

TITLE: 2004/511 : DEMOLITION OF EXISTING SUPERMARKET (6768 SQUARE METRES WITH EXTENSION) AND ERECTION OF REPLACEMENT SUPERMARKET BUILDING (7432 SQUARE METRES) (OUTLINE APPLICATION),

TO/ON: DEVELOPMENT CONTROL COMMITTEE 3 FEBRUARY 2005

BY: TEAM MANAGER:DEVELOPMENT CONTROL

APPLICANT: PEEL DEVELOPMENT UK LTD.

DETERMINATION EXPIRY DATE: 12 OCTOBER 2004

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

The application site is an irregularly shaped plot of land of approximately 2.5 hectares in area. It is located approximately 40 metres south east of the junction of Bocholt Way and Bury Road on the southern edge of Rawtenstall Town Centre. The site is currently occupied by a supermarket building (Asda).

Outline Planning permission is sought to erect a replacement supermarket building, with associated car parking on this site following the demolition of the existing store. The new building is to have a gross floor area of 7432 square metres with a net retail sales area of 4608 square metres. The applicants have requested that the means of gaining vehicular access to the site be considered as part of the proposal. All other matters are to be reserved for consideration at the Reserved Matters application stage.

The site is located within the Urban Boundary and Rawtenstall Town Centre as identified by the Rossendale District Local Plan. It also immediately adjoins a Conservation Area.

Relevant Planning History

13/3/4989 - (Outline) Erection of a superstore and accesses (4622 sq m; 49750 sq ft) – Approved 22 June 1976.

14/76/379 - (Reserved Matters) Retail superstore, petrol filling station and car parking (4622 sq m; 49750 sq ft) – Approved 15 September 1976.

14/76/602 – (Reserved Matters – Amended Proposal) Superstore, car park, petrol filling station and tyre bay (4645 sq m; 50000 sq ft) – Approved 10 January 1977.

14/92/606 – Proposed extension to existing superstore to form cash office, Epos room and internal alterations to existing entrance foyer (70 sq m) – Approved 24 December 1992.

14/93/236 – Proposed trolley park canopy adjacent customer entrance (210 sq m) – Approved 2 July 1993.

14/96/533 – (Outline) Erection of 1765 sq m (19000 sq ft) extension to existing superstore, alterations to existing car park and formation of decked car park extension to provide a total of 572 spaces – Approved 28 September 1998.

14/1999/420 – (Reserved Matters) Erection of a 1765 sq m (19000 sq ft) extension to existing superstore together with associated alterations to existing car park – Approved 8 December 1999.

2003/342 – Variation of standard timescale condition to extend period for commencement of extension to 28 September 2008 – Approved 9 September 2003.

Notification Responses

Four letters of objection (all from the same company) have been received in respect of this proposal. The objections are as follows:-

i) that insufficient information has been submitted with the application to enable the implications of the proposal to be properly assessed. The supporting information should include:-

- a) a demonstration of the need for the proposed floorspace (assessed in quantitative rather than qualitative terms and assessed against the category of goods for which that floorspace will be used),
- b) evidence that that need can not be met at sequentially preferable locations (a flexible approach should be applied to the format of the floorspace proposed),
- c) an assessment of the likely economic effect that the proposal will have upon existing retail uses within the catchment area,
- d) evidence that issues of sustainability have been assessed.

ii) that the information that has been supplied in support of this application is both inaccurate and inadequate:-

- a) this is an 'out of centre' not an 'edge of centre' site for the purposes of PPG6 guidance. It is more than 300 metres from the primary retail area of Rawtenstall and is separated from it by Bocholt Way and the River Irwell.

- b) the existence of an existing store on the application site does not set a precedent for its replacement with a further retail store,
- c) the 'fall back' position is a relevant material consideration when determining an application of this nature. However, it needs to be considered having regard to all other relevant planning matters and should not be used solely to justify such development. In this instance it has not been satisfactorily demonstrated that there is a reasonable prospect of the approved extension to the existing store ever being built. The applicants 'fall back' position argument, that the new store will not be significantly larger than the existing store as extended, is not therefore realistic.
- d) the applicants retail assessment is based on incorrect assumptions about future net sales at the approved Asda store on St. Mary's Way. This has led to an incorrect assumption about turnover.
- e) the applicants have wrongly interpreted national guidance with respect to assessing qualitative need. National guidance is designed to protect town centres from competition from 'out of centre' sites. The applicants have assessed qualitative need for their store on the basis that it will provide effective competition to the new store on St. Mary's Way.
- f) that the applicants have made their overall assessment of need based on incorrect figures (the gross floor area of the new store will actually be 2415 square metres greater than the gross floor area of the existing store, and 650 square metres greater than the existing store as extended).
- g) the sequential approach to site selection, adopted by the applicants, is flawed:-
 - it has been undertaken purely on the basis that alternative sites can accommodate a foodstore of comparable size. It has not looked at these sites in terms of their suitability, viability or availability,
 - it refers to PPS6. This is not policy and furthermore it refers to proposals for extensions not redevelopment,
 - it adopts a purely format driven approach to site selection,
 - it excludes sites that are clearly sequentially preferable to the application site, including the Asda site on St. Mary's Way (which is available, suitable for the proposed development, and viable for redevelopment as a modern food store). Without an assessment of such sites a proper assessment can not be made of the current proposal.
- h) that consideration of this application is premature pending the receipt of the consultants formal assessment of this application.

The applicants have submitted five letters, a Retail Impact Assessment, and a Transport Assessment in support of their proposal in which they state the following:-

- a) The existing store has a gross floor area of 5203 square metres with a net sales area of 3190 square metres. Despite what may have originally been approved it has been this size for some time. A further planning permission, which is still valid but which has not as yet been implemented, has also since been granted allowing for the extension of the store by a further 1765 square metres. If built this extension would increase the floor area of the building to 6968 square metres and, because of its proposed location largely to the front of the premises and the lack of restrictions on the level of retail sales that can be carried out therefrom, would increase the overall net retail sales area to

4955 square metres. The current application should be assessed having regard to this.

- b) The 'fall back' position has previously been held to be a significant material consideration when determining applications of this nature. In the Guinness case the Inspector stated that it was of 'utmost significance to the decision'. It was also viewed as a significant factor in the determination of an appeal relating to the redevelopment of a site in Solihull. Even in the Aylesbury case referred to by the objectors, the Inspector took into account various material considerations including the fact that the majority of the proposed floorspace in that instance would result from the redevelopment of the existing premises
- c) That the 'fall back' position is credible. If the application is refused, or remains undetermined when the extant permission for the extension is close to expiration, they will implement the latter permission.
- d) The new store is to be located on an existing established retail site in close proximity, and with good 'links' to, the Town Centre. Furthermore, the proposal involves measures to improve that 'linkage'. The use of the former Lancashire Garden Centre as a retail foodstore would, on the other hand, detract from the vitality and viability of Rawtenstall because its 'out of town' location would provide little opportunity/propensity for 'linked' trips between the store and the Town Centre.
- e) An approval of this proposal would lead to the creation of two large foodstores in Rawtenstall thus providing choice and competition for shoppers in the town.
- f) The application and St. Mary's Way sites are both 'edge of centre' and are therefore of equivalent status in policy terms. The sequential approach only requires that an assessment be made of sequentially preferable, not equivalent, sites. Such an assessment has been carried out.
- g) The proposal will not materially impact upon the vitality and viability of Rawtenstall Town Centre. The new store will not be significantly larger in gross floor area terms than the existing store as extended (7432 square metres as opposed to 6968 square metres). Furthermore it will have only a marginally larger net sales floor area (4608 square metres as opposed to 4529 square metres).
- h) The level of car parking currently proposed is appropriate given the number of 'linked' trips that currently take place between the existing store and the Town Centre, and the propensity for increasing those trips as a result of the measures proposed by this application.
- i) There is both a quantitative and qualitative need for the proposed development; it will help to retain expenditure in the town centre which would otherwise be lost to 'out of town' retail development; there are no other sequentially available sites within the Town Centre that could accommodate this development.
- j) The development is sustainable being accessible by various forms of transport (including car, public transport, cycling and walking).
- k) The highway improvements proposed by this application will mitigate the effects upon, improve the efficiency of, and reduce delays on, the highway network.
- l) The issue of prematurity is not relevant in this instance. There is currently no emerging development plan that would be prejudiced by an approval of this proposal.
- m) The approved sales area for the recently approved store on St. Mary's Way is 2700 square metres.

Consultation Responses

County Planning Officer

No objections in principle. Want contribution to bus priority measures at Queens Square traffic signals; contribution to reconstruction of bus station; provision of electronic bus departure screens in the new store linked to those in the bus station; reduced car parking unless it can be demonstrated that there is a shortfall in short stay parking in Rawtenstall Town Centre; levels of mobility, bicycle and motorcycle parking to be increased to meet normal parking standards; covered and secure bicycle and motorcycle parking if the store is to employ over 30 staff.

County Highways

No objections in principle. Want the following 'off site' highway improvements (provision of traffic signals, with full pedestrian facilities, at the Bury Road/ Bocholt Way junction; pedestrian crossing facilities on Bury Road near to Rawtenstall Station; a Toucan crossing on Bocholt Way; a shared pedestrian/cycle link along Bocholt Way linking to the gyratory system); parking to be in line with requirements for a 'medium' accessibility site; covered and secure parking for motorcycles and bicycles; and a travel plan.

R.B.C. Highways

No objections in principle. Want provision of cycleway and footway adjacent to Bocholt Way; suitable traffic control measures; ramp to service area to have a minimum gradient of 1 in 17; and access to service area to have sight lines of 4.5 metres x 60 metres.

Environmental Health

No objections subject to conditions.

United Utilities

No objections.

Environment Agency

No objections subject to conditions.

Crime Prevention Officer

Object. Consider that inadequate information has been submitted with this application to enable the implications of the proposal to be properly judged from a crime prevention point of view.

Rawtenstall Chamber of Commerce

Support the proposal.

Rossendale Civic Trust

No observations received

Development Plan Policies

Rossendale District Local Plan

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”*

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.

Policy HP.1 (Conservation Areas) states that *“ proposals for development within Conservation Areas will be assessed against the following criteria:-*

- a) townscape features and roofscape*
- b) views within and out of the conservation area*
- c) the effect upon the character of the conservation area*
- d) any trees of importance to the character of the area*
- e) and compliance with policy DC.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”

N.B. This policy pre-dates PPG6 and is not therefore fully in accordance with current national retail policy.

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

Policy T.6 (Pedestrians) states that *“Development proposals generating significant volumes of pedestrian traffic will normally be required to provide appropriate facilities for pedestrians, both within the curtilage of the site and on the surrounding highway network where the existing level of provision is inadequate to meet the increase in pedestrian traffic generated by the development”*

Policy T.7 (Cycling) states that *“ in order to improve facilities for cyclists in the Borough, developments which:-*

- a) provide cycle routes to segregate cyclists from vehicular traffic.*
- b) Provide parking facilities for cyclists in new developments, including shopping centres, schools, colleges and other public buildings.*
- c) Seek to incorporate facilities for cyclists in highway improvement and traffic management schemes.*

Will normally be allowed.”

Lancashire Structure Plan 1991-2006:

Policy 5 (Main Urban Areas) states, in part, that development should normally be located within identified Main Urban Areas, which include Rawtenstall.

Policy 46 (Locations for Retail Development) states, in part, that new retail development which is intended to serve a wide catchment area, or which could significantly affect local shopping patterns, should be located within the main shopping centres of certain identified towns (which include Rawtenstall); adjacent to the main shopping centres of those towns if there is no suitable site within them; within other towns if they are of an appropriate scale and character (or on the edge of such towns if there is no suitable site within them); and within other urban areas if they can be shown to meet certain specified criteria.

Policy 47 (Locations for Retail Development) states that retail development requiring a substantial car park, and either a large single floor area or a large external sales and storage area, will be permitted in urban areas outside of Town centres provided that they meet certain specified criteria.

Joint Lancashire Structure Plan 2001-2016 Proposed Changes to Deposit Edition

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

Policy 2 (Main Development Locations) states that most development should be located within identified principal urban areas, which include Rawtenstall.

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.

The Parking standards require that in towns such as Rawtenstall, car parking be provided for food retail development at the rate of one space per 15 square metres gross floor area with one in every ten spaces being a mobility space. They also

require that provision be made for bicycles and motorcycles at the respective rates of one space per ten and one space per twenty five of the car parking spaces provided.

Other Material Planning Considerations

PPG6 (Town Centres and Retail Developments)

Government guidance in the form of PPG6 essentially seeks to focus retail uses in town, district and local centres and to ensure the availability of shops, employment, services and facilities to people by a choice of transport means. It also seeks to sustain and enhance the vitality and viability of town centres. The guidance has been updated as a result of the Caborn speech of 1999 which has added, in part, that proposals for retail development, on land not specifically identified for this purpose in a Development Plan, must demonstrate both a need for the type and scale of floorspace being proposed, and that such development can not be located within a sequentially preferable location.

Paragraph 3.14 states that *“Edge-of-centre locations will be determined by what is an easy walking distance for shoppers walking to, but more importantly away from, the store carrying shopping. The limits will be determined by local topography, including barriers to pedestrians, such as major roads and car parks, the strength of attraction of the town centre, and the attractiveness of the route to or from the town centre....most shoppers are unlikely to wish to walk more than 200 to 300 metres...”*

The guidance also advises that *“applicants must:*

- a) demonstrate that there is a need for the development;*
- b) having established that such a need exists, adopt a sequential approach to site selection;*
- c) consider the impact on nearby centres; and*
- d) provide evidence on the site’s accessibility by a choice of means of transport, as demonstrated by a transport assessment (see PPG13), the likely changes in travel patterns over the relevant catchment area, and any significant environmental impacts”*

PPG13 (Transport)

Government guidance in the form of PPG13 states in paragraph 19 that *“A key objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling.”*

Draft PPS6 (Planning for Town Centres)

Draft Government advice in the form of PPS6 advises that the term ‘edge-of-centre’, in retail terms, means a site located within easy walking distance (200-300 metres) of the Primary Shopping Area. It also states that, when considering proposals for retail development, Local Planning Authorities should require applicants to demonstrate:-

- a) the need for the development
- b) that the development is of an appropriate scale
- c) that there are no more central sites for the development
- d) that there are no unacceptable impacts on existing centres

e) that locations are accessible

N.B. This advice incorporates the McNulty statement which sought to clarify how PPG6 should be applied.

Planning Issues

Principle

In order to ascertain whether or not this proposal is acceptable in principle it needs to be considered against policy S1 of the Rossendale District Local Plan, policies 46 and 47 of the Adopted Structure Plan, policy 16 of the Draft Deposit Structure Plan and the advice contained within Government advice PPG6 and Draft PPS6. An assessment of the proposal, against the criteria set out in those policies/that advice, is set out below:-

Location

The application site is located within Rawtenstall Town Centre, as defined by the Rossendale District Local Plan, albeit approximately 300 metres from the Town Centre core. Whilst the route between the two is across Bacup Road, Bocholt Way and the River Irwell, pedestrian crossings are currently available. It is contended therefore that the site is within easy walking distance of the Town Centre and can therefore reasonably be viewed as occupying an 'edge-of-centre' location as defined by both PPG6 and PPS6 despite the views of the objectors to the contrary. As such the proposal satisfies the requirements of policy S1 of the Local Plan in so far as it proposes retail development, that potentially could have an effect on local shopping patterns, adjacent to the main shopping centre of Rawtenstall. An assessment of the proposal's impact on the vitality and viability of the town centre, as required by Policy S1, is given below.

Need for the development

The application site is currently occupied by a food store (Asda) which this development is seeking to replace. Planning approval has recently been granted for the erection of a new food store nearby on St. Mary's Way (Asda) and construction works relating to that development are currently underway. Additionally, it is currently proposed to re-use the former Lancashire Garden Centre, located nearby in Haslingden, for food retail purposes (Tesco) subject to some minor remodelling works. What this means is that there are likely to be three food stores within the catchment area of Rawtenstall in the near future. On this basis it is contended that there is currently no additional capacity within this area for additional convenience goods floorspace. This being the case it is contended that there is currently no proven quantitative need for the proposed development.

It is accepted that the new store would provide competition to the new stores on St. Mary's Way and at Haslingden and, being a newer development, would probably be more attractive to shoppers than the building that it is to replace. Nevertheless, it is contended that the goods sold would tend to duplicate those sold by the other stores and as such would not provide shoppers with a material increase in choice or a significantly different shopping experience. In addition, it is doubtful whether there is currently sufficient available spending power within the Rawtenstall catchment area to justify three stores of the scale proposed. This being the case it is contended that there is currently no clear proven qualitative need for the development either.

The objectors to the proposal argue:-

- a) that insufficient information has been submitted with this application to enable the need for the development to be properly assessed, and
- b) that the assessment of need that has been carried out is flawed because it is based on incorrect figures and incorrect interpretation of national guidelines.

These views have been considered but are not accepted for the following reasons:-

- a) whilst the information submitted by the applicants is limited it is considered possible to use it to assess both the need for this proposal and the suitability of the proposal in general. As indicated above, that information has not proven a need for the development.
- b) the objectors comments with respect to the applicant's assessment of qualitative need for the development are not relevant this being an 'edge of' not an 'out of' centre site.
- c) The figures quoted by the objectors regarding the size of the new store in relation to the existing building (and the existing building as extended) are incorrect. The gross floor area of the new store would be 2229 square metres larger than that of the existing store (not 2415 square metres as quoted by the objectors), and 464 square metres larger than the existing store were it to be extended (not 640 square metres as quoted by the objectors).

For Members information it is considered appropriate to have regard to the retail developments on the St. Mary's Way and Lancashire Garden Centre sites when assessing the need for this particular development. This is because both represent commitments, in other words retail development that is likely to take place.

Suitable alternative sites

The applicants have considered, but discounted, the possibility of developing four more centrally located sites for retail purposes instead of this one, namely the town centre car parks, the market, the Valley Shopping Centre and Rossendale bus depot. Their reasons for so doing have been considered. On balance it is accepted that the car parks and market are important facilities serving the Town Centre and that realistically they are not currently likely to become available for re-development. The suitability of the Valley Shopping Centre as a site for a food store is still being considered but again it seems unlikely that it will be become available in the short term. Finally it is understood that the Rossendale bus depot site is to be the subject of a County Council scheme for redevelopment and this being the case this site can also be discounted. In view of the above it is accepted that there are no clearly sequentially preferable sites to the application site within the Rawtenstall catchment area which could reasonably be developed for the purposes of a similar sized retail store in the short term.

The objectors to this proposal argue:-

- a) that the information submitted with this application fails to demonstrate that any perceived need for convenience goods floorspace can not reasonably be met through the development of sequentially preferable sites, and
- b) that the assessment of this issue that has been carried out is flawed for reasons outlined in the 'Notification responses' section above.

These concerns have been considered but are not accepted for the following reasons:-

- a) it is contended that both this site, and the site on St. Mary's Way, are of equal status in planning terms, both being 'edge of centre' sites. There is no requirement, under the terms of the current retail planning guidance, to consider alternative equivalent sites when considering a proposal for retail development, only sites that are deemed sequentially preferable.
- b) in coming to the view that there is no qualitative or quantitative need for this development, consideration has been given to the proposed retail development of the St. Mary's Way site as a commitment. This being the case it is not clear why in this instance it should have been considered as an available and sequentially preferable alternative to the application site (even if it was ultimately viewed as sequentially preferable).
- c) Whilst it is accepted that PPS6 is currently in draft form, and that only limited weight can presently be given to it, it incorporates much of the guidance set out in PPG6. It is therefore considered appropriate to have regard to its contents when determining this proposal despite the views of the objectors to the contrary.

Impact on Town Centre

The existing store has a gross floor area of 5203 square metres with a net sales area of 3190 square metres. However, as indicated earlier in the report, it is the subject of a valid planning permission allowing for it to be extended. If this extension was to be built the gross floor area of the store would increase to 6968 square metres. Furthermore, because no restrictions were imposed with respect to net sales area on the approval the overall net sales area could potentially increase to 4955 square metres although in reality it is more likely that it would be in the region of 4529 square metres based on the more likely scenario of 65% of the floor area being utilised for net sales.

The store now proposed is to have a gross floor area of 7432 square metres with a net sales area of 4608 square metres. This is just 464 square metres (gross) larger than the existing store, were it to be extended, with 79 square metres more net retail floor area. On this basis it is contended that the turnover of the new store is unlikely to be significantly greater than that potentially generated by the existing store as extended. This being the case it is contended that, despite the objector's concerns about the lack of information on this matter, it can reasonably be concluded that an approval of this proposal is unlikely to lead to the closure of existing food stores or other shops in the Town Centre, nor is it likely to harm the vitality or viability of the Town Centre in general.

Accessibility

The site is located close to, and within reasonable walking distance of, Rawtenstall Town Centre as indicated in the 'Location' section above. It is accessible by public transport being on a bus route and located within 150 metres of the bus station. It is also fully accessible by car, motorcycle and bicycle. In addition should this application be approved, conditions/requirements are likely to be imposed requiring:-

- a) that measures are carried out to improve the accessibility of the site (namely the provision of new pedestrian and Toucan crossing facilities and the construction of a shared pedestrian /cycle link along Bocholt Way),

- b) that measures are carried out to improve vehicular circulation on the immediate surrounding road network (namely improvement works to the traffic signals at the Bury Road/ Bocholt Way junction and a contribution is made towards implementing bus priority measures at the Queens Square traffic signals), and
- c) that suitable car, mobility, motorcycle and bicycle parking provision is made in conjunction with the development.

In view of this it is contended that, despite the objector's concerns about the lack of information on this matter, it can reasonably be concluded that this will be a sustainable form of development which will be fully accessible by various means of transport and which will not put an undue strain on the surrounding road network.

Fall Back Position

As indicated above, the existing store is the subject of a valid planning approval allowing for it to be extended. Members should be aware that if this application is refused, the applicants could still implement that approval thus creating a similar sized store to that currently proposed. This is known as the 'fall back' position and it is clearly material to the consideration of this application.

The objectors, whilst accepting that the 'fall back' position is a material consideration, argue that it should not be used as the only reason for justifying a development of this nature. They also argue that no evidence has been put forward to suggest that the 'fall back' position is realistic in this instance, in other words that there is a reasonable prospect of the extension to the existing store being built. These objections have been considered but are not accepted for the following reasons. Whilst the 'fall back' position has been a significant factor in coming to the recommendation set out below, it has not been the only factor that has led to that recommendation. In response to the second concern, the applicants have now submitted a letter in which they state:-

- a) that if this application is refused, or remains undetermined when the extant permission for the extension is close to expiration, they will implement the latter in order to protect their position.
- b) that the failure to implement an extant planning permission for a number of years does not mean that there is no prospect of it ever being implemented, a view supported in the Guinness case referred to earlier in the report. In that case the Inspector stated that he 'could find no evidence whatsoever to cast any doubt on the stated intention' (of the applicants to implement the extant permission) 'should the proposal' (being considered at that time) 'be refused'.

Planning permission exists for the extension of the existing store and this approval can be implemented. There is no evidence, currently available to the Local Planning Authority, which could reasonably be used to cast doubt upon the applicants stated intention to implement that approval (and even if there was there is equally no evidence to suggest that the permission could not reasonably be implemented by someone else). In view of this, and as commercial viability is not a planning matter, it is considered that, in pure planning terms, there is no reason to doubt the credibility of the 'fall back' position in this instance and that as such it should be given the weight afforded to it in the consideration of this proposal.

Site History/Prematurity

The objectors to the proposal argue:-

- a) that the development should not be justified solely on the grounds that the site already has an established retail use. The proposal needs to be considered against national retail policy,
- b) that consideration of this application would be premature.

These views have been considered but are not accepted. The proposal has been assessed against national retail policy and that assessment is set out in the report. The recommendation has not been based solely on the fact that the new store is to be erected on an established retail site.

The issue of prematurity is not relevant as there is currently no emerging development plan that may be prejudiced by an approval of this proposal. It may be, although it is not specifically stated, that the objectors are concerned that consideration of this proposal would be premature pending the completion of a Borough wide retail survey which is currently being prepared. However, PPG1 refers to the issue of prematurity solely in relation to emerging development plans not to studies. This being the case it is considered that an objection to this proposal on prematurity grounds could not reasonably be sustained in this instance.

Conclusion on Impact and Need Issues

There is no proven quantitative or qualitative need for additional convenience retail floorspace within the Rawtenstall catchment area over and above that which is currently approved/proposed . However, given that the new store will not be significantly larger, either in gross floor or net sales area terms, than the building that it is to replace (based on the latter being extended as approved) it is contended that it is unlikely to harm the viability and vitality of the Town Centre or, subject to the carrying out of the required off site highway measures, put undue strain upon the surrounding road network. There are currently no sequentially preferable sites for a retail store of comparable size elsewhere within the Rawtenstall catchment area. Furthermore, the development is considered to be sustainable being accessible by various forms of transport and located within easy walking distance of Rawtenstall Town Centre. Finally, this is an established retail site. PPS6 advises that whilst proposals for retail development should normally satisfy all of the criteria set out in paragraph 3.4 of that guidance, there may be exceptions where the overall weight of evidence is such that approval of a proposal can be justified even if it fails to satisfy all of that criteria. With this in mind, and given in particular the extant position of an existing consented store in operation with permission to extend, it is considered that, on balance, this proposal is acceptable in principle and there are no overriding arguments to warrant a refusal.

Highway Issues

The applicants are seeking approval of the means of gaining vehicular access to the site as part of this application. The intention is to suitably alter and re-use the two existing accesses to the site from Bocholt Way and New Hall Hey. The former will allow for general public access to the store and the latter will provide access to the service yard. Additionally, the applicants have submitted a site layout which shows a total of 590 car parking spaces as being provided in conjunction with the new store.

Members should however be aware that these details are illustrative and do not form part of the formal application at this stage. Finally, a Transport Impact Assessment has been submitted with this application which sets out a number of highway improvements that the applicants propose to carry out in conjunction with this development. It concludes that, subject to those improvements being carried out, the development will not place any undue additional strain upon, and will reduce delays on and improve the efficiency of, the surrounding highway network.

These proposals have been considered by both County and Rossendale Highways. They consider that they will be acceptable provided:-

- a) that traffic signals, including full pedestrian facilities, are provided at the Bury Road/Bocholt Way junction,
- b) that a shared pedestrian/ cycle link is provided along Bocholt Way linking the site with the gyratory system,
- c) that pedestrian crossing facilities are provided on Bury Road near to Rawtenstall Station, and a Toucan crossing on Bocholt Way,
- d) that car parking is provided in accordance with the maximum standards, and that mobility, motorcycle and bicycle parking is provided in accordance with the County Council's normal requirements,
- e) that the applicants submit a Travel Plan for the development.

(a) to (c) relate to 'off site' works which would normally need to be secured by way of a Section 106 Obligation. However, in this instance it is considered that they can reasonably be required by way of a 'Grampian' condition as there is a reasonable prospect of them being carried out, the works relating to the public highway and therefore being within the remit of County Highways. Conditions can be imposed with respect to matters (d) and (e).

In addition to the above, the County Planning Authority considers that the applicants should be required to make contributions towards bus priority measures at Queens Square traffic signals and towards the reconstruction of the bus station. These can not legitimately be required by way of planning conditions and will therefore need to be secured by way of a Section 106 Obligation. Accordingly it is recommended that any approval of this application be made the subject of an agreement to this end.

Other Issues

Concern has been expressed, by the Crime Prevention Officer, that insufficient information has been submitted with this application to enable the implications of the proposal to be properly judged. However, this is not accepted. Details of proposed crime prevention measures would not have been required to have been submitted at this stage, the application having been submitted in outline form only. However, a condition can reasonably be imposed on any approval requiring that such details are submitted for approval before development commences.

Procedure

Members should be aware that if they are minded to approve this application they will first need to refer it to the Government Office for consideration. This is because it seeks approval for retail development of in excess of 2500 square metres gross floor area. Should the application subsequently be referred back to the Local Planning Authority for a decision it will then be within the remit of the Authority to formally determine the proposal.

Summary of Reasons for Conditional Approval to Appear on Decision Notice

It is considered that this is appropriate retail development having regard to the terms of policy S1 of the Rossendale District Local Plan, policies 46 and 47 of the Lancashire Structure Plan 1991 -2006, policy 16 of the Draft Joint Lancashire Structure Plan 2001-2016, and the advice contained within PPG6 and PPS6. Furthermore, it is contended that the development will not have an adverse impact upon the safe and free flow of other vehicular traffic using the surrounding road network.

Recommendation

a) That the Secretary of State be advised that the Local Planning Authority is minded to grant Outline Planning permission for this development subject to the conditions set out below and subject to the applicant first entering into a Section 106 Obligation requiring the payment of contributions towards the reconstruction of Rawtenstall bus station and bus priority measures at Queens Square traffic lights.

b) That should the Secretary of State refer this application back to the Local Planning Authority for a decision, the decision to approve be delegated to the Team Manager (Development Control) on completion of the Section 106 Obligation and subject to the following conditions:

1) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason:-Required by Section 92 of the Town and Country Planning Act 1990

2) Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason:- The application is in outline form only and not accompanied by full and detailed plans.

3) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason:- Required by Section 92 of the Town and Country Planning Act 1990.

4) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking and re-enacting those Orders or either of them, with or without modification, not more than 4608 square metres floor area (net) of the store shall be used for shopping purposes (use class A1).

Reason:- To safeguard the viability and vitality of the Town Centre, in accordance with policy S1 of the Rossendale District Local Plan.

5) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking and re-enacting those Orders or either of them, with or without modification, no more than 35% of the 4608 square metres of net retail floor space hereby approved shall be used for the sale of comparison goods.

Reason:- To safeguard the vitality and the viability of the Town Centre, in accordance with policy S1 of the Rossendale District Local Plan.

6) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting those Orders or either of them with or without modification, the building shall not be subdivided into smaller retail units without the prior written approval of the Local Planning Authority.

Reason:- To safeguard the vitality and the viability of the Town Centre, in accordance with policy S1 of the Rossendale District Local Plan.

7) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting those Orders or either of them with or without modification, the retail store, hereby approved, shall be operated solely by a food operator.

Reason:- To safeguard the vitality and the viability of the Town Centre, in accordance with policy S1 of the Rossendale District Local Plan.

8) The total floor space of the approved building shall not exceed 7432 square metres.

Reason:- To safeguard the vitality and the viability of the Town Centre, in accordance with policy S1 of the Rossendale District Local Plan.

9) Development shall not commence until a scheme for the construction of the accesses to the site, and for off site highway improvements, has been submitted to, and approved in writing by, the Local Planning Authority. The latter shall include for improvements to the traffic signals at Bury Road/Bocholt Way junction, the provision of pedestrian crossing facilities on Bury Road and a Toucan crossing on Bocholt Way, and the provision of a pedestrian/cycle link along Bocholt Way. The development shall not be brought into use until the approved site access and highway improvement works have been completed in accordance with the approved details.

Reason:- In the interests of highway safety, in accordance with policies DC.1 and T.6 of the Rossendale District Local Plan.

10) Unless otherwise agreed in writing by the Local Planning Authority, 496 car parking spaces (including 50 mobility spaces) 50 bicycle and 22 motorcycle spaces (the latter to be covered and made secure) shall be provided in conjunction with the development hereby approved. Details of the proposed layout of these spaces, the design of the covered bicycle/motorcycle areas, and the means of surfacing, sealing and draining of all areas to be used by vehicles, bicycles and motorcycles, shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. These areas shall be surfaced, sealed and drained in accordance with the approved details, and laid out in the approved manner, before the store is first brought into use. They shall thereafter be retained at all times solely

for the parking and turning of vehicles, bicycles and motorcycles in conjunction with the approved store, and to allow such vehicles access to and from the development. Reason:- To ensure adequate off-street parking and turning to permit vehicles to leave the site in a forward gear in the interests of highway safety, in the interests of securing sustainable development, and in accordance with policies DC.1,T.4 and T.7 of the Rossendale District Local Plan.

11) Visibility splays of 4.5 metres x 60 metres, shall be provided on either side of the service vehicle access from Bury Road before the building, hereby approved, is first brought into use. Thereafter nothing that exceeds one metre in height, measured from the level of that highway, shall at any time be erected or planted within those splays.

Reason:- To ensure adequate visibility at the street junction or site access in the interests of pedestrian and highway safety, in accordance with policy DC.1 of the Rossendale District Local Plan.

12) The gradient of the service access road shall not exceed 1 in 17 from a point measured five metres in from the back edge of Bury Road.

Reason: In the interests of highway safety in accordance with policy DC.1 of the Rossendale District Local Plan.

13) Development shall not commence until a Travel Plan, detailing proposals for accessing the site by means other than the private car, has been submitted to, and approved in writing by, the Local Planning Authority. The approved measures shall thereafter be implemented in accordance with the approved details.

Reason:- In the interests of securing a sustainable form of development, in accordance with policy DC.1 of the Rossendale District Local Plan.

14) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas shall be passed through oil interceptors designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not be passed through the interceptor.

Reason:- To prevent pollution of the water environment in accordance with policy DC.1 of the Rossendale District Local Plan.

15) Unless otherwise agreed in writing by the Local Planning Authority, electronic bus departure screens, linked to the bus station, shall be provided within the new store.

Reason:- In the interests of securing a sustainable form of development, in accordance with policy DC.1 of the Rossendale District Local Plan.

16) Prior to the development commencing:-

- a) a contaminated land Phase One report to assess the actual/potential contamination risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority (LPA),
- b) Should the Phase One report recommend that a Phase Two investigation is required, a Phase Two investigation shall be carried out and the results submitted to, and approved in writing by, the Local Planning Authority
- c) Should the Phase Two investigations indicate that remediation is necessary then a Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The remedial scheme in the approved Remediation Statement shall then be carried out.

Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first use or occupation of any part of the development hereby approved.

Reason: To ensure the development is suitable for its end use and the wider environment in accordance with policy DC.1 of the Rossendale District Local Plan.

17) Development shall not commence until details of the existing and proposed site levels, and the proposed finished floor level of the new building, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved level details.

Reason:- To minimise the risk of flooding to the development and to ensure that the development harmonises with its surroundings, in accordance with the policy DC.1 of the Rossendale District Local Plan.

18) Development shall not commence until details of the proposed treatment of the site boundaries have been submitted to, and approved in writing by, the Local Planning Authority. The approved boundary treatment shall be completed in accordance with the approved details before the store is first brought into use, and shall thereafter be retained at all times.

Reason:- In the interests of amenity and to protect and enhance the adjoining watercourses, in accordance with policy DC.1 of the Rossendale District Local Plan.

19) Details of crime prevention measures, to be carried out as part of the development, shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved measures shall be implemented in accordance with the approved details and thereafter retained at all times.

Reason:- In the interests of designing out crime in accordance with policy DC.1 of the Rossendale District Local Plan.

Notes

1) Note02

2) Note03

3) You are advised that you will need to enter into a Legal Agreement with the County Council as the Highway Authority in respect of the off site highway works. For further information on this matter I would advise you to contact the Environment Director at PO Box 9, Guild House, Cross Street, Preston. PR1 8RD.

Local Plan Policies

DS.1

DC.1

HP.1

S.1

T.4

T.6

T.7

Structure Plan Policies

5
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Draft Joint Structure Plan Policies

1
2
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