

Application No: 2010/668

Application Type: Full

Proposal: Conversion from Dwelling to Hot Food Takeaway and New Shop Front

Location: 239 Bacup Road, Rawtenstall

Report of: Planning Unit Manager

Status: For Publication

Report to: Development Control Committee

Date: 15th February 2011

Applicant: Mr R Khan

Determination Expiry Date:
16 February 2011

Agent: Mr D Hancock

REASON FOR REPORTING Tick Box

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:
Reason for Call-In:

3 or More Objections received **X**

Other (please state)

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

APPLICATION DETAILS

1. SITE

This application relates to a vacant mid-terraced property on the south side of Bacup Road, towards its junction with Bocholt Way.

Although the last use of the property appears to have been as a dwelling, the front elevation still possesses a shop front. A flat-roofed dormer is located on the front roof-plane. To the rear is a 2-storey extension that projects up to an un-adopted service road, leaving a narrow yard to its side.

The attached properties have shopfronts and are in commercial use - to one side a dress shop and to the other side a physiotherapists. Immediately in front of the terrace is an on-street parking bay. The adjacent terrace contains Ashoka Restaurant.

The nearest dwelling is 243 Bacup Road, two doors away. To the opposite side of Bacup Road are terraced houses that front to side-streets, the gable of 1 Rose Vale Street facing the application building.

The site is located within the Urban Boundary of Rawtenstall, as designated in the Rossendale District Local Plan.

2. RELEVANT PLANNING HISTORY

2009/0321 Change of use from Residential to A1 Retail
Approved

2009/0337 Change of use from Residential to A5 Hot Food Takeaway
Refused

2009/0621 Change of use from Residential to A5 Hot Food Takeaway
Refused for the following reasons:

- 1) Would result in an over-concentration of such uses on this section of Bacup Road;
- 2) Detriment to residential neighbours due to lack of details of the intended fume extraction/ventilation system and the intended opening hours.
- 3) Detriment to the character and appearance of the area by reason of the proposed aluminium-framed shopfront and lack of details of the intended fume extraction/ventilation system and bin storage facilities.
- 4) Detriment to highway safety by reason of the parking it would cause on Bacup Road and nearby residential Streets.

The subsequent Appeal was dismissed; a copy of the Inspectors decision letter is appended.

Having considered each of the Council's Reasons for Refusal (with regard to adopted policy and the Council's Draft Interim Policy Statement on Hot Food Takeaways) the Inspector concluded that the proposal was acceptable except in respect of the intended fume extraction/ventilation

system. The concluding paragraph of the Inspectors decision letter reads as follows:

“I do not consider that there is an over concentration of hot food takeaways or eating establishments in this area and the vitality and viability of the area would not be harmed. I also conclude that there would not be a harmful effect arising from parking and traffic associated with this proposal. However, due to the lack of information submitted with regard to a fume extraction/ventilation system I conclude that the proposal could be harmful to the living conditions of nearby residents and on the character and appearance of the area, contrary to LP policy DC.1.”

3. PROPOSAL

The current application seeks permission for change of use of the premises from a dwelling to a hot food takeaway on the ground floor; it is made clear that the upper floors will be used for ancillary storage.

Proposed opening hours are 08.00 – 22.00 Monday to Saturday, with no opening on Sundays and Bank Holidays.

The replacement shopfront is to be of timber construction. The application is accompanied by addition information regarding the intended fume extraction/ventilation system. New ducting is to be taken from the kitchen up the existing chimney stack, which is to be fitted with a new extract cowl.

Bin storage would be within the existing extension to the rear.

Within the submitted Design and Access Statement the applicant refers to eight parking spaces in the nearby Ashoka restaurant car park being available for their use.

4. CONSULTATION RESPONSES

LCC (Highways)

No objection. However, it requests details of the eight parking spaces as they are not identified on the submitted plans.

RBC (Environmental Health)

No objection. It is noted that odour/fume/extraction is to be through the flue/chimney stack. This is a satisfactory arrangement and should not cause odour nuisance to neighbouring properties.

5. NEIGHBOUR NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted on 11/01/11 and 20 neighbours were notified by letter on 22/12/10. The site notice has been posted to go above and beyond the regulatory requirement to ensure a high level of Community engagement to accord with PPS1.

Objections have been received from the occupiers of 5 properties, with the following concerns :

- Use would be out of character with the area / result in anti-social behaviour
- Over concentration of such uses in area
- Noise, odour and disturbance
- Ventilation system to be installed may need to have holes to be knocked into the existing chimney space to accommodate the ventilation shaft and exposing it to view.
- Insufficient space at the rear for the storage of commercial bins
- Increased traffic / inadequate parking
- Conflicts with numerous criteria within the Council's Interim Policy: Hot Food Takeaways

6. POLICY CONTEXT

National Planning Guidance

PPS1 Sustainable Development
PPS4 Economic Development
PPG13 Transport
PPG24 Noise

Development Plan Policies

Regional Spatial Strategy for the North West (2008)

DP1-9 Spatial Principles
RDF1 Spatial Priorities
W1 Strengthening the Regional Economy
RT2 Managing Travel Demand
RT4 Management of the Highway Network
EM1 Environmental Assets

Rossendale District Local Plan (1995)

DS1 Urban Boundary
DC1 Development Control

Other Material Planning Considerations

RBC Submitted Core Strategy (2010)
RBC Draft Interim Policy Statement: Hot Food Takeaways
RBC Draft Shop Front Design Guide

7. ASSESSMENT

Having regard to the Appeal decision in respect of Application 2009/621 the main issue for consideration is the proposed fume extraction/ventilation system, and whether it will adequately protect the amenities of neighbours and avoids undue harm to visual amenity.

Neighbour Amenity

Use of the existing chimney stack, which projects above the height of the roof-ridge, will enable emissions to be dispersed at a sufficiently high level to avoid undue

detriment to any neighbours. The Council's Environmental Health Unit have no objection to the proposed scheme. However, it is considered appropriate to require submission of fuller details of the extraction system and ensure it is provided/maintained in a satisfactory form given its proximity to neighbours. This will be ensured via condition.

Visual Amenity

I do not consider the fitting of a cowl on the existing chimney stack will unduly detract from the character and appearance of the building, or the area in general, subject to it having a matt finish and not be silver in colour.

The cowl will be of somewhat bigger size than pots on this and other chimney stacks on the roof of this terrace. However, I am satisfied that it will not be unduly prominent or obtrusive given the size of the chimney stacks and box-dormers on the front roof-plane of this and another property in the terrace.

Additionally, the replacement shopfront for which permission is now sought is to be timber-framed, retains a stall-riser and provides level access into the premises. This is an improvement on the previous scheme, which proposed an aluminium-framed shopfront.

8. SUMMARY REASON FOR APPROVAL

The proposed development is appropriate in principle within the Urban Boundary and, subject to the conditions, will not detract to an unacceptable extent from visual and neighbour amenity or highway safety. The scheme is therefore considered to accord with PPS1/PPG13/PPG24, Policies RDF1/RT2/RT4/EM1 of the Regional Spatial Strategy, and Policies DS1/DC1 of the Rossendale District Local Plan.

9. RECOMMENDATION

Approval

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

2. The development shall be carried out in accordance with the drawings numbered 1030/3,1030/4,1030/5 and the canopy /ventilation system drawing No.BAC 734 dated 22/12/2010, unless otherwise required by the conditions below or first agreed in writing by the Local Planning Authority.

Reason: To ensure the development complies with the approved plans and for the avoidance of doubt.

3. All facing materials to be used shall be as stated on the application form and approved drawings, unless otherwise required by the conditions below or first agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity, in accordance with Policy DC1 of the Rossendale District Local Plan.

4. Prior to the commencement of development a scheme detailing the proposed extractor ducting, flue, cowl, filters, anti-vibration mountings, acoustic levels shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first use of the extension hereby permitted and the system thereafter retained in good working order.

Reason: To safeguard the amenities of neighbours, in accordance with Policy DC1 of the Rossendale District Local Plan.

5. All parts of the extraction system that project above the existing chimney shall be coloured a matt grey, brown or black, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity, in accordance with Policy DC1 of the Rossendale District Local Plan.

6. The takeaway hereby permitted shall not be open to visiting members of the public outside of the hours of 08:00 – 22:00 Monday to Saturday, with one hour at the start of the day for to prepare food and one hour at the end of the day to pack up and tidy away, with no opening on Sundays and Bank Holidays. and shall not be varied unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of neighbour amenity in accordance with the Application Form, Policy DC1 of the Rossendale District Local Plan and the Council's Draft Interim Policy Statement: Hot Food Takeaways.

7. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am to 1:00 pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: To safeguard the amenities of neighbours, in accordance with Policy DC1 of the Rossendale District Local Plan.

Contact Officer	
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