

Application No: 2007/099

Application Type: Change of Use

Proposal: Change of use – former car showroom to one fast food takeaway and 2 no. restaurants with bars

Location: Former Car Showroom, Bacup Road, Waterfoot, Rossendale BB4 9AA

Report of: Development Control Manager

Status: For Publication

Report to: Development Control Committee

Date: 22nd May 2007

Applicant: Pendle City Park Ltd

Determination Expiry Date:
21st June 2007

Agent: N/A

REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:

Reason for Call-In:

More than 3 objections received

Other (please state) Major Application

1 Site and Proposal

1.1 This application relates to a former car sales premises on Bacup Road. The site currently comprises of two units. The larger of the units is located to the south and west of the site and was last used for car sales. In front of the building is an area of hard standing and car parking. To the east of the site is a smaller detached unit. Whilst single storey in appearance the main building has two internal floor levels due to a significant change in levels to the rear of the site.

1.2 This proposal seeks to change the use of the former car sales (larger unit) to provide two restaurants (class A3) with the smaller detached unit proposed as a fast food take away (class A5). The applicant has indicated that the existing external car sales and car parking area would be used to provide car parking for the proposal. A total of 54 car parking spaces are indicated.

- 1.3 The proposal does not seek to alter the external appearance of the smaller building at this stage. The elevation of the larger unit facing Bacup Road would include the insertion of two new windows that would match the size, style and position of the existing windows in this elevation. The windows would replace the existing vehicular entrance into this unit. The proposal does not seek to increase the floor area from that of the existing buildings.
- 1.4 There are commercial premises adjoining the site. However, the surrounding area is predominantly residential in character.
- 1.5 There are currently three vehicular access point to the site from Bacup Road. Two of which provided access to the former car park with the third providing servicing to the rear service yard. This proposal would retain each of the access point for the purpose outlined above.

2 Relevant Planning History

- 2.1 None relevant.

3 Notification Responses

- 3.1 I have received 97 objections in response to the application publicity. I have summarised the main issues below:
 - Increase in traffic to the area
 - Parking
 - Road safety
 - Taxis – disturbance
 - Noise Nuisance
 - Smell
 - Anti Social Behaviour
 - Litter

4 Consultation Responses

4.1 County Highways

- 4.1.1 No objection in principle although additional information which they have requested has not been provided given the speculative nature of the proposal.

4.2 Environmental Health

- 4.2.1 Environmental Health has objected to the proposal. They consider that insufficient information has been submitted with the application to assess the impact on to occupiers of nearby residential properties.

4.3 Environment Agency

- 4.3.1 Objects to the proposal in its current form because it has been submitted without a flood risk assessment (FRA), contrary to the requirements of PPS25 paragraphs 10 and 13 and Annex E. The flood risks resulting from the proposed development are therefore unknown.

4.4 Crime Prevention Officer

- 4.4.1 No response.

5 Development Plan Policies

- 5.1 The Development Plan within Rossendale comprises the Local Plan (adopted 12th April 1995), the Joint Lancashire Structure Plan 2001-2016 (adopted 31st March 2005) and Regional Planning Guidance (RPG) 13 (which became Regional Spatial Strategy (RSS) and part of the development plan from 28th September 2004).

Rossendale District Local Plan

- 5.2 Policy DS.1 (Urban Boundary) states that *“the Council will seek to locate most new development within a defined boundary – the Urban Boundary – and will resist development beyond it unless it complies with policies DS3 and DS5. The urban boundary is indicated on the proposals map”*
- 5.3 Policy DC.1 (Development Criteria) states that all applications for planning permission will be considered on the basis of a) location and nature of proposed development, b) size and intensity of proposed development; c) relationship to existing services and community facilities, d) relationship to road and public transport network, e) likely scale and type of traffic generation, f) pollution, g) impact upon trees and other natural features, h) arrangements for servicing and access, i) car parking provision j) sun lighting, and day lighting and privacy provided k) density layout and relationship between buildings and l) visual appearance and relation to surroundings ,m) landscaping and open space provision, n) watercourses and o) impact upon man-made or other features of local importance.
- 5.4 Policy S.1 (Major Retail Proposals in Town Centres) states that *“ retail development which is intended to serve a wide catchment area or which might have a significant effect on local shopping patterns will be located on sites:-*
- a) within or adjacent to the main shopping centre of Rawtenstall;*
 - b) within or adjacent to other existing town shopping centres if the development would be appropriate in scale and character to the requirements of the areas which such centres serve;*

c) elsewhere within the urban area as determined by Policy S.2:

provided that any resultant diversion of trade likely to result from the development, and from other recent and proposed retail developments in the locality would not have an unacceptable impact upon the vitality or viability of existing town shopping centres as a whole”

5.5 Policy S.2 (Major Retail Proposals Outside Town Centres) states that “*within the urban area retail development requiring a substantial adjacent customer car park and either a large single floor area or large external sales storage area will be acceptable on sites outside existing Town Centre Shopping Areas:-*

- a) there is no suitable site within or adjacent to existing town centres*
- b) there is no adverse impact upon the vitality and viability of existing town centres as a whole from the proposed development and other recent and proposed developments in the locality; and*
- c) there is no adverse environmental impact; and*
- d) the site is accessible by public as well as private transport.”*

5.6 It is important to note that Policies S.1 and S.2 pre-date both the superseded Planning Policy Guidance (PPG) 6 and its replacement, the recently introduced Planning Policy Statement (PPS) 6 and are not therefore fully in accordance with current national retail policy.

5.7 Policy S.4 Hot Food Shops states that applications for hot food will be judged in terms their acceptability by reference to existing provision, environmental impact and neighbourliness. The policy sets of a number of criteria in which proposals will be considered against.

5.8 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”*

5.9 The site is also allocated within the adopted local plan. Policy J3 identifies the site as an existing employment area. The policy states in existing and proposed employment areas the needs of industry and commerce will usually be given priority over housing, specifically in the determination of planning applications.

Joint Lancashire Structure Plan 2001-2016

5.10 Policy 1b (General Policy) requires development to contribute to achieving high accessibility for all by walking, cycling and public transport.

5.11 Policy 16 (Retail, Entertainment and Leisure Development) states, in part, that retail development should reflect the scale and function of the town centre in which it is to be located. It should also be located in accordance with the sequential approach and should satisfy certain other specified criteria.

Regional Spatial Strategy

- 5.12 Regional Planning Guidance was adopted in March 2003 and following the commencement of the new Planning and Compulsory Purchase Act is now the Regional Spatial Strategy for the North West (RSS).
- 5.13 The key objectives of relevance to this proposal in RSS include:
- achieving greater economic competition and growth with associated social progression;
 - to secure an urban renaissance in the cities and towns of the north west;
 - to ensure active management of the Region's environmental and cultural assets;
 - to secure a better image for the Region and high environmental and design quality; and
 - to create an accessible Region with an efficient and fully integrated transport system
- 5.14 Policy DP1 requires that development plans adopt the following sequential approach to meet development needs, taking into account local circumstances: the characteristics of particular land uses, and the spatial development framework; the effective use of existing buildings and infrastructure within urban areas particularly those which are accessible by public transport, walking or cycling; the use of previously developed land particularly that which is accessible by public transport walking or cycling; and thirdly development of previously undeveloped land that is well related to houses, jobs and so on and can be made accessible by public transport, walking or cycling.

6 Other Material Planning Considerations

PPS1: Delivering Sustainable Development

- 6.1 PPS1 states that sustainable development is the core principle underpinning planning. Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by: making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life; contributing to sustainable economic development; protecting and enhancing the natural and historic environment, the quality of the countryside and existing communities; ensuring high quality development; and supporting existing communities and contributing to the creation of safe, liveable and mixed communities with good access to jobs and key services for all. On sustainable economic development, local authorities should recognise that economic development can deliver environmental and social benefits; that they should also recognise the wider sub regional and regional economic benefits and that these should be considered alongside any adverse local impacts.
- 6.2 Para 28 of PPS1 advises that planning decisions should be taken in accordance with the development plan unless other material considerations indicate otherwise.

- 6.3 Para. 29 of PPS1 acknowledges that in some circumstances, a planning authority may decide in reaching a decision to give different weight to social, environmental, resource or economic considerations. Where this is the case the reasons for doing so should be explicit and the consequences considered. Adverse environmental, social and economic impacts should be avoided, mitigated or compensated for.

PPS6: Planning for Town Centres

- 6.4 The Government published PPS6 in March 2005. It replaces PPG6 and subsequent ministerial statements of clarification. This policy provides advice on town centres uses. Paragraph 1.8 of PPS6 defines the following as town centres uses where PPS6 applies:

- Retail (including warehouse clubs and factory outlets);
- Leisure, entertainment facilities, and the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night clubs, casinos, health and fitness centres, indoor bowling centres and bingo halls);
- Office, both commercial and those of public bodies; and
- Arts, culture and tourism (theatres, museums, galleries and concert halls, hotels, and conference facilities).

- 6.5 The key objective of retail policy is to promote vital and viable town centres and to “*put town centres first*”. Para 3.4 of PPS6 states that local planning authorities should require applicants to demonstrate:

a) “the need for development”

In relation to need full account should be taken of qualitative and quantitative considerations. Greater weight should be placed on quantitative considerations, based on data and other objective evidence except where socially excluded communities are currently denied access to a range of services and facilities.

b) “that the development is of an appropriate scale”

That the scale of the development is appropriate relative to the role and function of the centre and the catchment area that it seeks to serve.

c) “that there are no more central sites for the development”

That there are no more central sites for the development. In this respect the PPS identifies the first choice as being town centre sites followed by edge of centre sites and lastly out of centre sites.

d) “that there are no unacceptable impacts on existing centres”

That there are no unacceptable impacts on existing centres. In this respect Local Authorities should make an explicit assessment of the likely impact of a proposed development upon existing centres.

e) “that locations are accessible”

That the proposed location is accessible by a choice of means of transport including public transport, walking, cycling and by car, together with the impact on car use, traffic and congestion levels.

- 6.5 Paragraph 3.4 states that, as a general rule developments should satisfy all these considerations.

PPG13: Transport

- 6.6 The main objective of PPG13 is to promote more sustainable transport choices for both people and moving freight. It aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, particularly by car. For retail and leisure developments policies should seek to promote the vitality and viability of town centres, which should be the preferred locations for new retail and leisure development. Preference should be given first to town centres then edge of centre and then on out of centre sites in locations which are (or will be) well served by public transport.

7 Planning Issues

- 7.1 I consider that the main issues for consideration are whether the proposed uses would have a detrimental impact upon the vitality and viability of neighbouring town centres; whether the proposal accords with local, regional and national planning policy; whether the changes provide for adequate parking and servicing appropriate for the proposed use; whether the proposed change of use would result in a detrimental impact upon residential amenity and whether the proposal would result in an adverse impact upon the surrounding road network.

Principle

- 7.2 In order to ascertain whether or not this proposal is acceptable in principle it needs to be considered against policies S1 and S2 of the Rossendale District Local Plan, Policy 16 of the Joint Lancashire Structure Plan (RSS) and the advice contained within PPS6.
- 7.3 It is clear from the advice provided in PPS6 (paragraph 6.4 of this report) that the proposed use of the site is defined as a town centre use. Therefore, in the first instance it is for the applicant to fully demonstrate that this town centre use is acceptable in this out of centre location by demonstrating that the proposal has been considered against the points set out in paragraph 3.4 of PPS6 and paragraph 6.5 of this report.
- 7.4 The submitted application does not include such supporting policy justification required by PPS6 and the Structure Plan. I have written to the applicant requesting that the information be provided, to date, no such information has been provided.
- 7.5 Therefore, I do not consider that sufficient information has been submitted with the application to assess the principle of this town centre use in this out of centre location. As such, any impact upon the neighbouring established town centres of Rawtenstall and Waterfoot cannot be fully considered.
- 7.6 Whilst I do not consider that sufficient information has been provided to establish the principle of development in policy terms, it is still necessary to consider issues of detail. Those are set out further below.

8 Design and Layout

- 8.1 The proposal seeks to change the use of the existing buildings to facilitate two restaurants and a fast food takeaway. The applicant has informed me that the proposal is speculative at this stage and therefore changes to the external appearance of the smaller unit are not sought as part of this proposal. The larger unit would include the replacement of the vehicular entrance with two windows to match those within the main elevation facing Bacup Road. Therefore, given that the proposal is seeking only minor amendments to an existing building, I am satisfied that the design, scale and massing and layout is already established. However, should planning permission be granted it is likely that the further applications would be received to alter the external appearance of the building to reflect the needs of the end user.

9 Residential Amenity

Visual amenity

- 9.1 The proposal seeks only minor amendments to the elevation of the larger unit facing Bacup Road. Moreover, given that the application is speculative, there are no details regarding fume extraction for either the proposed restaurant units or the fast food unit. However, I am satisfied that the physical structure of any future fume extraction unit could be located internally, on the rear elevations of the units or could be appropriately cladded to safeguard the visual amenity of the area. I consider that this could be achieved by way of a suitably worded condition. The same condition could also control odours emanating from the proposed use.

Noise and Disturbance

- 9.2 The applicant has not provided any information regarding the proposed hours of operation for either of the three units proposed. I consider that the proposal is likely to attract a number of visitors to the locality. Whilst two commercial units bound the site, I consider that the character of the area is predominantly residential in nature.
- 9.3 I have received a significant number of objections in response to the application publicity. Of particular concern is the potential for the development to result in noise and disturbance to the area.
- 9.4 Given the residential context and having regard to policy framework set out above, it is reasonable to expect, within a predominately residential area, a higher level of amenity at the weekend, particularly on Sundays and in the evenings through the week. The policy framework outlined above seeks to protect residential amenity and acknowledges that outside established retail centres residential amenity should be protected particularly at weekends and in the later evening hours.
- 9.5 I am concerned, without knowing the proposed hours of use, that the activities proposed operating into the evenings and particularly at weekends is likely to have a detrimental impact upon the living conditions of neighbouring residents by way of the general comings and going associated to a restaurant use. Moreover, given the amount of floor space to which the application relates, it is likely that the end use would be able to attract a significant number of

patrons, which when arriving and leaving, would generate noise and disturbance.

9.6 Whilst it is appropriate to attach conditions to restrict hours of opening which would reduce impact upon residential amenity resulting from the development, I do not consider that sufficient information has been provided to consider the scale of the development and therefore the appropriateness of use into the evening and at weekends to be satisfied that the restrictive conditions should be used in this instance. This view is reiterated by my colleagues in Environmental Health.

9.7 With regard to litter, I consider that this could be controlled by way of a condition requiring the applicant to provide an appropriate number of litter bins.

Access, Servicing and Parking

9.8 The existing access and serving points would be unchanged by this proposal. I have no in principle highway objection from County Highways subject to the provision of additional disabled car parking bays. I am of the opinion that should planning permission be granted that conditions requiring additional disabled car parking provision and details of cycle storage could be attached.

10 HUMAN RIGHTS

10.1 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.

11 CONCLUSION

11.1 In conclusion insufficient information has been submitted to assess the full implications of the proposal against national planning policy and therefore the impact upon neighbouring town centres. Insufficient information has been provided to fully assess the impact of the proposal upon neighbouring residential amenity. Insufficient information has been provided to assess flood risk.

12 Recommendation

That planning permission is refused for the following reasons:

Reasons

1. *The applicant has failed to demonstrate that a need presently exists for the proposed development of restaurant at this out of centre site which is contrary to PPS6: Planning for Town Centres.*

2. *The proposal fails the sequential approach to site selection in that there exist better located town centre and edge of centre opportunities for comparison shopping development that would better support the existing town centre shopping function and is therefore contrary to PPS6: Planning for Town Centres and Policy 16 (Retail, Entertainment and Leisure Development) of the Joint Lancashire Structure Plan 2001-2016.*
3. *The applicant has failed to demonstrate that the proposals would not adversely affect the vitality and viability of neighbouring town centres which is contrary to PPS6: Planning for Town Centres.*
4. *Insufficient information as been submitted with the application to fully assess the likely impact of the proposal on residential amenity.*
5. *A relevant flood risk assessment has not been submitted with the application and as such the proposed development cannot be properly assessed relative to the potential for the site to be flooded having regard to PPS 25*

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