one of the hardest hit areas <https://www.morningadvertiser.co.uk/Article/2024/06/17/pub-closures-up-51-for-first-3-months-of-2024> Given the current economic climate and impacts of the recent budget this situation is unlikely to improve in the foreseeable future and will quite possibly get even worse.

With this background in mind, it is extremely important that the planning system supports and works with pub/ restaurant operators where they want to adapt, evolve and make changes that will support the long-term future and financial viability of their business. It is also important to strike the right balance between the need to protect the pub / restaurant (as required by planning policy) and protect the amenity of adjacent residential occupiers, particularly in circumstances where the pub / restaurant was long established before the adjacent housing. In addition, there is a need for local planning authorities to work collaboratively with operators to try to find solutions and compromises to



problems in order to give premises the best chance of survival in the long term. Without this support the risk being lost in the longer term.

This application is made in the context of a need for the businesses to evolve and find different ways to generate revenue in order to remain financially viable in the longer term against a background of rising costs. Specifically, the application seeks retrospective planning permission for a number of minor works which improve facilities within beer garden and the premises offer.

Site

The application site is modest in size at 83 sq. m and comprises an area of land directly to the north of the pub within the premises beer garden. Prior to the construction of the structures the area, comprised of hardstanding / patio and a slightly smaller bar/ servery, most of which was removed to accommodate the new bar /servery.

The area is not visible from any public vantage points other than from the footway on east side of Whalley Road. This is due to the significant difference in levels between the site and adjoining land and it being screened from view by the pub / restaurant building. The structures are thus only visible from within the beer garden.

Constraints

The site receives no specific allocation on the Proposals Map accompanying the adopted development plan.

The site is not in a Conservation Area and the Eagle and Child is not a statutorily listed building. There are no trees on the site and thus no TPOs. There is no habitat within the site and thus the scheme does not trigger Biodiversity Net Gain.

The site is in Flood Risk Zone 1 and thus is not considered to be at risk of flooding.

Planning History

The site has a limited planning history which is summarised below:

- 71062 - Retrospective application for the retention of external bar, tipi, toilet block and pergola and the laying of paving and associated works. Refused 7/10/24
- 60601 - Change of use of first floor to bed and breakfast creating 5 bedrooms with Juliet balcony to 2 bedrooms and single storey extension to rear. Approved 23/11/16.
- 52053 – Decked area at side. Approved 14/01/10



- 51699 A Creation of car park extensions with associated landscaping and B Decking Area. Split decision 21/10/09
- 47962 – Increase in height of part of existing terrace and erection of roof over. Approved 25/05/07
- 90/24186 – Alterations and Extensions. Approved 17/04/90

Of relevance to this application is application Ref. 71062. This sought retrospective consent for the erection of the bar, pergola and toilet block the subject of this application, together with the tipi that is currently sited within the garden. Whilst planning permission was refused, having regard to the reasons for refusal and subsequent discussions with officers, it is understood that the reasons for the refusal of this planning permission relate to the tipi only and not the other structures. This application thus seeks consent for those elements of the scheme which were deemed acceptable, namely the external bar / servery, toilet block and pergola.

Proposed Development

Retrospective planning permission is sought for the erection of three modest structures within the premises rear beer garden:

1. External bar / servery

This replaces a previous external bar / servery which was demolished to accommodate the new structure. The structure is position directly to the rear of the pub and measures 6.29 metres by 2.4 metres and has a floor area of 18 sq. m. The structure has a mono pitch roof and a maximum height of 3.0 metres. The structure is faced partly in stone and partly in timber cladding. The structure has a corrugated sheet roof. On the front elevation there are serving hatches. On the east elevation there is a door that provides access to the structure for staff.

The external bar servery is for customer convenience and to protect the amenity of diners in the restaurant. It enables customers to be served drinks directly from the beer garden negating the need for them to pass through the restaurant. The structure also houses a pizza oven and has enabled the pub to diversify into providing freshly made pizzas within the garden. The pizza offer has been hugely successful and positively supports trade by generating additional revenue from both the pizzas themselves and drinks taken with them. It is worth noting that this offer is limited to particular times of year when the weather allows use of the garden.

2. Pergola

A covered pergola is provided to the north of the bar servery. This provides cover over an area of patio within the beer garden. The structure measures 4.5 metres by 2.84 metres and has a height of 2.7 metres. The structure is constructed of timber with a polycarbonate roof.



3. Toilet block and log store

A small external toilet block to serve the garden has been constructed in the southeast corner of the garden. The structure provides one ladies, one gents and one disabled toilet and is intended to serve customers in the garden and negate the need for them to pass back and forth through the restaurant to access the premises main toilets. Attached to the toilet block is a small external log store.

The toilet block is modest in scale and discretely located. It measures 5.7 metres by 2.4 metres and has an area of 14 sq m. The structure has a mono pitch roof and has a maximum height of 2.5 metres. The structure is faced in timber cladding with a corrugated sheet roof to match the bar /serving.

4. Replacement patio surface

At the same time as the aforementioned structures were constructed, a new patio surface was laid in the garden. This comprises Marshalls Indian Stone slabs multi buff edged with Marshalls stone setts. Eco drains deal with the drainage of surface water. These works were undertaken using permitted development rights.

The new patio provides a more attractive outdoor seating area and better accommodates patio furniture by providing a level surface. It also ensures that the garden is accessible to the mobility impaired.

Overall, the works to the garden create a more attractive, welcoming, modern and usable outdoor seating area whilst also enabling it to be accessed by everyone. The works have not changed the use of the garden or how it functions, rather they have simply enabled improvements to customer facilities and made access to toilets and bar more convenient. The works are therefore not considered to be in anyway controversial or sensitive and the planning issues raised are very limited.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that “*if regard is to be had to the development plan for the purposes of any determination to be made under the planning Act, the determination must be made in accordance with the plan, unless material considerations indicate otherwise*”. Any issue that relates to the use of land is capable of being a material consideration, this includes government statements of planning policy.

The development plan applicable to the site is the Places for Everyone Plan (March 2024) and saved policies from the Bury UDP (1997). There are a number of policies contained within these documents that are relevant to the development proposals, and these are considered in turn below.

Place for Everyone (March 2024)

- Policy JP-PI ‘Sustainable Places’ – this requires that development respects and acknowledges the character and identity of the locality in terms of design, siting, size, scale and materials and is durable being constructed of robust materials. Development is also required to be socially



inclusive responding to the needs of all parts of society and providing opportunities for social contact and support.

- Policy JP-P3 ‘*Cultural Facilities*’ - states that the LPA will proactively support cultural businesses through a range of measures including protecting existing heritage, cultural and community venues, facilities and uses.

Bury Unitary Development Plan (1997)

- Policy EC4 ‘*Small and Growing Businesses*’ – states that the Council will ensure that the needs of small and growing businesses are met by looking favourably on proposals for such developments, where they do not conflict with other policies and proposals of the plan.
- Policy EC4/I ‘*Small Businesses*’ – states that proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.
- Policy EN1/2 ‘*Townscape and Built Design*’ – states the Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the boroughs towns, villages and other settlements. Factors to take into account including the external appearance and the design of the proposal and its relationship with the surrounding area, choice of materials.
- Policy S2/6 ‘*Food and Drink*’ states that the Council will have regard to the following factors in assessing development associated with food and drink premises: the amenity of nearby residents; parking and servicing provision and provision of refuse storage.
- Policy EN7/2 ‘*Noise Pollution*’ – states that the Council will not permit development which could lead to an unacceptable noise nuisance to nearby occupiers and / or amenity users.

National Planning Policy Framework (2023)

The aim of the document is to ensure that there is a presumption in favour of sustainable development and that positive solutions are found to ensure economic development is brought forward. Paragraph 11 requires decision takers “*to approve development proposals that accord with an up-to-date development plan without delay*”.

Paragraph 8 sets out three overarching objectives which development should support:

- *An economic objective* – development should support building a strong, responsible and competitive economy, ensuring land of the right type is available in the right places to support growth.
- *A social objective* – development should support the creation of strong, vibrant and healthy communities, by amongst other things fostering well designed and safe places with accessible services that reflect current and future needs and support communities’ health, social and cultural wellbeing.



- *An environmental objective* – development should protect and enhance the natural, built and historic environment by making effective use of land, improving biodiversity, minimising waste and pollution and mitigating and adapting to climate change.

Section 6 is concerned with ‘*building a strong, competitive economy*’. At paragraph 85 it 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*”. With specific regard to the rural economy it states that decisions should support the retention and development of accessible local services and community facilities, including public houses.

Section 8 seeks to ensure that new development promotes healthy and safe communities, with paragraph 97 setting out the importance of ensuring that all communities have the social, recreational and cultural facilities and services they need, which includes public houses. It goes on to require that decisions “*guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs*” and that decision takers should “*ensure that established shops, facilities and services are able to develop and modernise and are retained for the benefit of the community*”.

In terms of design, paragraph 135 sets out the criteria that new development should comply with from a design perspective. Amongst other things, it requires that developments (a) will function well and add to the overall quality of the area; (b) are visually attractive as a result of good architecture, layout and landscaping; (c) are sympathetic to local character; (d) establish a strong sense of place; (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and (f) creates places that are safe, inclusive and accessible, with a high standard of amenity.

Section 15 is concerned with conserving and enhancing the natural environment. With regard to pollution, paragraph 191 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 sensitive for the wider areas to the impacts of that could arise from the development.

Assessment

The application proposal raises a limited number of planning issues which are considered below:

Principle of Development

The structures for which retrospective planning permission is sought are all located within the premises established rear beer garden and the curtilage of The Eagle and Child. The use of all the structures is for a purpose ancillary to the use and operation of the site as a public house /restaurant i.e. external customer toilets, an external bar servery and a pergola providing cover to an external seating area. None of the structures will change the function of the beer garden or how it is used



and operates, and with specific regard to the bar server, this replaces a previous bar server structure which was demolished to facilitate construction of the new one.

Having regard to these facts, and the proposed function of each of the structures, it is our view that the proposed development is acceptable in principle and that there are no valid planning grounds for objection being raised to the principle of each of the structures.

Planning policy at all levels (paragraph 97 of the NPPF and Policy JP-P3 '*Cultural Facilities*' of the Places for Everyone Plan) provides support for the structures and development which enables public houses / restaurants to develop and modernise and supports their overall financial viability thereby helping to guard against their failure and loss in the longer term. Policy support is also provided by paragraph 85 of the NPPF and Policy EC4 '*Small and Growing Businesses*' and Policy EC4/1 '*Small Businesses*' of the Bury UDP.

Accordingly, the development receives clear 'in principle' policy support from both the adopted development plan and government guidance.

Design

With regard to design matters, it is considered that the structures are of a good and high-quality design and constructed of good quality materials that are in keeping with the character of the existing building and the local area. The structures are small in scale and discretely located not being visible from outside the site other than from the footway on Whalley Road when looking down at the site. They do not dominate the existing building but assimilate with the rear elevation and are not visible to adjacent residential occupiers being screened by boundary fencing.

Policy JP-P1 '*Sustainable Places*' of the Places for Everyone Plan, Policy EN1/2 '*Townscape and Built Design*' of the Bury UDP and Paragraph 135 of the NPPF all require new development to be of a high standard of design and contribute positively to the overall quality of a place and be constructed of good quality materials that are in keeping with local character. It is considered that the proposed structures accord with this requirement and thus are acceptable in design terms.

Impact on Amenity

None of the proposed structures will change the use of the area to the rear of the premises, which is a long-established beer garden or how it is used. Furthermore, the area forms part of the established curtilage of The Eagle and Child and can be used for any purposes ancillary to its main use as a public house / restaurant without the need for planning permission.

The structures for which retrospective planning permission is sought are small in scale and do not give rise to any overshadowing. Due to the presence of existing boundary treatment, they will not give rise to any overlooking or result in any loss of privacy. The structures will also not change the impact of the beer garden on these occupiers with respect to noise.



Accordingly, we conclude that the proposed development will not detrimentally impact the residential amenity of adjacent occupiers and thus is acceptable in this regard. The scheme thus accords with Policy EN7/2 'Noise Pollution' of the Bury UDP and paragraph 191 of the NPPF.

It is further important and relevant to note that The Eagle and Child pre-dates the residential development to the west which was granted planning permission in the full knowledge of the pub site. It also material that the area in question is a lawful beer garden and that it will inevitable and entirely legitimate create noise.

Car parking

The development is for ancillary structures within an established beer garden. None of the structures will have any impact or influence the number of customers at the premises. As such, car parking provision is not a relevant issue in this case.

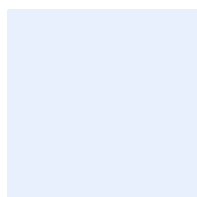
Conclusions

To conclude, the above assessment demonstrates that the proposed development is appropriate and acceptable in principle. It also demonstrates that the detailed planning issues raised by the scheme are limited to design and impact on residential amenity. With regard to the former, the proposed structures are of a high-quality design and in keeping with the existing building and locality. With regard to the latter, the proposed structures will not adversely impact the residential amenity of adjacent residents nor change the impacts of the beer garden on them.

It is on this basis that we respectfully request that retrospective planning permission for the structures is granted without delay.

The applicant wishes to work with the Council in respect of these proposals and as such, should you have any queries or require any additional information, please do not hesitate to contact me.

Yours sincerely,



Helen Binns BA(Hons) MTPL MRTPI

Associate Director

[Enter email address]

Cc Wayne Hunt, Daniel Thwaites

