

<b>Application Number:</b>	2019/0477	<b>Application Type:</b>	Full
<b>Proposal:</b>	Extension and associated alterations to driving range building (part retrospective), including change of use of the upper floor of the extension to a cafe and change of use of part of the ground floor of the extension to retail of golf equipment.	<b>Location:</b>	Golf Rossendale Driving Range Newchurch Road Rawtenstall BB4 7SN
<b>Report of:</b>	Planning Manager	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	13/02/2020
<b>Applicant:</b>	Mr Bob Killelea	<b>Determination Expiry Date:</b>	10/03/2020
<b>Agent:</b>	Mr Steven Hartley (HPDA)		

<b>Contact Officer:</b>	<b>James Dalglish</b>	<b>Telephone:</b>	<b>01706 238643</b>
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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	<b>Cllr Andrew MacNae</b>  Concern around the application being refused on the basis of the sequential approach and there not being a balancing recognition that a cafe facility is an entirely reasonable addition to an out of town leisure or tourism facility.
<b>3 or more objections received</b>	
<b>Other (please state):</b>	

## 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

Refuse planning permission.

## APPLICATION DETAILS

### 2. SITE

The premises known as 'Golf Rossendale' lie approximately 530 metres north east of the junction of Marl Pits and Newchurch Road on land designated as countryside. Currently the site is occupied by a building (recently enlarged through the implementation of planning approval 2018/0443) which along with adjoining land, is used as a golf driving range.

Vehicular access to the site is gained from Newchurch Road via the same access road that serves Marl Pits Sports Complex. The premises are adjacent to a small garden centre to the immediate south, a rugby pitch to the east with open land to the north and west. Part of the access track is owned by Rossendale Borough Council, however the access lane does not form part of the application site.

### 3. RELEVANT PLANNING HISTORY

**2010/0150** – Golf Driving Range – Approved 02/06/10 and subsequently built. Condition 5 currently prevents the operation of the business outside of the hours of 7am and 10pm on any day of the week with no operations permitted at all outside of the hours of 7am to 10.30pm.

**2018/0443** - Extension to Golf Rossendale Driving Range and Academy – Approved 20/09/18. The permission has been implemented and the extension built out however the fenestration on the building is not in accordance with the approved plans.

**2019/0250** - Extension to Golf Rossendale and Academy including cafe (Class A3) – Withdrawn

### 4. PROPOSAL

Planning permission was granted (ref: 2018/0443) allowing for the addition of a two storey extension to the rear (south west) of the existing driving range building, which has now been constructed, however the extension has not been constructed in accordance with the approved drawings in so far as its fenestration is concerned.

This permission allowed for the provision of additional golfing services including the repair, testing and ancillary retail sales of golfing equipment, the latter occupying a floor area of no more than 200 square metres.

Rather than use for extension for its permitted purpose, the applicant now seeks planning permission to utilise the upper floor of the extension as a café / restaurant (with associated kitchen and bathrooms) at first floor level with the ancillary testing / repair / retail area largely relocated to the ground floor. The submitted plans suggest that the café would be able to accommodate around 64 people at any one time.

The application also includes changes to the building itself, including altered fenestration on the south west elevation to allow for the installation of seven wide windows at first floor level to serve the café / restaurant (which have already been installed), the installation of four windows on the south east elevation to serve an internal staircase and the installation of two extractor grilles on the north west elevation to serve the proposed kitchen.

The proposed plans show that the café / restaurant would be accessed either internally from within the driving range, or through a new ramped entrance on the south east elevation of the building, above which would be three downlights and space for signage advertising the restaurant (the plans show indicative signage saying '*Entrance to the Driving Range Restaurant*'). Any final signage would however be subject to a separate application for advertisement consent if necessary.

Following withdrawal of a similar application (2019/0250) which had an objection from the Local Highway Authority, and concern from officers over the application's compliance with Retail and Town Centre Policy, the application has been re-submitted together with a sequential assessment and a parking survey report.

## **5. POLICY CONTEXT**

### **Policy Considerations**

#### **National**

##### **National Planning Policy Framework**

- Section 2 Achieving Sustainable Development
- Section 6 Building a strong, competitive economy
- Section 7 Ensuring the Vitality of Town Centres
- Section 9 Promoting Sustainable Transport
- Section 12 Achieving Well Designed Places
- Section 15 Conserving and Enhancing the Natural Environment

#### **Development Plan Policies**

##### **Rossendale Core Strategy DPD**

- Policy 1 General Development Locations and Principles
- Policy 11 Retail and Other Town Centre Uses
- Policy 14 Tourism
- Policy 18 Biodiversity, Geodiversity and Landscape Conservation
- Policy 21 Supporting the Rural Economy and its Communities
- Policy 23 Promoting High Quality Design and Spaces

### **Other Material Planning Considerations**

National Planning Practice Guidance

National Design Guide

RBC Emerging Local Plan

## **6. CONSULTATION RESPONSES**

Cadent	No comments have been received
RBC Operations	No comments have been received
RBC Property Services	No comments have been received
United Utilities	No comments have been received
RBC Forward Planning	Objection
LCC Highways	No objection
RBC Environmental Health	No comments to make on the application

## **7. REPRESENTATIONS**

In order to publicise the application a site notice was posted on 22/01/2020 and neighbour letters were sent out on 16/01/2020. The application was also available for viewing on the Council's website.

No objections or representations have been received from members of the public.

## **8. ASSESSMENT**

The main issues for consideration in this instance are:-

- a) Principle
- b) Visual Amenity
- c) Neighbour Amenity
- d) Access, Parking and Highway Safety

### **Principle**

The application site is located in an area defined as countryside, approximately 1.2km by road to the north east of Rawtenstall town centre.

The submitted documentation states that in addition to visitors to the driving range the café is intended to be used by visitors to the adjoining garden centre and players/spectators using the adjoining playing fields.

However, given the size of the proposed café (64 covers, 231m<sup>2</sup> floor space) it is considered that there is a likelihood of the café becoming an attraction / customer destination in its own right,

rather than serving only existing customers of the driving range, adjacent garden centre and spectators at the playing fields. The café would be considerably larger than several cafés located within Rawtenstall Town Centre.

The Framework defines cafés and restaurants as a 'main town centre use'. The application site is neither within a town centre, nor is it located at the edge of a town centre, nor is it an 'out of centre' site; it is an 'out of town' location owing to its position outside the urban area. Although located off Newchurch Road (along which public bus services run), the site is located around 600m along an inclined single track lane without sealed footways and without street lighting for much of its length. As such, the site is not considered to be particularly accessible by public transport / walking.

In this respect, paragraph 86 of the Framework states:

*“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”*

Paragraph 87 states:

*“When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.”*

Paragraph 90 states:

*“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.”*

Policy 11 of the Core Strategy states:

*“Retail development, together with other town centre uses, including offices, leisure, arts, culture and tourist facilities, will be focused within the defined town and local centres.”*

The reasoning behind the approach set out in the Framework and in Policy 11 of the Core Strategy is to protect and enhance the viability and vitality of town centre economies by focusing 'town centre uses' within such areas. In the absence of such policies, there would be a risk of developments outside town centres contributing to economic stagnation within town centres due to shops, cafés, restaurants, etc. being located elsewhere and drawing customers away from such centres.

The issue could potentially be compounded by opportunities for linked trips to other town centre businesses (for example calling at town centre shops whilst visiting a café within the town centre) being missed if visitors were travelling instead to other more remote sites outside the town centre; indeed outside the urban area – potentially avoiding the town centre altogether.

In the case of this application, the applicant has submitted a sequential assessment document and claims that no other sites within the town centre (or on the edge of the town centre) are suitable for the proposed development.

However, the submitted document does not consider the availability of potentially suitable town centre sites for the proposed café / restaurant in sufficient detail, and does not include any detailed analysis of the availability of town centre / edge of centre sites.

The submitted assessment fails to demonstrate that there are no sequentially preferable town centre (or edge of town centre) sites available for the proposed café / restaurant, contrary to paragraph 90 of the Framework.

Part of the applicant's argument for locating the proposed café / restaurant at Golf Rossendale is that it necessarily has to be located there, as it is intended to serve customers to the applicant's existing business on site. However, given the size of the proposed café / restaurant officers do not consider that its role would be limited as such.

In any case, Planning Practice Guidance advises that:

*“Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification will need to be provided where this is the case, and land ownership does not provide such a justification.”*

The applicant also contends that the proposed café / restaurant would be 'small scale rural development' (paragraph 88 of the Framework states that the "...*sequential approach should not be applied to applications for small scale rural offices or other small scale rural development*").

However, again considering the size of the proposed café / restaurant officers do not consider that the proposal represents small scale rural development. The proposed restaurant / café would have capacity for at least 64 covers which is a very sizeable amount of floor space for such a development. It is not considered that the restaurant / café would be in any way ancillary to the existing driving range business – the driving range has only 24 bays (compared to 64 covers at the restaurant / café).

Having regard to all of the above, it is considered that the requirement within the Framework for a sequential assessment applies directly to the proposed scheme, and that the submitted application has failed to satisfy the requirements of the Framework in this regard. Paragraph 90 of the Framework advises therefore that the application should therefore be refused.

Separately, it is contended by the applicant's agent that the existing ancillary retail floor space within the building could be changed to a café without the need for planning permission (following the prior approval procedure).

However, officers consider that the prior approval procedure that allows for the change of use of retail premises to cafes/restaurants, namely Class C, Part Three of Schedule Two of the GPDO, does not apply in this instance.

This is because:

- i) The existing building is not wholly in retail use with the benefit of planning permission. It merely includes a small ancillary retail element that is ancillary to the main use of the premises as a driving range. In any case, the approval of planning permission (ref: 2018/0443) for the extension to the driving range (which included some space for display of golf equipment for ancillary retail) has not been implemented in accordance with the approved plans and as such may not be lawful in any event.
- ii) The building has an overall floor area of more than 150 square metres, which provides further grounds for the proposal to not qualify for the aforementioned change of use under permitted development.

In view of this it is considered that this cannot be used as a 'fall back' position by the applicant.

The Council's Town Centre, Retail, Leisure and Tourism Study (2017) provides further evidence to support the case for ensuring that main town centre uses are located within Rawtenstall town centre, rather than in more remote locations which could potentially negatively affect the viability and vitality of the town centre.

In relation to Rawtenstall Town Centre (and particularly the leisure sector of its economy), the study states in section 5.26 that:

*"The Use Class A3, A4 and A5 food and drink ('leisure service') sector comprises restaurants and cafes, drinking establishments and hot food takeaway units, but excludes other types of leisure outlets such as cinemas, sports centres and bingo halls. Table 5.2 highlights that, in terms of both proportion of floorspace (11.2%) and number of units (16.7%), Rawtenstall falls well below the national average for the provision of leisure service uses. Whilst three small cafes were identified along Bank Street for day time customers, the centre's evening economy appears to be particularly lacking, with only three Class A3 restaurants identified in the town centre boundary and four public houses / bars. The majority of the centre's Class A4 ('drinking establishment') uses and Class A5 ('take away') uses are concentrated along Bacup Road towards the southern end of the centre. The fact that a number of the vacant units along this stretch are former drinking establishments provides further evidence that the centre's evening economy leisure offer is in need of improvement."*

In conclusion, the application proposes a main town centre use in an area of countryside that is:

- Not within a town centre; and
- Not on the edge of a town centre; and
- Not in a particularly accessible location connected to the town centre

The application fails to demonstrate that there are no alternative suitable sites for the development within the town centre or on the edge of the town centre. There is potential for the proposed development to cause harm to the viability and vitality of Rawtenstall Town Centre by virtue of the provision of a substantial new café / restaurant in an out-of-town location. The development is likely to attract significant numbers of visitors in its own right, reducing the likelihood of visits to the town centre and associated linked trips to other town centre businesses.

As such, in line with paragraph 90 of the Framework the application should be refused. In addition, the proposed scheme is contrary to the aims of Policy 11 of the Core Strategy DPD. The Council's Forward Planning team has also objected to the application on the above basis.

The proposed development is unacceptable in principle.

### **Visual Amenity**

The extension as now proposed would not differ significantly in scale to that previously approved (under 2018/0443). Its fenestration would differ however, particularly at first floor level where fewer but much wider windows are now proposed (and have been constructed) than the row of more numerous smaller windows previously approved.

It is considered that, in pure scale terms, the development's impact on its surrounding area will not be significantly greater than it would have been had it been constructed as previously approved.

The development will also be similar in design and appearance to the former development, utilising matching green cladding. With this in mind it is contended that there would be no reasonable grounds for opposing the proposal on design grounds either.

Having regard to the above it is considered that the development will be of an appropriate design and scale for this locality, and will not harm its open rural character. As such it will reasonably accord with the requirements of Section 12 of the Framework and Policies 1, 18, 23 and 24 of the Core Strategy in this regard.

### **Neighbour Amenity**

The structure will not adversely affect the level of light currently received by, or unacceptably overlook any separately owned neighbouring property. It will stand over 100 metres from the nearest of these (Meadowhead Lodge which lies to the north).

The new café element will be quite substantial incorporating 64 covers. A development of this scale, coupled with the associated vehicular movements, could therefore potentially give rise to undue noise and/or odour. However, as the premises are largely located away from residential properties, and as the access serving the development largely passes through the Marl Pits Sports Complex, it is not envisaged that noise and /or odour generated will unduly disturb surrounding local residents.

The proposal has been assessed by the Council's Environmental Health Officer, who has not objected.

The development is considered acceptable in terms of neighbour amenity.

### **Access, Parking and Highway Safety**

The Local Highway Authority has commented as follows on the proposed development:

*"The proposal is for the inclusion of retail and café facility within the existing golf driving range facilities. My initial concerns were that the cafe element of the proposal could under the right conditions (recommendations, Trip Advisor, etc.) become a popular stand-alone destination resulting in a car parking demand over and above that which would be expected if the facility were to be ancillary to the existing driving range and nursery uses. The applicant has provided additional parking survey data which indicates that the peak demand is during a weekday. There is no indication of when the survey was carried out and I would expect that the parking demand would be higher in spring / summer months. In addition the possibility of visits with a combined purpose has been considered and a figure of 10% has been applied to a combination of nursery / café trips. Whilst this is considered low there is no basis to suggest an alternative assumption.*

*On balance, although there are some concerns that the data presented may not be representative of the seasonal peaks that are to be expected, based on the location of the site and its remoteness to the highway network, I would raise no objection to the proposal on highway grounds."*

Whilst the Local Highway Authority has not objected to the proposed development, as the development does not affect the local highway network (the development is accessed via an RBC-owned road) officers remain concerned that the size of the proposed café / restaurant means that it could potentially attract large numbers of visitors (many of which would travel by car). The private access lane leading to the site is narrow, and although it contains several passing places it is not ideal for large volumes of vehicular traffic. On days when football and rugby matches are



being played at the nearby sports facilities at Marl Pits the lane can already be congested and often cars are parked in obstructive positions. In addition, on such days large amounts of pedestrians use the lane and the associated walkway to access the playing fields.

Paragraph 108 of the Framework requires that applications for new developments ensure that *“safe and suitable access to the site can be achieved for all users”*.

There is concern that the existing access infrastructure cannot accommodate a café / restaurant of the size proposed – as it is likely to result in a significant number of new vehicular trips along the access road, adding (particularly on rugby / football match days) to an already large amount of traffic using the access. As such, based on officers’ knowledge of the site, it is considered that there would be an increased likelihood of congestion and conflict with other (vehicular and pedestrian) users of the access owing to the development.

As such, the development is considered unacceptable in terms of access and highway safety, contrary to the Framework and Policies 1 and 9 of the Core Strategy.

## **9. REASONS FOR REFUSAL**

1. The application proposes a main town centre use in an out-of-town location in the countryside, and has failed to demonstrate that there are no alternative suitable sites for the development within the town centre or on the edge of the town centre. The development would cause harm to the viability and vitality of Rawtenstall town centre by virtue of the provision of a substantial new café / restaurant in an out-of-town location. As such, the development conflicts with Section 7 of the National Planning Policy Framework and Policy 11 of the Core Strategy DPD.

2. The development would generate a significant amount of vehicular trips along the narrow access lane that serves the site, along with an increase in pedestrian trips from the existing sports clubs. Having regard to the existing vehicular and pedestrian traffic situation on rugby and football match days on the wider Marl Pits site, it is considered that the existing access lane is inadequate to serve the proposed development safely in times of peak demand. The development would therefore cause harm to highway and pedestrian safety. As such, the development conflicts with Section 9 of the National Planning Policy Framework and Policies 1 and 9 of the Core Strategy DPD.

## **10. INFORMATIVES**

1. Standard refusal informative.