

Application Number:	2018/0177	Application Type:	Full
Proposal:	Change of use of land to form outdoor seating area in association with the adjoining café	Location:	Land at Elizabeth Street adj to Drop Off Café, Off Market Street, Edenfield
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	24 July 2018
Applicant:	Mr C Davies	Determination Expiry Date:	7 June 2018
Agent:	Mr S Hartley		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	Yes
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That planning permission be granted subject to the conditions in Section 10.

APPLICATION DETAILS

2. SITE

The application relates to Elizabeth Street, an un-adopted highway that leads from Market Street (B6527) and terminates at the Drop Off Café, a distance of approximately 16m.

This cobbled street is bounded on the east side by the 2-storey building containing the café itself and to the west side by a grassed garden area belonging to the residents of 2 Heycrofts View. Elizabeth Street gives access to the communal passageway running to the rear of the café itself and to the rear of the terraced dwellings from 26 to 36 Market Street (evens).

Beyond the eastern end of Elizabeth Street the land rises up by approximately 1m to the level of the rear garden of the house at 2 Heycrofts View, which at this point is occupied by the residents detached garage. Works are well advanced on the extension of this outbuilding permitted by Planning Permission 2016/0434, upwards to provide a games room on the first-floor and to the south side to provide a garden room that links to the house, a 3m+ high conifer hedge continuing to run further down the rear boundary of this property.



Whilst other businesses occupy the building between the café and the main road (including a solicitors, beauty salon and clinic), to the opposite side of this part of Market Street are residential properties.

The site is within the Urban Boundary of Edenfield.

3. RELEVANT PLANNING HISTORY

The report in respect of application 2018/0178 sets out the planning history of the Drop Off Café.

Application 2017/0353 is the only application dealt with in respect of Elizabeth Street.

It sought permission to use the street as an outdoor seating area in association with the café.

At its meeting on 30 August 2017 Committee considered the application and, in accordance with the Officer Recommendation, granted permission subject to Conditions.

In order that the hours of use of Elizabeth Street as an outdoor seating area would be no wider than those of the café itself Condition 2 of Planning Permission 2017/0353 read as follows:

“Until 26 June 2018 the outside space as defined on the Site Location Plan shall only be open to customers between the hours of :

0900-1900 on Monday to Sunday including Bank Holidays.

Following the 26 June 2018 the outside space shall only be open to customers between the hours of:

0900-1900 on Monday to Friday

0900-1700 on Saturdays; and

1000-1600 on Sundays and Bank Holidays.

Reason: In the interests of the residential amenity of neighbours, and to reflect the temporary extended hours of the internal premises in planning approval 2017/0141.”

4. PROPOSAL

This application seeks permission to enable Elizabeth Street to continue to be used on a permanent basis as an outdoor seating area in association with the café between the hours of 0900-1900 Monday to Sunday including Bank Holidays.

5. POLICY CONTEXT

National

National Planning Policy Framework

- Section 1 Building a strong competitive economy
- Section 2 Ensuring the vitality of town centres
- Section 4 Promoting sustainable transport
- Section 8 Promoting healthy communities

Development Plan

RBC Core Strategy (2011)

- AVP 5 Area Vision for South West Rossendale
- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 11 Retail and Other Town Centre Uses
- Policy 13 Protecting Key Local Retail and other Services
- Policy 14 Tourism
- Policy 23 Promoting High Quality Designed Spaces
- Policy 24 Planning Application Requirements

Other Material Planning Considerations

Planning Practice Guidance

6. CONSULTATION RESPONSES

Consultee	Comment
RBC Environmental Health	No objection
LCC Highways	No objection

7. REPRESENTATIONS

To accord with the General Development Procedure Order a site notice was posted and neighbours were notified by letter.

Two representations have been received expressing support for the application. One objection has been received, raising the following issues:

2 Heycrofts View

The main issues raised by the resident of 2 Heycrofts View are as follows:

- Land ownership - there is no evidence the applicant owns the land.
- Use of the outdoor space is noisy and detracts from our privacy.
- Concerned that the applicant will allow use of the outside space for drinking late in the evening if a permanent permission for the extended hours is granted.
- There has been a significant increase in traffic/parking on Heycroft View since the café opened.

8. ASSESSMENT

1. The main considerations of this application are: 1) Traffic and Parking; and 2) Neighbour Amenity

Traffic and Parking

2. The objector has referred to traffic and parking issues that the café gives rise to. In respect of the current application LCC Highways initially advised as follows:

“There is no objection to the proposal to make the temporary arrangements permanent. The applicant has previously demonstrated that there is spare capacity to accommodate the on-street parking in the extended evening periods. There have been no collisions recorded in the vicinity of the site and no significant changes have been made on the network in the previous 12 months.”

3. The Applicant undertake further Parking Surveys on the evenings of 16 and 17 June 2018, and LCC Highways has given consideration to the results and has advised as follows:

“The survey is not conclusive. However there is no evidence of illegal parking on the yellow lines at the junction of Heycrofts View and this gives weight to there being no severe parking problem.

There is on-street parking partly on the footway of Heycrofts View demonstrated during the survey period. However this is a widespread County-wide problem that has become more

acceptable over the recent years. Unless the parked vehicles are preventing pedestrians from travelling along the footway then this can be afforded very little weight.

With the evidence presented I would say that the original comments still stand and that the Horse & Jockey and Rostron Arms car parking losses have not made a significant change to the on-street parking on Market Street in the vicinity of the site.”

4. Accordingly, it is not considered that evening use of Elizabeth Street as an outdoor seating area could be refused on the grounds that it will cause unacceptable detriment to highway safety by reason of obstruction or inconvenience its associated on-street parking will cause to other road users and pedestrians.

Neighbour Amenity

5. The Council’s Environmental Health Unit initially advised that it was *“unable to conclude that the proposed scheme will not have a detrimental impact on nearby residents as the 12 months to include the potential warmer months of May and June are required”*.
6. The 12 month trial period has now come to an end and the Environmental Health Unit has also progressed its investigation of noise complaints it has itself recently received about the premises and noise when people return to vehicles on-street. However, having regard to the information arising from the full term of the trial period it has not objected to the current application.
7. Neither the Environmental Health Officer or the case officer received complaint about evening use of Elizabeth Street until submission of the current application.
8. The residential property nearest to the café is at 2 Heycrofts View, the rear garden of this property approximately 4m from the café building/Elizabeth Street and with the rear windows of the house facing towards them.
9. When Committee considered it appropriate to grant permission for evening use of Elizabeth Street as an outdoor seating area for a trial period this neighbour’s rear garden was bounded by their detached garage and a 3m+ high conifer hedge. Works are well advanced on the extension of the garage upwards to provide a games-room on the first-floor and to the south side to provide a garden-room that links to the house (permitted by Planning Permission 2016/0434), which will act as more of a visual screen and baffle to noise.
10. Should future complaints about noise arising from use of Elizabeth Street as an outdoor seating area be received the Environmental Health Unit has powers to investigate and take action if they constitute a statutory nuisance. In addition, the Council’s Licensing Unit has separate powers in this regard.
11. It is considered appropriate to include a condition requiring that if any system of sound or music amplification is proposed to be used in connection with the outdoor seating area, full details of the system are first submitted to and approved in writing by the Local Planning Authority – to ensure that any noise is controlled to a degree that will not cause undue harm to neighbour amenity.
12. Subject to the above, the scheme is considered acceptable in terms of neighbour amenity.

9. SUMMARY REASON FOR APPROVAL

The proposed development is acceptable in principle within the Urban Boundary. Subject to the conditions the proposal is not considered likely to unduly affect neighbour amenity or highway safety. It is considered that the proposed development accords with Policies AVP5 / 1 / 8 / 23 / 24 of the Council's adopted Core Strategy (2011) and the National Planning Policy Framework.

10. CONDITIONS

1. The development shall be carried out in accordance with the following unless otherwise required by the conditions below:

- Application form signed and dated 01/04/18;
- Location Plan received 01/04/18; and
- Site Plan received 22/04/18.

Reason: To define the permission and in the interests of the proper development of the site.

2. The outside seating area hereby permitted shall only be open to customers between the hours of 09:00-19:00 on Monday to Sunday including Bank Holidays.

Reason: In the interests of neighbour amenity.

3. No system of sound amplification shall be used in conjunction with the outdoor seating area hereby permitted unless full details of the system and of its proposed use have first been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved system shall be operated in accordance with the approved details.

Reason: In the interests of neighbour amenity and to ensure that the development does not result in an unacceptable level of noise to the detriment of the neighbours' amenities.