

<b>DECISION DATE</b>  5 February 2007	<b>APPLICATION NO.</b>  06/01350/CU A12	<b>PLANNING COMMITTEE:</b>  <b>19 March 2007</b>
<b>DEVELOPMENT PROPOSED</b>  <b>SITING OF TABLE AND CHAIRS ON PUBLIC HIGHWAY</b>		<b>SITE ADDRESS</b>  <b>23 MARKET STREET LANCASTER LANCASHIRE LA1 1HZ</b>
<b>APPLICANT:</b>  Nero Holdings 3 Neal Street London WC2H 9PU		<b>AGENT:</b>

#### **REASON FOR DELAY**

Committee Cycle

#### **PARISH NOTIFICATION**

N/A

#### **LAND USE ALLOCATION/DEPARTURE**

**Lancaster District Local Plan 1996-2006** - The proposed property is a Grade II Listed Building located within the Castle Conservation Area. The property is also allocated within the Plan as a 'Protected Retail Frontage', and is therefore protected by Policies S4, S7 and E35.

#### **STATUTORY CONSULTATIONS**

**County Environment Directorate (Highways)** - No objections in principle provided barriers are provided at each end of the seating area. Advises that a licence is required from the Council to place tables and chairs on the Highway.

**Legal Services** - Advises that the applicants should be seeking a street licence from the Council's Licensing section.

**Forward Planning (Conservation)** - No objections provided details of the tables and chairs are conditioned.

**Forward Planning (Access Officer)** – Considers application should not be approved. Concerned that the proposed seating would increase congestion at a busy section of the pedestrian zone particularly on market days. The cumulative effect of the proposed seating, existing street furniture and the adjacent access into Marketgate Centre would remove a fairly clear route for wheelchair users and the visually impaired.

## OTHER OBSERVATIONS RECEIVED

### REPORT

The application site, No. 23 Market Street, lies within the eastern periphery of the Castle Conservation Area close to the boundary with the City Conservation Area. The proposed building is centrally located within the city centre on the southern side of Market Square, at right angles to the entrance of Marketgate Centre.

Nero Holdings Ltd applied for a retrospective change of use from A1 to A3 which was granted in early 2005. Since then planning permission for a new shopfront has also been granted consent. This application seeks a change of use of a small part of the highway, namely Market Street, to provide outdoor seating in association with the existing café. The area identified on the plans shall protrude only 1 metre into the adjacent highway and shall extend the full width of the shopfront. This area will be sectioned off at either end with small barriers measuring no more than 1.5m in length and less than 1m in height, similar to the barriers shown in the adjacent photograph.

The Council's Access Officer has raised concerns regarding the proposal, commenting that the proposed seating area, together with the existing street furniture and the adjacent alleyway to Marketgate, would remove what is a fairly clear route for pedestrians, particularly those with wheelchairs and visual impairments. It must be noted however that all of Market Street is pedestrianised, despite some vehicular movement at certain times of the day.

The furniture and barriers are not permanent features and would be put away each day when the café is closed. The applicants have also informed the Council that they do not intend to put the furniture out on market days, in order to help mitigate the concerns raised by the Council's Access Officer.

With regards to planning policy, it must be noted that The Lancaster City Centre Strategy (SPG 6) suggests that Market Square, along with the other Squares within the City do not perform as well as they might. The provision of outdoor seating and café uses close to Market Square and within it would enhance the vitality of the City Centre and improve the City's public realm. This aim is also supported within the Local Plan. Paragraph 3.5.29, which refers to food and drink uses within the City Centre, suggests that café uses within pedestrianised areas could benefit from pavement seating.

Despite the concerns raised by the Access Officer, the proposal does not have a significant adverse effect on the character and appearance of the streetscene or the wider Conservation Area, nor does the proposal affect the special character of the Listed Building. It is on this basis that Members are advised that this application can be supported.

### HUMAN RIGHTS IMPLICATIONS

This application has to be considered in relation to two sections of the Human Rights Act: Article 8 (privacy/family life), and Article 1 of the First Protocol (protection of property). There are no issues arising from the proposal that appear 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.

### RECOMMENDATIONS

That **PERMISSION BE GRANTED** subject to the following conditions:

1. Standard Time Limit.
2. Development to be carried out in accordance with the approved plans.
3. Details of the style and materials of the furniture and barriers to be submitted.
4. The outdoor seating area shall be used solely for ancillary purposes to the main use of Café Nero, 23 Market Street, Lancaster.
5. Furniture not to be placed outside the café on market days.