

Application Number 07/2017/3144/FUL

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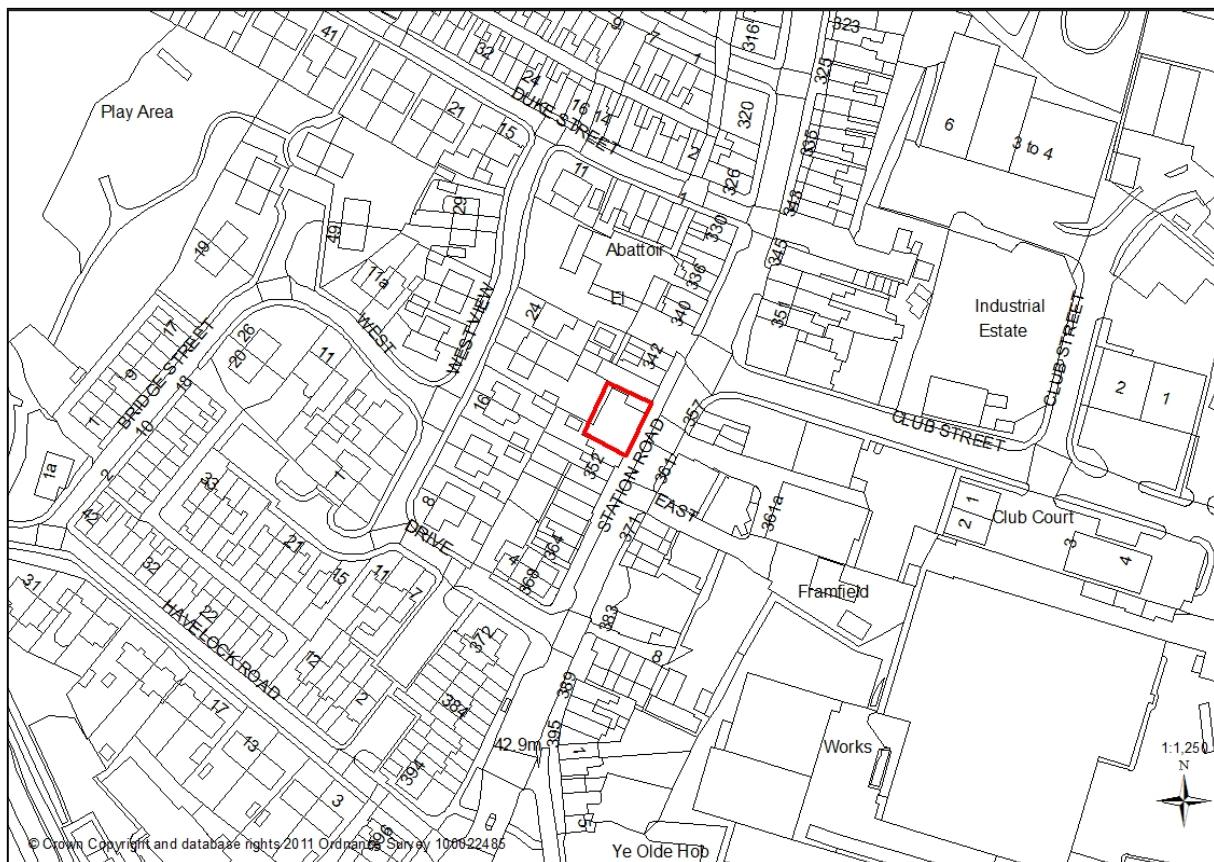
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Development
Change of use of ground floor and sub-division
to (Class A1 Retail) and Hot Food Takeaway
(Class A5) with ancillary dining area from light
industrial use (Class B1)

Officer Recommendation
Officer Name Refusal
Mr Mike Davies

Date application valid 03.11.2017
Target Determination Date 29.12.2017
Extension of Time 11.01.2018



Report Summary

The proposal seeks planning permission to change the use of the site into a hotfood take-away (Class A5) with ancillary dining area and to create a separate retail unit (Class A1). The proposal is considered to be contrary to the provision of the Core Strategy and the South Ribble Local Plan due to its impacts on the residential amenities of local residents in the vicinity and also the unsympathetic alterations proposed to the building.

APPLICATION SITE AND SURROUNDING AREA

The property is a two storey building which fronts onto Station Road (B6258) and sits at the end of a terrace of residential properties. The property was formerly in use as a design and print business with minimal evidence of a public face for personal callers therefore the predominant use is clearly light industrial (Class B1) as opposed to the original description which described the use as retail (Class A1).

The property is within a built up area B1 on the South Ribble Local Plan Policies Map.

SITE HISTORY

Planning permission was granted under 07/1994/0267 for part Single Storey and Two Storey Extension to the Rear of Printing Works in 1994. There is no other planning history relating to this site.

The submitted application forms state that the current use is Retail (Class A1), but there is no evidence submitted to substantiate this claim. From an external inspection and from the existing floor plans submitted the building in its current form does not lend itself to a retail use with the front door being solid and the windows being glazed in opaque glass therefore offering no view into the premises to attract passing retail custom. In addition the internal layout is such that on entering through the front door there is a corridor with a room off on either side which again does not suggest that retail was the predominant use of the premises.

It is particularly important to establish what is considered to be the lawful use of the premises due to the potential fall-back position as changes in legislation under the Town and Country Planning (General Permitted Development) (England) Order 2015 - Schedule 2, Part 3, Class C allows a Class A1 Retail Shop to change its use to a Café/Restaurant for a temporary period of up to 2 years under the Prior Approval procedure provided the floor space is below 150sqm. In this case the floor space which is subject to the change of use to a hot food takeaway (Class A5) with ancillary dining area is below the 150sqm threshold and therefore planning permission would not be required for the temporary change of use of the premises to a restaurant/cafe (Class A3) if the existing lawful use was retail (Class A1). The legislation also provides for the installation of extraction and ventilations units and waste storage and management under the same prior approval notification procedure. Therefore the amount of control that the Council as Local Planning Authority could exert if it was accepted that the existing use was Class A1 would be minimal. Planning Permission would also not be required for the separate retail unit proposed as this would not constitute a change of use so effectively the only control would relate to the elevational alterations proposed.

However, as stated above circumstantial evidence suggests that the site has been in use predominantly as a printers which is a light industrial (Class B1) use and as such the fall-

back position outlined above would not exist in this case as this only relates to retail (Class A1) uses changing to restaurants/café (Class A3) use.

PROPOSAL

The proposal is to change the use of the premises into a hot-food takeaway (Class A5) with an ancillary seating area with a floor area of 125 sqm and a separate retail unit (Class A1) of 72 sqm. The proposal also involves alterations to the front elevation through the installation of new shopfronts. The proposed opening hours of the takeaway element are 11.00 to 23.00 daily according to the application forms submitted, however the accompanying supporting statement states till 2330 daily.

Internally the units would be altered to facilitate the new use with customer area to the front of the store and oven area behind the counter. There would also be a cold store, store room, office and WC's. Externally the existing shop front would be replaced with a new timber framed shop front which would include panes of laminated safety glass. The position of the door to unit 2 would be repositioned to the side and used as the customer entrance/exit.

The extraction duct would run from the oven hood and through the rear elevation wall. It would run upwards and terminate approximately 1.3 metres above the rear elevation eaves. There would be two wall mounted compressors located at the rear elevation of the store, one of which would be used to maintain the temperature of the cold store whilst the other would be used for the air conditioning of the remainder of the unit.

Waste would be stored to the rear of the building and moved to the highway on collection days. Collection of waste would be organised by a private arrangement.

REPRESENTATIONS

Eight letters of objection have been received in relation to the application. The objections relate to the following issues.

- Existing on street parking problems will be exacerbated
- No dedicated parking provided
- Smell and odour
- Noise and Disturbance particularly late at night from customers visiting the premises, car doors opening and closing, engines starting, customers outside on telephones, people congregating outside and talking, delivery vehicles etc;
- Residents already experience early morning disturbance as a result of industry in the area with Lorries parking up overnight and arriving from 4am with the Abattoir commencing work at 5.30am.
- Noise from ventilation and extraction equipment
- Bin storage currently located in the alleyway adjacent residential properties not acceptable to have food waste here as will attract vermin
- Parking on the pedestrian footway is already a problem this will exacerbate the issue to the detriment of pedestrian safety
- Detrimental to highway safety due to increased use of Club Street to undertake U-turn manoeuvres at the junction of Station Road next to the Abattoir access.
- Anti-social behaviour in the adjoining alleyway
- Loss of Privacy
- Description does not reflect restaurant element
- Litter
- Health issues
- Precedent of previous applications for takeaways in the area being refused planning permission

- The elevational alterations proposed are not sympathetic to the architectural vernacular of the building and will be detrimental to the character of the area.
- Not located in town centre
- Central Lancashire Access to Healthy Food SPD (2012) actively discourages consent for takeaways due to obesity concerns.

Reference is also made to need and existing hot food takeaways in the locality. However, this is not a material planning consideration as it is not the role of the planning system to regulate market forces and competition.

CONSULTATION REPLIES

LCC Highways has no objections to the application and is of the opinion that the proposals should have a negligible impact on highway safety and highway capacity within the vicinity of the site.

To the front of the development are two drop kerbs and H bars. As the proposed development indicates that the existing vehicle accesses are to be closed. I would request that the H bars and drop kerbs are removed and the footway is reinstated. This would increase the on street parking provision within the vicinity.

The site is located within in a highly sustainable location and therefore I have no objection to the development not providing any off street car parking.

If you are minded to approve this application LCC highways request the following condition is appended to the decision notice:

No part of the development shall be opened for trading until under an appropriate legal agreement the existing H bars are removed and footway/kerbing of the vehicular crossings are reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads. Reason: To maintain the proper construction of the highway.

Environmental Health

At this time we must object to the submitted application on the grounds of insufficient information being provided to adequately assess the proposed development.

The proposal for a late night take away fish and chip shop and restaurant has the potential to seriously adversely impact on the surrounding residential properties. As such information is required to demonstrate that the development will not result in an adverse impact and the following information is required.

Full details of the extraction system, including termination height, odour control measures to be incorporated and sound emission levels.

Full details of any external refrigeration units, air conditioning/air handling units and the associated noise impact on surrounding properties.

Full details of the waste storage facilities

In addition the internal toilets within the proposed food establish both open directly out onto food areas (store room and counter). Both must be fitted with a lobby area and two doors to be acceptable.

Following the provision of this information a full assessment of the proposal can be made and further comments provided.

Lancashire Constabulary

Within the last 12 month period 10/11/2016-10/11/2017 the crimes that have been record in this policing incident location include burglary, criminal damage and assault. In order to protect this business premise from crimes such as burglary and criminal damage I make the following security recommendations.

Security Recommendations

- A CCTV system should be introduced to the takeaway building. The system should provide coverage of the customer waiting area to show evidence of behaviour of customers inside and immediately outside the building. This measure is essential to assist in identification should an incident occur. The cameras should be located where they will capture the best facial images, so located behind the service counter is likely to be the most appropriate location. The rear doorset should be covered by CCTV. The system must be compatible with the lighting source to capture clear images at all times.
- The service counter should be high and wide to provide protection for staff.
- Doors and windows should be PAS 24 2012 (16) certificated.
- Access to staff only areas should be restricted with an access control arrangement to prevent unauthorised entry and slow an intruder down.
- Glazing should be laminated to deter the risk of burglary and damage, accidental or otherwise.
- An intruder alarm system should be installed. This should be linked to an Alarm Receiving Centre for police deployment on a confirmed activation. Impact sensors should be linked to doors and windows so that the alarm will activate if forced entry is attempted.

MATERIAL CONSIDERATIONS

Policy

The NPPF strongly supports sustainable development in appropriate locations. It expressly states that planning applications should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The area is designated as a built up area in the South Ribble Local Plan Policy Map and as such the proposal conflicts with this designation. Whilst, the site is located on a main road (B6258), the area in which the site is located is predominantly residential in character with a few long established industrial uses interspersed. The premises whilst currently vacant were previously used for many years as a printers (Class B1), with no evidence to suggest that it was open to personal callers on a retail basis as suggested in the application and the existing layout of the ground floor area reinforces this as upon entering through the front door there is a corridor with rooms off on either side.

Policy 10 of the Core Strategy seeks to protect employment premises and sites and states that they will be protected for reuse or redevelopment for B use class employment uses. Where proposals for other uses are received they will be assessed against the following criteria.

- a) There would not be an unacceptable reduction on the type, quality or quantity of employment land supply;
- b) The provision and need for the proposed use;
- c) The relative suitability of the site for employment and for alternative use;
- d) The location of the site and its relationship to other uses;
- e) Whether the ability to accommodate smaller scale requirements would be compromised;
- f) There would be a net improvement in amenity;
- g) Convincing evidence of lack of demand through a rigorous and active 12 month marketing period for employment re-use and employment redevelopment;
- h) An assessment of the viability of employment development including employment re-use and employment redevelopment.

Policy 11 of the Core Strategy states that retail and other town centre uses should focused in defined town centres.

Policy 17 of the Core Strategy and Policy G17 of the South Ribble Local Plan 2012 – 2026 both relate to design consideration in new development and the impact of development in relation to these policies is discussed in more detail later in the report.

Controlling Reuse of Employment Premises Supplementary Planning Document is clear that proposals for retail uses will not be acceptable on former employment sites outside of existing shopping centres. Reference is made in the supporting document to a marketing exercise having being carried out in relation to the premises for a long period. However, no evidence is provided in terms of what form this marketing exercise took or how extensive it was. It therefore fails to satisfy the criteria laid down in the SPD and is therefore considered contrary to provisions of both Policy 10 and 11 of the Central Lancashire Core Strategy.

Residential Amenity

The introduction of a hot food takeaway use in this location is likely to be harmful to the residential amenities of nearby neighbours. The use is likely to result in a significant increase in visitors to the premises both on foot and in vehicles. This is likely to result in much more noise and disturbance to residents in the immediate vicinity than they experienced from the previous use of the premises which was a day time use with few visitors except for employees.

In addition, the late night opening of the premises as proposed till 2330 hours seven days a week is likely to contribute further to the negative impact of the proposed use on nearby resident's amenities through additional late night noise and disturbance, when ambient background noise levels are lower than during the day.

Concerns have been raised about smells and odours emanating from the site and details in relation to the flue, extract and ventilation system have been submitted following on from the initial comments of Environmental Health. The proximity of adjoining residential properties to the site is a concern, but equally the installation of a visually obtrusive flue to counteract the impact of smells and odours in the locality is not something that could be supported either from a design perspective.

The proposal could result in the generation of additional litter in the area. If the proposal were to be approved a condition could be attached requiring the provision of litter bins at the shop. However, typically customers tend to dispose of waste once they have consumed their food and therefore this may be some distance from a litter bins located outside the premises.

Concern has been expressed about the storage of waste emanating from the hot food take away use and in particular foodstuffs. The support statement accompanying the application states that "no goods, equipment or other materials shall be stored or deposited in any open area of the site/premises. Food and packaging waste will be collected to an 1100 litre capacity eurobin located at the side of the property for municipal collection. The applicant would also systemize a litter patrol and collect any refuse outside."

The area to the side of the premises is shared with the adjoining residential property and is situated below bedroom windows. The area has open access to the main road and concern has been expressed by residents in relation to the potential for both anti-social behaviour and noise occurring in this area. Given that that there will invariably be a time lag between the premises closing to allow for cleaning and waste being deposited in the bin there is further potential for late night noise/disturbance directly underneath adjoining bedroom windows after the premises have closed.

The location of the bin also means that it will not be stored in a secure area and there is therefore the potential for this to be left open or opened up by passers-by which in turn could attract vermin.

Having regard to the above the proposal is considered to be contrary to the Policy 17 of the Core Strategy and G17 of the South Ribble Local Plan 2012 – 2026 due to its negative impact on the amenities of the locality.

Parking

A number of objectors have referred to existing parking problems in the locality being exacerbated by the introduction of a hot-food takeaway. The site is situated on the main road and parking bays exist in front of the premises already. It is understood that many people who work in the area park in adjoining residential streets and with the residents not having off street parking provision this means that on street parking is at a premium. The nature of hot-food takeaway custom is that visitor's park up for a short time to buy food and then leave and whilst some may choose to consume food on the premises the majority are likely to be short visits to collect food. With this in mind it is likely that customers will seek to park as close as possible to the premises on the main road.

Lack of parking in the area has been cited by respondents as well as vehicles being parked in an inconsiderate manner on pedestrian footways. Clearly, parking on the public footpath is illegal under S.72 of the Highways Act however it is only usually enforced where it poses a danger to pedestrian or highway safety. Enforcement of this rests with the police and whilst it is difficult to control how drivers park, increased demand for vehicle parking in a locality as a result of a proposal is a material planning consideration.

The County Highway Engineer has commented that the site is in a highly sustainable location and that he is not concerned by the proposal not incorporating any off street car parking. However, the comments did include a request to remove existing H bars across the vehicular crossings and the kerb line to be reinstated which would provide some additional on street parking capacity along this stretch of Station Road.

Design

The proposal includes significant alterations to the front elevation of the existing building at ground floor level by increasing existing window and door opening to create two new shop fronts and removing the existing double timber doors and installing a third new shopfront in their place to create a separate retail unit (Class A1). The proposals involve the installation of three new powder coated aluminium double glazed shop fronts following the opening up existing opening in the primary elevation.

Whilst, the property is neither listed or within a conservation area it does have some local vernacular architectural merit and positively contributes the character of the area. Whilst, the original sash windows to the property have been removed and replaced with double glazed Upvc top openers, the windows are still fitted in the original reveals rather than being flush and therefore the front elevation still retains its original aesthetic more or less. The proposed changes to the frontage will negatively impact on this and therefore have a detrimental impact on the character of both the subject property and the surrounding locality. It is therefore considered that the proposed alterations are unsympathetic to the character of the building and surrounding area which is contrary to Policy 17 of the Core Strategy and G17 of the South Ribble Local Plan 2012 – 2026.

Other matters

One objector has made reference to the Central Lancashire **Access to Healthy Food SPD** and . This is currently under review and not actively being used, due to additional evidence becoming available.

The objection comments relating to the number of hot food takeaways in the Bamber Bridge locality are noted; however competition is not a material planning consideration and therefore can play no part in any decision reached in relation to the acceptability of this proposal.

Several objectors have raised issues in relation to early morning noise/disturbance resulting from Lorries parking up overnight and engines being started and idling early in the morning whilst drivers wait for the Abattoir to open. Whilst, this is not a material consideration in relation to this application it is a concern for residents and the matter has been relayed to County Highways and Environmental Health to investigate further.

RECOMMENDATION:

Refusal.

REASONS FOR REFUSAL:

1. The proposal is contrary to the Policy 17 of the Core Strategy and Policies B1 and G17 of the South Ribble Local Plan 2012 - 2016, in that it would, if permitted, be harmful to the living conditions of nearby residents as a result of odours, noise, nuisance, and general disturbance resulting in a detrimental impact on residential amenity.
2. The proposal would be harmful to the architectural character of the building due to the unsympathetic alterations proposed to the front elevations which are contrary to Policy 17 of the Core Strategy and Policies B1 and G17 of the South Ribble Local Plan 2012 - 2026.
3. The proposal is contrary to Policies 10 and 11 of the Central Lancashire Core Strategy as the site is not within a designated shopping centre and it has not been demonstrated that the site has been rigorously marketed for employment uses.

RELEVANT POLICY

NPPF National Planning Policy Framework

- 10 Employment Premises and Sites (Core Strategy Policy)**
- 11 Retail and Town Centre Uses and Business Based Tourism (Core Strategy Policy)**
- 17 Design of New Buildings (Core Strategy Policy)**

POLB1 Existing Built-Up Areas

POLG17 Design Criteria for New Development

SPD2 Employment Premises (Supplementary Planning Documents)

- 11 Retail and Town Centre Uses and Business Based Tourism (Core Strategy Policy)**

Note:
