

<u>APPLICATION NO:</u>	23/01008/COU	<u>CASE OFFICER:</u>	Maxine Wishart
<u>WARD:</u>	Prescot North	<u>PARISH:</u>	Prescot Town Council
<u>LOCATION:</u>	J Showering, 16 Eccleston Street, Prescot		
<u>PROPOSAL:</u>	RETENTION OF USE FROM RETAIL (USE CLASS E) TO WINE BAR AND CAFÉ (USE CLASS SUI GENERIS)		

KNOWSLEY LOCAL PLAN ALLOCATION –

Town and District Centres - Prescot Town Centre
Prescot Town Centre Conservation Area

Site Description

The application relates to a ground floor unit. The site is within Prescot Conservation Area on the principal pedestrianised shopping street, Eccleston Street. The application site contains one of the four units in this purpose-built parade of shops with two storey maisonettes above that dates from 1962.

The unit has access from Eccleston Street and a rear yard accessed from the car park of Prescot Shopping Centre. The flat above can only be accessed via a staircase rising from ground to first floor level from the service yard. The unit the subject of this application is in its original configuration of ground floor shop and self-contained maisonette in the upper floors.

Other units in this small parade include a vacant solicitors office, an Estate Agent and a Newsagent. Other commercial and retail units surround the unit.

Proposal

The application seeks consent for the change of use of the ground floor premises from its former Shop use (Class E a)) to a mixed-use comprising Wine Bar and Cafe . The use has commenced and the application is therefore for the retention of the use. The use includes an outside seating area on the pavement fronting the unit.

The application does not seek any alterations to the shop frontage. The application is therefore solely for the change of use.

The hours of use have been indicated as: 08:00 to 00:00 every day. The hours of use would ensure that there would be no 'dead frontage' during the daytime.

It is indicated that the jobs created would be 2 full time and 4 part time with a total full time equivalent of 4 employees.

It is noted that an illuminated sign has been erected at the front of the building which would need advertisement consent. However, this does not form part of the current application and requires a separate application to be submitted under the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Consultations

Prescot Town Council - No comments received.

Conservation & Design Officer (KMBC) - No comments received.

Highway Authority (KMBC) - No objection. Advise separate pavement café licence required.

Licensing (KMBC) – Advise a premises licence has been issued for the use.

Environmental Health (KMBC) - No objections in principle subject to conditions.

Major Development Team (KMBC) - No comments received.

Asset Management (KMBC) - No comments received.

Representations

This application has been publicised by letters sent to 16 neighbours. It has also been advertised by Site Notice and a Press Notice. No representations have been received.

Planning History

APP. NO: 18/00377/FUL

PROPOSAL: INSTALLATION OF NEW SHOP FRONTS TOGETHER WITH REDUCTION IN DEPTH OF PROJECTING CANTILEVERED CANOPY OVER SHOPS. REMOVAL OF EXTERNAL STAIRCASE TO REAR AND INSTALLATION OF NEW STAIRCASE, ERECTION OF BOUNDARY TREATMENTS TO FLATS AND ERECTION OF 2.1M HIGH FENCING AND GATES TO CREATE NEW REAR ACCESS TO FLATS

DECISION: Granted

DECISION DATE: 13 August 2018

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the

Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

The application site is allocated as Town and District Centre (Prescot Town Centre) in the Local Plan Policies Map. The site is located within an established town centre which consists of a variety of uses including retail shops, financial and professional services, restaurants and bars.

The proposed development would be in compliance with the relevant national and Local Plan policies.

National Planning Policy Framework

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles
CS6 - Town Centres and Retail Strategy
CS7 - Transport Networks
CS14 - Principal Regeneration Area - Prescot TC
CS19 - Design Quality and Accessibility in New Development
CS20 - Managing the Borough's Historic Environment
CS26 - Waste Management

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

S2 - Diversification of Uses within Existing Centres
T10 - Access for the Less Mobile
DQ2 - Security in the Built Environment
DQ5 - Development in Conservation Areas
ENV2 - Noise and Vibration

The Joint Merseyside and Halton Waste Local Plan 2013

WM9 - Sustainable Waste Management Design and Layout of New Development

SUPPLEMENTARY PLANNING DOCUMENTS

Ensuring a Choice of Travel SPD (2010)
Prescot Town Centre Masterplan SPD (2016-2028)

Article 35 Statement

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 within the National Planning Policy Framework.

Assessment

Principle

Saved Policy S2 and the Prescot Town Centre Masterplan SPD supports the diversification of uses within the town centre, subject to various criterion being satisfied. In this regard, the proposed use is considered appropriate for a town centre and as town centres are the sequentially preferred location for the proposed

use a sequential test showing considered sites and premises is not required. Criterion b) of Policy S2 requires that there would not be a grouping of uses that would have a negative impact on the character or the centre. In this instance, the unit sits immediately adjoining an existing Estate Agents and to the other side a Newsagents.

However, since Policy S2 was adopted, Class E of Schedule 2, Part A (Commercial, Business and Service) of the Town and Country Planning (Use Classes) Order 1987 (as amended) has been introduced (September 2020). This has subsumed former use classes of A1 (shops), A2 (financial and professional), A3 (restaurants and cafes) as well as parts of D1 (non-residential institutions) and D2 (assembly and leisure), basically, a diverge range of uses primarily those that are suitable for a town centre area. To that effect, existing retail units could be changed to other non-retail uses, including the likes of a restaurant / café, without the need to apply for planning permission. It is not considered that the introduction of another non-retail use in this location would have a detrimental impact on the functioning of the town centre.

Policy CS4 of the Knowsley Local Plan: Core Strategy seeks to facilitate employment development of the right type and in the right location to support the Council's employment priorities and protect the long-term employment uses of land. In this regard the proposal has brought a vacant unit back into use created the equivalent of 4 full time posts.

Policy CS6 sets out the overall strategy for town centres and retail in Knowsley, including how Prescott will enhance its equal role in providing comparison and convenience shopping which will be supplemented by a complementary mix of uses.

Policy CS14 seeks to enhance the Borough's town centres and identifies Prescott Town Centre as a Principal Regeneration Area. Policy CS14 sets out regeneration priorities for Prescott Town Centre including encouraging a wider mix of town centre uses.

The Council's Town Centre Uses SPD (2022) seeks to provide guidance in respect of policies for retail centres, responding to growing concerns regarding clustering and proliferation of non-retail uses within town centres. The SPD gives guidance on the approach to the development of hot food takeaways, betting offices, pay day loan shops and taxi booking offices. The use proposed does not fall into these categories and the SPD is not relevant in this instance.

The proposed use accords with the Prescott Town Centre Masterplan's support for an 'evening economy' in Prescott, given the decline of traditional retailing in the town. For this reason, the proposal is also within the spirit of the regeneration strategy for this area, as set out within Policy CS14 of the Core Strategy.

Having regard to the above, the proposal would not undermine the retail function and general attractiveness of the centre and would help to support the Council's aspirations set out in the Prescott Town Centre Masterplan SPD that by 2028 Prescott Town Centre will be a thriving attractive destination with a successful evening economy for local residents and visitors.

Design

Shop Front

The application does not propose any alterations to the shop front. The existing bi-

fold doors to the front have been utilised for the new use.



Outside Seating Area

The development also involves the setting out of an outdoor seating area to the front of the unit. This comprises of tables and chairs mainly set below the existing canopy. In addition, there are barriers which cordon off the seating area either side.

The pavement seating would not harm the street scene as pavement cafes are a feature of the immediate surroundings. Nonetheless, the outside seating area would be controlled by Highways through a pavement café licence which will ensure that adequate access is maintained for pedestrians and through traffic.

Waste Management

Waste is stored to the rear yard to the rear of the premises which are accessed via a service yard accessed from the Prescott Town Centre Shopping Centre car park which is in line with other uses in this parade.

It is considered that adequate facilities are available and that the development complies with Policy CS26 and Policy WM9 of the Waste Local Plan.

Impacts on Heritage Assets

The application site is within Prescott Town Centre Conservation Area and the building site within the setting of the Grade 1 Listed Building, St Mary's Church. Other Grade II listed buildings are located on the opposite at 21 – 23 Eccleston Street, and further along from the site at 30 Eccleston Street; and also to the south west of the application site at 9 Market Place. Therefore, in the determination of the application, the assessment of the proposal must consider the impact on these heritage assets in accordance with Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 66(1) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority 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(1) provides that in the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of (amongst others)

the planning Acts, there is a duty to pay special attention to the desirability of preserving or enhancing the character.

Saved Policy DQ5 requires that new development within or close to a Conservation Area must preserve or enhance the character of the Area. In this instance, the proposal should have regard to likely levels of noise, pollution, or disturbance that may be caused by the development and impacts on the adjoining conservation area.

Policies CS19 and CS20 seek to seek to preserve or enhance the Borough's historic and architectural assets and any archaeological remains.

Paragraph 199 of the NPPF emphasises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The NPPF identifies two levels of harm: substantial harm and less than substantial harm. Case law identifies that within the less than substantial harm category there is no spectrum of degree of harm. The more important a heritage asset is, the greater the weight should be attached to its preservation or the preservation of its setting, irrespective of whether the harm caused is substantial or less than substantial. The NPPF does not explain the difference between substantial and less than substantial harm.

The South Lakeland District Council v Secretary of State for the Environment case and the Barnwell Manor case (East Northamptonshire DC v SSCLG) establish that 'preserving' means 'doing no harm'. The decision of the Court of Appeal in Barnwell Manor confirms that the assessment of the degree of harm to the heritage asset is a matter for the planning judgement of the decision-maker. Case-law also establishes that even where the harm identified is less than substantial, that harm must still be given considerable importance and weight.

Paragraph 202 of the NPPF requires that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*.

Having regard to the above, due to the nature of the development, the use has potential to cause harm due to noise and activity associated with the use. Whilst the main aim of a conservation area designation is to secure visual/townscape qualities, it could also be considered that a particular use or mix of uses makes an important contribution to defining the character. The Prescott Masterplan SPD sets out a mission to encourage hospitality and evening economy in the Town Centre and it is considered that the existing mix of retail together with the restaurants and bars along Ecclestone Street contribute to the vibrant character of the Conservation Area.

Turning to the setting of any listed buildings, the site is located within a town centre setting and is of a use that is encouraged in this location. There are no external alterations proposed forming part of the application under consideration, the level of harm to the significance of these heritage asset is therefore considered to be low.

Balancing Exercise

Consequent to the above conclusions, Officers are required by virtue of para. 202 of the NPPF to weigh the harm against the public benefits of the proposal. Having applied the balance required by para. 202 of the NPPF, Officers have given special regard to preserving the setting of the Prescott Town Centre Conservation Area and listed buildings and given the harm considerable importance and weight.

In this regard, for the purposes of the NPPF falls within the scope of 'less than substantial harm'. On balance, the public benefits that would ensue from the development utilising a previously vacant site and helping to support the vitality of the Town Centre and supporting the Council's aims in creating a thriving attractive destination with a successful evening economy outweighs any harm.

Conclusion – Effect on Heritage Assets

The harm to designated heritage assets has been appropriately justified and, therefore, the proposal is considered to comply with policies CS19 and CS20 of the Local Plan, Saved Policy DQ5 of the UDP and the requirements set out in the NPPF. The requirements of S66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have been fully considered in coming to this view.

Amenity

Core Strategy policies CS2 and CS19 combine to ensure that new development does not significantly injure the amenities of adjoining or nearby residential property. Saved Policy ENV2 requires suitable mitigation measures are installed to protect against noise when planning decisions are made where there is potential for noise issues.

Noise

Given the nature of the development there is potential for noise disturbance. Saved Policy ENV2 of the Knowsley UDP seeks to ensure that new or existing developments are protected from new or existing noise sources and that, where necessary, the effective mitigation measures are secured.

The hours of opening can be controlled to by way of a suitable condition if planning permission is granted. Furthermore, it is considered that hours should be controlled for the disposing of bottles into waste receptacles at the rear of the premises; deliveries and refuse collections. These controls can be secured via suitable planning conditions should planning permission granted.

The existing shop front incorporates bi-fold doors. Whilst generally it is accepted that in a town centre location a degree of noise and disturbance would be expected as part of the normal functioning of this type of use, given the proximity of residential properties it is considered, it would be appropriate to impose a planning condition controlling when the doors can be opened.

There is also potential for noise to pass from the proposed use to the residential maisonettes above whilst it is operated. It is considered that to mitigate noise transfer, a scheme of sound insulation will be required to ensure that noise exposure within living rooms and bedrooms meets acceptable standards and this can be secured through a suitable condition should planning permission be granted.

Odour

The use of the premises involves a bar and café and therefore there is potential for cooking odours associated with the use to have detrimental impacts on the area; in particular residential units above. The application, as submitted, does not include equipment for odour and fume extraction or any other plant associated with the use.

In relation to smells (odour), the Council's Environmental Health Team have requested that information would be required for any fume extraction / odour filtration associated with the use. However, regard should be had to the fact that, buildings

can convert between commercial, business and service use such as shops, restaurants and cafés without needing planning permission. Therefore, if the premises had changed from the previous shop use (Class E a) to a use solely as a café or restaurant (class E b), then planning permission would not have been required as both these uses fall within the Class E – *Commercial, Business and Service*.

In this instance therefore it is considered that if planning permission is granted that the applicant is advised that any extraction equipment may require a separate planning permission. The applicant would be advised of this by a suitable informative if planning permission is granted.

Given the town centre location and subject to suitable conditions, it is considered that the development would have limited impact on the amenity of neighbouring properties to warrant refusal in this instance.

In conclusion, the development subject to appropriate planning conditions, complies with the National Planning Policy Framework; Policies CS2, and CS19 of the Knowsley Local Plan: Core Strategy; Saved Policy ENV2 and DQ2, of the Knowsley Replacement Unitary Development Plan.

Highway Considerations

The site is located within a town centre within a pedestrianised area of Eccleston Street. The site is served by existing public car parks, a bus station and further afield Prescott Railway Station. The site is in a sustainable location.

The Council's Highways Engineers have not raised any objection to the proposed development in terms of access or parking provision. It is noted however that the applicant has also created a pavement seating area to the front of the unit which is unlawful under the Highways Act 1980 without consent in the form of a Pavement Licence, which is separate to any planning permission granted under this application.

The Council's Highways Engineer comments that whilst the principle of a pavement seating area would not be objected to, the precise extents of the area would need to be considered carefully, and would certainly be less than the area currently being used. This information can be conveyed to the applicant via an informative attached to any planning permission if granted.

Accordingly, the development accords with Policies CS2 and CS7 of the Local Plan and Saved Policy S2 of the Replacement UDP.

Conclusion

It is considered that the proposal is appropriate and consistent with site location within the town centre and has brought a vacant unit back into use which contributes to night time economy. The development does not have harmful impact on the setting of the Conservation Area or on the setting of the nearby listed building. Suitably conditioned the impacts on residential amenity would be within acceptable limits.

The proposal complies with relevant national and local planning policies and is therefore recommended for approval.

Recommendation

That planning permission be granted subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

- 2) The premises shall only be open between the hours of 08:00 and 00:00 on any day, with the exception of an extra hour until 01:00 on all days preceding Bank Holidays, Christmas Eve (into Christmas Day), Christmas Day (into Boxing Day), and New Years Eve (into New Years Day).

Reason: To safeguard the amenities of nearby residents and to comply with the NPPF (2023), Policies CS2 and CS19 of the Knowsley Local Plan: Core Strategy, adopted January 2016 and Saved Policies S2 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006

- 3) Except for access and egress, doors and windows shall remain closed between the hours of 2200 – 08.00 hours on any day.

Reason: To safeguard the amenities of nearby residents and to comply with the NPPF (2023), Policies CS2 and CS19 of the Knowsley Local Plan: Core Strategy, adopted January 2016 and Saved Policies S2 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

- 4)
 - (a) Any waste arising from the premises shall be stored securely in designated bins identified on Drawing No. 2 - 'Existing and Proposed Floor Plans' dated May 2023; and
 - (b) Empty bottles shall only be loaded into the bins, in the external designated waste storage area, between 08.00 and 20.00 hours on any day.

Reason: To safeguard the amenities of nearby residents and to comply with the PPF (2023) Policies CS2 and CS19 of the Knowsley Local Plan: Core Strategy, adopted January 2016 and Saved Policies S2 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

- 5) No deliveries / collections shall take place to / from the premises between the hours of 20:00 and 08:00 on any day.

Reason: To safeguard the amenities of nearby residents and to comply with the NPPF (2023) Policies CS2 of the Knowsley Local Plan: Core Strategy, adopted January 2016 and Saved Policies S2 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

- 7) Within three months of the date of this permission, precise scheme details of sound insulation measures, which ensure that the noise exposure within living rooms and bedrooms of residential property above meets the requirements of the British Standard BS 8233: 2014 (Guidance on sound insulation and noise reduction for buildings), shall be submitted to and agreed in writing by the Local Planning Authority.

The approved scheme shall be implemented in accordance with the agreed details and within a timescale which shall have first been identified within the submitted scheme and agreed in writing by the Local Planning Authority.

The agreed works shall be retained thereafter at all times that the use is in operation.

Reason: To safeguard the amenities of nearby residents from noise and disturbance and to comply with the NPPF (2023), Policies CS2 and CS19 of the Knowsley Local Plan: Core Strategy, adopted January 2016 and Saved Policies S2 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
24/05/2023	1	-	SITE LOCATION PLAN AND PROPOSED SITE BLOCK PLAN
24/05/2023	2	-	EXISTING AND PROPOSED FLOOR PLANS
24/05/2023	-	-	HERITAGE ASSESSMENT STATEMENT

Signed Case Officer¹: M Wishart

Signed Authorising Officer²: K Foster

Date: 1 December 2023

Informatives

NOTE FOR APPLICANT: The applicant's attention is drawn to the following comments:

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

Standing Advice valid from 1st January 2023 until 31st December 2024

2 *Advertisement Regulations*

The illuminated advertisement(s) displayed on the premises require a separate Express Consent to Display Advertisements. Please contact the Council's Development Management Section (Tel: 0151 443 2381) for further advice).

3 *Pavement Cafe Licence*

The applicant is advised that the granting of planning permission does not entitle the applicant to place chairs, tables or other equipment in the adopted highway. The placing of such in the highway is an offence unless a Pavement Café licence is granted by the Council, under the provisions set out in S115E of the Highways Act 1980. Contact: Licensing@knowsley.gov.uk for further information.

4 *Fume Extraction / Odour Filtration Equipment*

Separate planning permission may be required for externally mounted fume extraction / odour filtration equipment together with any internally mounted equipment which vents externally.

The submitted details should address the requirements of the Council's [Validation Checklist](#) and the information submitted will need to make it clear that the plant/equipment is capable of operating without causing a noise, odour and/or dust impact on neighbouring properties.

Appendix 1 – Site Photographs



