

Application No: 2006/471	Application Type: Full Change of Use
Proposal: Change of Use from Dwelling to Hot Food Take Away	Location: 16 Back Lane, Rawtenstall
Report of: Team Manager Development Control.	Status: For Publication
Report to: Development Control Committee	Date:
Applicant: Mr M Ali	Determination Expiry Date: 19 October 2006

REASON FOR REPORTING **Tick Box**

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:
Reason for Call-In:

3 or more objections received **X**

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.

APPLICATION DETAILS

1. The Proposal and the Site

The applicant seeks consent to change the use of this unit from a dwelling to a hot food take away within use class A5. The property is one of a pair and is located on Back Lane which is a small one way street adjoining Bank Street and Newchurch Road in Rawtenstall. It is proposed that there will be up to five people employed by the business and between 15 – 30 cars visiting the premises between the opening hours of 5pm to midnight. There is a public car park in close proximity to the site. The proposal site is within the Urban Boundary and the Town Centre Conservation Area.

2. Relevant Planning History

None

3. Policy Context

Rossendale District Local Plan

Policy DS.1 (Urban Boundary)

Policy DC.1 (Development Criteria)

Policy S.4 (Hot Food Shops)

Policy HP.1 (Conservation Areas)

Joint Lancashire Structure Plan

Policy 1 (General Policy)

Policy 21 Lancashire's Natural and Man- Made Heritage

Other Material Planning Considerations

Planning Policy Statement 6 (Town Centres)

Joint Lancashire Maximum Car Parking Standards (Adopted 2005)

4. CONSULTATIONS

LCC(Highways)

No Objections.

RBC Environmental Health

Recommendations:

- Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme (which shall incorporate grease and carbon filters and discharge at roof level) to be submitted to and approved in writing by the Local Planning Authority before the use is commenced. The approved scheme shall be fully implemented before the permitted use is first commenced and shall be maintained in efficient working order thereafter.
- A suitable bin storage area shall be provided within the curtilage of the building.

5. REPRESENTATIONS

Five letters of objections were received. The following issues were raised:

- Inappropriate use due to the close proximity to residential properties
- Potential for increased litter in the area
- Increased risk of anti-social behaviour
- Issues of disabled persons access due to the access being via steep steps
- Adequate provision of this type of business within Rawtenstall
- Parking provision
- Location of the site within a Conservation Area
- Loss of residential amenity
- Issues of noise and smell
- Loss of value to property nearby

6. ASSESSMENT

Principle

With regard to the principle of the development it is considered that this would not be a location which is unacceptable or unsuitable for a development such as this. Planning Policy Statement 6 states that development should promote and enhance existing centres, by focussing development in such centres and encouraging a wide range of services in a good environment.

Para 1.6 of PPS 6 requires that development should be focussed in, and plan for expansion of existing centres. Planning Policy Statement 6 requires that a sequential approach is taken to where development is located, with preference being given to town centre locations first. As this unit is within the Town Centre boundary it is therefore considered under the terms of PPS 6 to be an acceptable location and use for the site.

The site is located within the Urban Boundary and therefore the development would be in accordance with Policy DS.1 of the Rossendale District Local Plan. The site is also a Conservation Area and therefore the application should be judged against the criteria of Policy HP.1 of The Rossendale District Local Plan. Policy HP.1 requires that applications for development within Conservation Areas be assessed against a number of criteria, however these criteria generally relate to the appearance of the development within the Conservation Area. As there are no external alterations proposed for the development it is unlikely that there will be any adverse effect upon the character of the Conservation Area.

Residential Amenity

The neighbour objection on the grounds of residential amenity is acknowledged however it is considered that the development would have no additional impact than that which already exists in the immediate area, it being a town centre. To further reduce the impact upon residential amenity conditions could be added to manage the extraction of fumes and the storage and safe removal of refuse from the site.

Traffic/Parking

Although it is recognised that the road upon which the property is located is both narrow and one way there are public car parks either in close proximity or almost adjacent to the premises. Additionally there were no objections from the Highways Department.

Noise and Smell

It is considered that the noise and smell issue raised by some objectors could be adequately managed by condition requiring adequate extraction and emission at roof level and restriction of opening hours.

The issue of loss of value to property is a non-material planning consideration and therefore cannot be taken into account when considering the proposal.

7. CONCLUSION

The proposal site is within the Urban Boundary and therefore the development would be in accordance with Policy DS.1 of The Rossendale District Local Plan. It is considered that by its nature and location that the development would be in accordance with Planning Policy Statement 6 which is underpinned by the need to take a sequential approach giving priority to this type of development in town centre locations as opposed to out of town locations. It is considered that with adequate conditions, the use of the building as a hot food takeaway would not be incongruous to the local area and that there would be no significant impact upon residential amenity. Therefore the development is considered to be in accordance with Policy DC.1 of The Rossendale District Local Plan.

8. RECOMMENDATION

That the application is approved with the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.(Reason: Required by section 51 of the Planning and Compulsory Purchase Act 2004.)
2. The proposed A5 (Hot food take-away) use shall not be open for business except between 12 midday and 11pm Sunday to Thursday (inclusive) and 12 Midday and 12 Midnight on Fridays and Saturdays (Reason: In the interests of residential amenity and to accord with Policy DC.1 of The Rossendale District Local Plan)
3. Prior to the first use of the unit as a Hot Food Take Away a bin store shall be provided within the curtilage of the site. Details of the location of this store shall be provided to and approved in writing by the Local Planning Authority and shall be maintained according to the approved details for as long as the use remains thereafter. (Reason: To reduce the risk of litter from the proposed use and to protect the amenities of the surrounding area.)
4. Prior to the first use as a hot food takeaway details of refuse storage and collection shall first be submitted to and approved in writing by the Local Planning Authority. (In the interests of the amenities of the local area and to accord with Policy DC.1 of The Rossendale District Local Plan.)
5. Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme (which shall incorporate grease and carbon filters and discharge at roof level) to be submitted to and approved in writing by the Local Planning Authority before the use is commenced. The approved scheme shall be fully implemented before the permitted use is first commenced and shall be maintained in efficient working order thereafter.

Contact Officer	
Name	Natalie Blackhurst
Position	Planning Assistant
Service / Team	Development Control
Telephone	01706 217777
Email address	planning@rossendalebc.gov.uk

