

<b>Agenda Item</b> A7	<b>Committee Date</b> 14 November 2016	<b>Application Number</b> 16/01140/CU
<b>Application Site</b> Market Street/Euston Road Morecambe Lancashire		<b>Proposal</b> Use of designated pedestrian highway as street cafe seating and balustrades (no fixed structures)
<b>Name of Applicant</b> Lancaster City Council		<b>Name of Agent</b> Mr Julian Inman
<b>Decision Target Date</b> 4 November 2016		<b>Reason For Delay</b> Committee Cycle
<b>Case Officer</b>	Mrs Kim Ireland	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Approval	

(i) **Procedural Matters**

This form of development would normally be dealt with under the Scheme of Delegation. However, the application has been submitted by the City Council, and as such the application must be determined by the Planning Committee.

**1.0 The Site and its Surroundings**

1.1 The application site relates to the designated pedestrian zone in Morecambe town centre, covering the majority of Euston Road and a small part of Market Street. This area focuses around the retail core of the town centre where there are a few well established cafés and public houses.

1.2 The site is allocated as a town centre and a primary retail frontage within the Lancaster District Local Plan. The site is situated within Morecambe Conservation Area.

**2.0 The Proposal**

2.1 The submitted application proposes the use of a defined portion of pedestrian highway land within the town centre for street cafés. This application seeks to establish the principle of street cafés with all the detailed matters, such as access, street furniture design, balustrades, noise considerations, hours of use and access matters to be controlled and managed through the Council's Licensing procedures under Section 115 Part VIIA of the Highways Act 1980.

**3.0 Site History**

3.1 There has been one site within the identified red edge (application site) that has sought separate planning consent over recent years for the change of use of highway land to provide outdoor café seating. Aside from that, there have been no other planning applications covering a significant portion of the town centre that are relevant to consider in the determination of this application. However, a similar application (12/00239/CU) was approved by Planning Committee for Lancaster city centre in 2012.

## **4.0 Consultation Responses**

4.1 The following responses have been received from statutory and non-statutory consultees:

<b>Consultee</b>	<b>Response</b>
<b>Town Council</b>	<b>No comments</b> received within the statutory timescale.
<b>County Highways</b>	<b>No objections</b>
<b>Environmental Health Officer</b>	<b>No objections</b>
<b>Conservation Officer</b>	<b>No objections</b>
<b>Licensing Section</b>	<b>No comments</b> received within the statutory timescale.
<b>Lancashire Constabulary</b>	<b>No objections</b> , subject to the advice to reduce crime and fear of crime and create safe environments.

## **5.0 Neighbour Representations**

5.1 One piece of supporting correspondence has been received. The reasons for support include the following:

- On behalf of Morecambe Business Improvement District (BID) Limited the application should be supported as it has a forward thinking attitude in a BID zone.
- It will help improve the local economy and footfall.

## **6.0 Principal National and Development Plan Policies**

The National Planning Policy Framework indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. At the heart of the NPPF is a presumption in favour of sustainable development (**paragraph 14**). The following paragraphs of the NPPF are relevant to the determination of this proposal:

### **6.1 National Planning Policy Framework (NPPF)**

Paragraph **17** - 12 Core Principles

Paragraph **19** – Building a Strong, Competitive Economy

Paragraph **23** – Ensuring the Vitality of Town Centres

Paragraphs **56** and **61** – Requiring Good Design

Paragraph **69** – Promoting Healthy Communities

Paragraphs **126** and **131** – Conserving and Enhancing the Historic Environment

### **6.2 Development Management DPD**

**DM1** – Town Centre Development

**DM2** – Retail Frontages

**DM5** – The Evening and Night-Time Economy

**DM16** – Small Business Generation

**DM31** – Development affecting Conservation Areas

**DM35** – Key design principles

### **6.3 Lancaster District Local Plan**

Policy **SC1** – Sustainable Development

Policy **SC5** – Achieving Quality in Design

Policy **E1** – Environmental Capital

## **7.0 Comment and Analysis**

### **7.1 Background to the Proposal**

7.1.1 To provide some context to the application, the proposal for the 'principle' of street cafés within the designated pedestrian areas of the town centre has come forward in response to the successful 2012 planning application in the Lancaster pedestrian zone that has helped encourage a number of businesses to run street café operations. This is being taken forward by the Morecambe Area Action Plan (MAAP) that aims to encourage pedestrian movement and improve streets and spaces. This will help to make Morecambe's town centre a vibrant destination for residents and visitors alike. Market and Victoria Streets have recently undergone physical improvements and changes to traffic management. This has been done to re-balance the use of the street to give pedestrians more priority and make a better, safer, less cluttered environment. It is intended that works will start early next year to extend the physical improvements the length of Euston Road up to, and including, the town centre.

7.1.2 At present, businesses seeking to obtain consent for a street café have to go through the planning process and the licensing process independently. It is thought that the need to obtain both permissions is onerous for applicants and deters initiative and applications. This application therefore seeks to streamline the process for businesses with the clear objective to support the local economy and the vitality of the town centre. The application therefore effectively seeks to establish whether the principle of street cafés anywhere in the designated town centre pedestrian zone (as identified within the red edge) is acceptable in planning terms. Businesses wishing to operate a street café would still be subject to a separate licensing application, which would deal with specific matters including hours of use, noise considerations, location, furniture design and form, balustrade details and access provisions. Principally, the Council would ensure (through the licensing process, which would have previously been duplicated through the planning process) that the use of the highway for street cafés would not be prejudicial to traffic and pedestrian movements and would be of an acceptable layout and form.

## 7.2 Material Planning Considerations

In considering the application, the main planning issues relate to the effect of the development in relation to the viability and vitality of the town centre; specific amenity and highway impacts; and the effect of the development on heritage assets.

## 7.3 Town Centre Viability

In terms of supporting the viability and vitality of the town centre, the principle of using the designated pedestrian zone for street cafés (subject to the licensing process) seems acceptable in terms of both national and local planning policy. There have been no objections received from statutory consultees and as such there is confidence that streamlining the process for street cafés in the manner proposed is appropriate and will be better managed by the Council as a whole. In this regard, the development will help support local businesses and thus the local economy, and will also seek to enhance the character of the town centre. In particular, the proposal initiates an opportunity to potentially create a more vibrant and active centre.

## 7.4 Amenity and Highway Impacts

Having identified that the principle of street cafés within the pedestrian zone of the town centre is acceptable in land use planning terms, it is necessary to turn to other matters which would have previously been considered by the Local Planning Authority. In short these include hours of operations, noise restrictions, pedestrian/disabled access, and design and layout of cafe furniture and balustrades. Lancashire Constabulary has commented on the application indicating that there are no hours of use stated on the submitted application. From a land use planning perspective imposing an hours of use restriction on this "in principle" application could be overly restrictive. With sensible management, there may be some cases where later/longer operating hours could support the evening economy and the vibrancy of the town centre. Equally, there may be other cases where shorter operating hours would be necessary. As such, Officers are confident that the matter of hours of use can be effectively and efficiently controlled through the licensing process, which gets reviewed annually. In terms of access, there are approved conditions for the street café licence that ensure pedestrian and vehicle access/movement is not compromised. The same applies to noise considerations. There are conditions within the licence which specify no speakers or playing of music shall be permitted. From a planning point of view, it is not considered necessary to condition matters in relation to hours of use or no amplified music as these can be controlled through the licence. Having a planning condition imposed on this application could conflict with terms agreed under the

licence. The benefit of tackling such matters through the licence rather than a separate planning consent is that the licence is reviewed annually and certain conditions of the licence may change in response to the management of the street café.

## **7.5** Heritage Assets

- 7.5.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed building, a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by policies DM31.
- 7.5.2 Part of the application site falls within the Morecambe Conservation Area, which is a designated heritage asset. There is also one Listed building within the application area and the immediate vicinity. The main considerations in relation to the impact of the development on the heritage assets relates to how the proposal would affect the setting and character of the Conservation Area and the Listed building, particularly in relation to the layout and design of café furniture and balustrades. It should be noted however that the application does not seek any permanent structures as part of the proposal. Both this planning application and any application subsequently submitted to licensing relates to no fixed structures, with any tables, chairs and balustrades capable of being removed from the highway under the hours agreed by the licence. It is envisaged that the use of the highway for street cafés could enhance the Conservation Area by encouraging people to enjoy the pleasant historic surroundings and by creating a more active and vibrant place.
- 7.5.3 In terms of the tables, chairs and balustrades being placed on the highway to form the street café, these are moveable structures and as such will not cause any permanent harm to the character and appearance of the Conversation Area or the nearby Listed Building. Notwithstanding this, there are conditions within the licensing process which requires consultation with the Regeneration and Planning Service, in order to ensure there is adequate control in relation to the design of tables, chairs and balustrades, together with the use of materials and colours, and the placement of such furniture on highway land would need to comply with the terms agreed by the licence.
- 7.5.4 In short, the principle of street cafés within the designated pedestrian zone would preserve the setting of the heritage assets, though has the potential to enhance them. Officers are confident that the conditions of the licence, together with relevant consultation with the Regeneration and Planning Service and published design guidance would ensure an appropriate level of control of development within the Conservation Area.

## **8.0** Planning Obligations

- 8.1 Given the nature of the proposal there are no requirements for a legal obligation.

## **9.0** Conclusions

- 9.1 The purpose for submitting the application is to help streamline the process for businesses wishing to establish street cafés within the pedestrian zone of the town centre, in order to support the local economy and create a more vibrant town centre. The principle of street cafés within the pedestrian zone can only be viewed a positive step to improving the vitality of the town centre. Matters in relation to layout, design, hours of operation and access are all matters which can be effectively and efficiently controlled under Licensing legislation and as such Officers are confident that the approval of this “in principle” application would not compromise the vitality and viability of the town centre or the significance of the heritage assets (the Conservation Area and adjacent Listed building). Members are therefore advised that the application can be supported.

## **Recommendation**

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard 3 year timescale
2. Development relates solely to the land identified within the red edge (in accordance with the approved plans).

## **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

### **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **Background Papers**

None