

**TITLE:** 2005/155 – CHANGE OF USE FROM RESIDENTIAL TO RETAIL SHOP (Use Class A1) AND THE INSTALLATION OF A NEW SHOP FRONT TOGETHER WITH THE INSTALLATION OF A ROLLER SHUTTER AT 22 NEWCHURCH ROAD, RAWTENSTALL ROSSENDALE

**TO/ON:** DEVELOPMENT CONTROL COMMITTEE 21<sup>st</sup> JUNE 2005

**BY:** TEAM MANAGER - DEVELOPMENT CONTROL

**APPLICANT: MR A SHAHID**

**DETERMINATION EXPIRY DATE: 9 MAY 2005**

### **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.

### **Site and Proposal**

This proposal seeks consent to change the use of a mid terraced property from residential to a retail shop to be used as a grocery store and includes the installation of a new shop front and a roller shutter. The property lies within the Town Centre boundary and within the Rawtenstall Town Centre Conservation Area.

### **Consultation Responses**

Environment Directorate (Highways) – No objection  
Environmental Health Officer – Recommends conditional control

### **Notification Responses**

Site notices were posted. Three letters of representation and a petition bearing 29 names have been received which make the following summarised points:

- Loss of privacy and potential noise nuisance
- Existing vacant properties in the vicinity
- Loss of trade to existing retail facilities
- Lack of parking facilities
- Notification procedure

## **Development Plan Policies**

The following policies are considered relevant:

### **Rossendale District Local Plan**

Policy DS1 – *“The Council will seek to locate most new development within a defined urban boundary - the urban boundary - and will resist development beyond it unless it complies with policies DS.3 and DS.5. The urban boundary is indicated on the proposals map”.*

Policy DC1 – *“The Council aims to ensure that all new development is in accordance with the objectives and policies set out in the district plan. In general, all development proposals will be expected to provide a high standard of building and landscape design, to contribute to environmental quality, and not to be detrimental to existing conditions in the surrounding area. After taking into account any likely future extension, developments should not take more land than is reasonably necessary, nor should they prejudice the future development of any wider area. All applications for planning permission will be considered on the basis of the following criteria: location and nature of proposed development including its relationship to existing and other proposed land uses size and intensity of proposed development c) relationship to existing services and community facilities relationship to road and public transport network likely scale and type of traffic generation likely level of air, water and other environmental pollution including noise nuisance and the possible creation of any risk or hazard to surrounding land uses likely effect on existing trees and other natural features of the development site arrangements for servicing and access to proposed development including access for pedestrians, disabled people and emergency services car parking provision sunlighting, daylighting and privacy provided density, layout and relationship between buildings visual appearance and relation to surroundings landscaping and open space provision the needs of watercourses the impact upon man-made or other features of local importance”*

Policy DC 4 (Materials) of the Rossendale District Local Plan states that *“local natural stone (or an alternative acceptable natural substitute which matches as closely as possible the colour, texture, general appearance and weathering characteristics of local natural stone) will normally be required for all new development in selected areas. Within those areas roofs shall normally be clad in natural stone slab or welsh blue slate, or in appropriate cases, with good quality substitute slates”.*

Policy T.4 (Car parking) states that *“Development proposals will be required to provide, normally within the curtilage of the development, sufficient space to meet both operational and non operational parking requirements”.*

Policy S.5 (Convenience Shops) *Planning permission for small scale convenience local shopping facilities will normally be granted providing there are no adverse*

*highway implications the nature and scale of such facilities would not have an adverse effect upon residential amenity.*

Policy S6 (Shop Fronts) of the Rossendale District Local Plan states that “*The Council will encourage and promote the improvement, restoration and refurbishment or enhancement of shops and shop fronts within principal shopping frontages throughout the Borough, the prime aim being to restore and enhance traditional shop frontages*”

The principal issue for consideration is whether the proposal is acceptable in policy terms.

The property is located within the urban boundary and is therefore acceptable in terms of Policies DS1 and Policies DC 1.

The County Highways Officer has responded raising no objections to the proposal on highway safety grounds and a site visit revealed that the site is opposite a public car park. Policies 1a and 1b of the Adopted Joint Lancashire Structure Plan 2001-2016 are met in terms of the provision of acceptable uses within the application property and an alternative sustainable means is available together with localised car parking.

The Council’s Environmental Health Officer has recommended conditional control relating to the means of extraction and also for measures for sound insulation of odour control equipment.

The proposal involves the erection of roller shutters to the front elevation which would be hidden in part behind new signage which would be the subject of a separate application for advertisement consent. The shutters would be finished in brown to match the frontage and be of a horizontal slatted design.

In relation to the points raised:

- Loss of privacy and potential noise nuisance
- Existing vacant properties in the vicinity
- Loss of trade to existing retail facilities
- Lack of parking facilities
- Notification procedure

A site visit revealed that the application site is a mid terraced property and a mixture of uses exist. It is considered that the existing conditions would not be exacerbated by this proposal if approved. Potential noise nuisance can be monitored by the Council’s Environmental Health officers.

The fact that there may be existing vacant property does not suggest that the Local Planning Authority can direct applicants to these premises, rather it has a duty to determine applications made to it. Further, competition is not a material planning consideration and cannot be taken into account.

In relation to the concerns over lack of parking facilities, a traffic regulation order exists on Newchurch Road preventing parking on the highway and an existing public car park is in the immediate vicinity. It is considered that these facilities are more than adequate.

The Council's procedures for notifying residents of developments of this type is to undertake the posting of site notices alerting local residents to this proposal.

### **Summary of Reasons for Conditional Approval to Appear on Decision Notice**

The proposed development would not have a significantly adverse effect upon the amenity of neighbouring residents and subject to conditional control would not look out of place within the locality, thereby according with Policy DC1 of the Rossendale District Local Plan. The proposed development is in a sustainable location and is within walking distance of a town centre car park.

### **Recommendation**

That planning permission is granted subject to the following conditions:

### **Conditions**

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990.
2. All the external materials and finishes to be used on the shop front and shutters of the proposed development shall be submitted to and approved in writing prior to the commencement of development. Reason: To ensure that the materials are in keeping with those existing and to accord with Policy DC4 of the Rossendale District Local Plan.
3. The use which is the subject of this permission shall only be carried out between the hours of 9am – 7pm Monday to Sunday. Reason: In the interests of residential amenity and to accord with Policy DC1 of the Rossendale District Local Plan.
4. No development shall take place until a scheme for the means of extraction of fumes, vapours and odours shall be submitted to the Local Planning Authority and thereafter approved in writing. The scheme shall include details of extraction and discharge from the premises and include details of grease and carbon filters. The point of discharge shall be at roof ridge level and include an internal stack and shall be maintained thereafter to the satisfaction of the Local Planning Authority.  
Reason: In the interests of residential amenity and to accord with Policy DC1 of the Rossendale District Local Plan.
5. No development shall take place until a scheme for the sound insulation of odour control equipment referred to in the condition set out above shall be submitted to the Local Planning Authority and thereafter approved in writing.
6. No development shall commence until all sound insulation works have been carried out to the satisfaction of the Local Planning Authority . The sound insulation works shall be maintained thereafter to the satisfaction of the Local Planning Authority. Reason: In the interests of residential amenity and to accord with Policy DC1 of the Rossendale District Local Plan.

**Background Documents**

Rossendale District Local Plan (Adopted April 1995)