

Application No: 2007/020

Application Type: Full

Proposal: Change of use from Class A1 (Shop) to Class A5 (Hot food takeaway), with retention of 2 flats

Location: 87/89 Lower Deardengate, Haslingden

Report of: Head of Planning, Legal and Democratic Services

Status: For Publication

Report to: Development Control Committee

Date: 6 March 2007

Applicant: Mr M Thorniley

Determination Expiry Date: 29 March 2007

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

Yes

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 property is a double shop unit on a main street within Haslingden Town Centre. It is within a row that also contains a sandwich shop, accountant, newsagent and British Legion Club. There are 2 flats above/behind the shop, which are tenanted, and in the

same ownership as the shop. There is time-limited parking on the street and a small car park diagonally opposite.

It is proposed to use the ground floor shop area of the property as a fast food takeaway, with associated eating area, with the 2 flats retained above/behind. It is not intended that the shopfront be altered. The intended opening hours are 11.30 to 2.00 pm and 4.00 pm to 10.30 pm daily.

2. RELEVANT PLANNING HISTORY

None recorded.

3. POLICY CONTEXT

Rossendale District Local Plan

DS1- Urban Boundary

S4 – Hot Food Shops

Other Planning Considerations

PPS6

LCC Parking Standards

4. CONSULTATIONS

Lancs CC (Highways)

No objection.

RBC Environmental Health

It has no objection in principle, subject to conditions to ensure submission of details of the ventilation/fume extraction system to be installed, the facilities to be provided for storage/disposal of waste and for the sound-proofing of party-walls with residential properties.

5. REPRESENTATIONS

Neighbours have been notified and the application advertised on site. Four objections have been received.

The occupiers of the 2 flats above/behind the shop object to the application. They do so for the following main reasons :

- Their flats are not adequately partitioned-off from the shop. As a consequence they are concerned about fumes, late night noise and fire safety.
- There is no direct access from the shop to the rear. As a consequence they are concerned about where rubbish will be put.
- There are already problems with litter and noise and fighting from the adjacent public house without encouraging more people to congregate.
- Their meters are in the shop.

The British Legion Club are concerned about the number of takeaways in Haslingden, causing problems with youths, smells, rubbish, noise, traffic and parking. The proposed takeaway would create additional problems for them, including blocking of the pavement and restriction of access to the Club for elderly members.

Councillor Gladys Sandiford expresses strong objection to any more hot food takeaways in the centre of Haslingden. They are dead/shuttered-up during the day and there are already problems with rubbish, noise and loutish behaviour (contributed to by late licenses for pubs and the large numbers of taxis).

An objection has been received from the neighbour at 91/91a Deardengate and there is a petition with 26 signatures from nearby residents who are concerned about noise, smells, litter, late night rowdies, disturbance and damage. They think there are enough takeaways and food shops in Haslingden.

6. The Applicants Response

In response to the above objections the Applicant advises that :

He has spoken to his tenants about their concerns and proposes to up-grade the property and will soundproof/fireproof the walls, floors and ceilings shared with the 2 flats.

An extract flue will be provided, routed through the cellar and up the rear wall of the building and a drawing has been provided.

A toilet for customers will be provided.

Access to the rear is available through the cellar, space within the cellar and to its rear available for waste storage. The tenant is joining the recycling programme.

He does not consider the proposed use will encourage youths to congregate.

The proposal will bring back into use an empty shop in a town affected by the opening of Tesco.

7. ASSESSMENT

The application needs to be assessed in relation to the criteria of Policy S4 of the Rossendale District Local Plan, which reads as follows:-

“Applications for food shops will be judged in terms of their acceptability by reference to existing provision, environmental impact and neighbourliness, and having regard to the following criteria:-

- a) that the proposed use or development should not be situated within an area, terrace or frontage of shop properties which are presently predominantly within the A1 shop classification of the schedule to Town and Country Planning (Use Classes) Order 1987;*
- b) that the proposed use or development would not have any material or significantly detrimental effect upon the environment of the locality;*
- c) that the proposed use or development would not cause demonstrable harm to other interests of acknowledged importance, including the amenities of occupiers of dwellinghouses or flats in the town centre, shopping or residential locality, and highway safety.”*

Haslingden already has a significant number of takeaways in the Town Centre but, having regard to the Government guidance contained in PPS6 (issued in 2005), there is nothing in the policy which would prevent the granting of planning permission on the grounds that there are too many in the town.

The proposed change of use would not be contrary to criterion a of the policy as the property is not within a frontage containing primarily A1 shops.

The use would not have a materially detrimental effect upon the environment of the locality (criterion b). The application site lies within that area identified by the Rossendale District Local Plan as being Haslingden Town Centre. It fronts a main road, with properties generating evening activity in the immediate vicinity (the British Legion 3 doors to the north and a public house 3 doors to its south). The applicant advises that the proposed tenant is to relocate from a hot-food takeaway in nearby premises. The proposed takeaway would similarly be open in the day time, with relatively early closing at night. An appropriate hours condition is recommended reflecting this.

The use would not cause demonstrable harm to the occupiers of the 2 flats subject to conditions to ensure submission of details of the ventilation/fume extraction system to be installed, the facilities to be provided for storage/disposal of waste and for the sound-proofing/fire-proofing of party-walls with residential properties. provided that the shop is adequately separated off.

The Highway Authority has raised no objection to the proposal.

7. SUMMARY REASONS FOR APPROVAL

The proposed change of use from a shop to a takeaway would not cause significant harm to the character of the area, nor significantly affect the amenities of neighbours or highway safety. The proposal would comply with Policy S4 – Hot Food Shops of the adopted Rossendale District Local Plan.

8. RECOMMENDATION

The permission be granted subject to 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 to be imposed by Section 91 of the Town & Country Planning Act 1990.

2. The premises shall not be open for business outside the hours of 8.00 am to 10.30 pm daily.

Reason : To safeguard the amenities of occupiers of nearby residential accommodation, in accordance with Policy S4 of the adopted Rossendale District Local Plan.

3. Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority before any works of conversion to the hot food takeaway are commenced. The scheme shall include details of the attenuation and mounting of the extraction unit to minimize the transmission of air

borne and structure borne noise and vibration. The system shall be installed in accordance with the approved details prior to the commencement of the use of the premises hereby permitted and retained in operation at all times thereafter.

Reason : To safeguard the amenities of occupiers of nearby residential accommodation, in accordance with Policy S4 of the adopted Rossendale District Local Plan.

4. Party walls, floors and ceilings of the proposed hot food takeaway with residential accommodation shall be upgraded in accordance with a scheme of soundproofing/fireproofing submitted to and agreed in writing by the Local Planning Authority before any works of conversion to the hot food takeaway are commenced. The approved scheme shall be implemented to the written satisfaction of the Local Planning Authority before use as a hot food takeaway commences.

Reason :To safeguard the amenities of occupiers of nearby residential accommodation, in accordance with Policy S4 of the adopted Rossendale District Local Plan.

5. Before any works of conversion to the hot food takeaway are commenced details of the system to be operated/facilities to be made available at the premises for the storage/disposal of waste shall be submitted to and agreed in writing by the Local Planning Authority. The approved facilities shall be installed prior to the commencement of the use of the premises hereby permitted and retained in operation at all times thereafter. *Reason :To safeguard the amenities of occupiers of nearby residential accommodation, in accordance with Policy S4 of the adopted Rossendale District Local Plan.*

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