

<b>Application No:</b>	2011/0024	<b>Application Type:</b>	Full
<b>Proposal:</b>	Change of Use from Shop (Use Class A1) to Hot Food Takeaway (Use Class A5) including External Extraction Duct to rear.	<b>Location:</b>	1A Bank Street, Rawtenstall
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	21 March 2011
<b>Applicant:</b>	Mr. M. Arshad	<b>Determination Expiry Date:</b>	21 March 2011
<b>Agent:</b>	Stonehaven Consultants Ltd		

REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input type="checkbox"/>
Member Call-In	<input checked="" type="checkbox"/>

Name of Member: Councillor Swain  
Reasons for Call-In:

1. Believes the application to be contrary to the Hot Food Takeaway Policy
2. The siting may affect the settings of St. Mary's Church and Longholme Methodist Chapel, which are listed buildings.
3. Believes that the application would adversely affect Rawtenstall Town Centre Conservation Area.

**3 or more objections received**

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**

The application site is located in a prominent position on a parade of shops fronting St. Mary's Way in Rawtenstall. The property is a currently vacant A1 retail unit, formerly in use as the 'Mega Pound Store', for which an advertisement sign still exists on the frontage. The front of the unit has external steel roller shutters, and the rear door also has a similar shutter. A pedestrian barrier exists between the footway in front of the application site and the A682 St. Mary's Way, in which there is a service gate located approximately 10m from the application site.

The parade of shops on which the application property is located currently has no restaurants or hot food takeaways located on it. The attached property to the north is in commercial use as a fireworks and scooter shop, whereas the attached property to the south is in use as The Queen's Arms public house (listed building) and nightclub – which also extends above the applicant's property. There are no dwellings located on the same block as the application site.

The area in front of the application site (across St. Mary's Way) is characterised by the presence of Rawtenstall Library (listed building), a public memorial garden (with a memorial which is a listed building), and views of St. Mary's Church (listed building). To the rear of the application site there is a disused back yard which adjoins the car park for The Queen's Arms public house. Two buildings to the rear of the property are listed buildings.

Several restaurants and hot food takeaways already exist within Rawtenstall town centre – the closest examples to the application site being a fish and chip shop at No. 7 Bank Street, Mi-Mi's hot food takeaway on Bacup Road, Blossom Chinese Restaurant & Takeaway on Bacup Road, Bellissimo Italian Restaurant on St. Mary's Way, Nila Indian Restaurant and Takeaway on Bacup Road, Chillies Takeaway on Bacup Road, Ilex Chippy fish and chip shop on Bacup Road and Casa Tapas Restaurant on Bacup Road.

The application site is located within the Urban Boundary of Rawtenstall as designated in the Rossendale District Local Plan, and is within the Rawtenstall Town Centre Conservation Area.

### **2. RELEVANT PLANNING HISTORY**

None.

### **3. THE PROPOSAL**

The applicant seeks planning permission for change of use of the premises from a retail shop (use class A1) to a hot food takeaway (use class A5) on the ground floor.

Proposed opening hours are 11.00 – 23.00 Monday to Sunday, also opening on Bank Holidays.

The shop front is to largely remain as existing; however there are to be some internal alterations to accommodate a food preparation, storage and service area. An extraction canopy will be fitted internally, which will connect to an external 250mm diameter stainless steel flue (with a matt black finish) fitted to the rear of the property.

Space for bin storage is provided within the rear yard of the property.

#### **4. POLICY CONTEXT**

##### **National**

PPS1 – Delivering Sustainable Development

PPS4 – Economic Development

PPS5 – Planning for the Historic Environment (and Practice Guide)

PPG13 – Transport

PPG24 – Noise

##### **Development Plan Policies**

###### Regional Spatial Strategy for the NW (2008)

Policy DP 1-9 Spatial Principles

Policy RDF 1 Spatial Priorities

Policy W1 Strengthening the Regional Economy

Policy RT 2 Managing Travel Demand

Policy RT 4 Management of the Highway Network

Policy EM 1 Environmental Assets

###### Rossendale District Local Plan (1995)

DS1 – Urban Boundary

DC1 – Development Criteria

HP1 – Conservation Areas

HP2 – Listed Buildings

##### **Other Material Planning Considerations**

RBC Submitted Core Strategy DPD (2010)

RBC Draft Interim Policy Statement: Hot Food Takeaways (2009)

RBC Retail and Town Centre Study Update (Nathaniel Lichfield & Partners, 2009)

RBC Draft Shop Front Design Guide

LCC Historic Towns Assessment for Rawtenstall (2006)

#### **5. CONSULTATIONS**

##### RBC (Environmental Health)

No objection to the scheme, but would require extraction flue to terminate at least 1m above the eaves of the property. Noise from the ventilation / extraction systems should be kept as low as possible and should not be audible within any nearby residential properties.

#### RBC (Conservation)

No objection to the scheme, but would require that the extraction flue on the rear of the property is finished in matt black to reduce its visual prominence. Would also recommend that the applicant / case officer liaise closely with RBC Conservation if any future applications are submitted for changes to the shop front.

#### LCC (Highways)

Recommend refusal of the application due to concerns that customers to the takeaway would be tempted to park in the left filter lane of the A682 St. Mary's Way, where a service gate is located in the pedestrian barrier. Cars parked in this location would be an obstruction that could cause problems for the flow of traffic on St. Mary's Way.

### **6. REPRESENTATIONS**

Two site notices were posted on 27/01/2011 as shown on the site plan, and a press notice was published on 28/01/2011. Six neighbours were notified by letter on 25/01/2011 to accord with the General Development Procedure Order.

Two responses have been received objecting to the proposal on the grounds of:

- Over concentration of fast food / takeaway outlets in the area.
- The proposal would exacerbate the problem with rats in the area.
- The proposal would exacerbate the litter problem and further lower the standard of cleanliness in the area.
- The proposal would give a bad impression for potential investors entering Rawtenstall.

### **7. REPORT**

The main issues for consideration are: 1) Principle; 2) Visual Amenity / Heritage Interest; 3) Neighbour Amenity; 4) Highway Safety.

#### Principle

The application site lies within the Urban Boundary and Town Centre of Rawtenstall, where the general acceptability of appropriate A5 economic development in principle is already established as a town centre use.

PPS4 states that:

*“Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.”*

The RBC Retail and Town Centre Study Update (Nathaniel Lichfield & Partners, 2009) defines the parade of shops on which the application site is situated as a 'secondary shopping frontage' – which is considered by the study as providing greater opportunities for a variety of uses (as opposed to solely retail uses).

The recent appeal decisions on planning applications 2010/397 (16 Manchester Road, Haslingden) and 2010/0466 (14 Manchester Road, Haslingden) are relevant to the determination of this application. Both of these cases were dismissed at appeal on the grounds (at least in part) that the conversion to A5 uses would diminish the viability of and vitality of Haslingden Town Centre, contrary to the aim of the development plan.

The RBC Retail and Town Centre Study Update (Nathaniel Lichfield & Partners, 2009) highlights the fact that 50% of units in Haslingden Town Centre in 2008 were 'restaurants, cafes and takeaways', compared to the national average of 43.9%.

In describing the status of Haslingden Town Centre, paragraph 4.51 of the same study states:

*"Comparison goods provision in the centre has declined notably since 2004. Further decline in this sector will further affect its vitality and viability..."*

In the case of the application in question however, it is considered that its location in Rawtenstall Town Centre brings about material differences in context which must be taken into account.

Paragraph 4.17 of the RBC Retail and Town Centre Study Update (Nathaniel Lichfield & Partners, 2009) states that:

*"Restaurants, cafes and takeaways are under-represented compared to the national average [in Rawtenstall]"*.

The same study goes on to highlight the fact that only 38% of Town Centre units (in Rawtenstall) are 'restaurants, cafes and takeaways' compared to the national average of 43.9%.

This difference was reflected in the appeal decision on application 2009/0621 (conversion from residential to hot food takeaway and new shop front – 239 Bacup Road, Rawtenstall) in which the Planning Inspector noted:

*"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"*

Having regard to the Inspector's reasoning above, the circumstances as highlighted in the NLP retail and town centre study and that there are no other A5 uses in the parade where the development is proposed, officers are of the view that the proposal is acceptable in principle in this location at this point in time.

#### Visual Amenity / Heritage Interest

The proposed scheme does not involve significant exterior alteration of the property, and will retain the same shop front as currently exists. The proposed flue to the rear of the property would be situated in a relatively low-profile part of the Conservation Area, and would not be largely visible from the street scene on Bacup Road, as it would be obscured by the part of the applicant's property which projects rearwards from the main building. The flue would not extend above the ridge line of the property. Following consultation with RBC Conservation Officer and the applicant, amended plans have been received from the applicant showing the flue finished in matt black paint to lessen its visual prominence within this part of the Conservation Area.

It is considered that the proposed scheme is acceptable in terms of visual amenity / heritage interest.

### Neighbour Amenity

RBC Environmental Health have no objection to the proposed scheme, and in line with their recommendation the extraction flue terminates 1m above the eaves of the building, to ensure effective dispersal of cooking odours.

The application site is not located directly adjacent to any residential properties, and it is not considered that the proposed extraction system will have any unduly detrimental noise / odour effects on the nearest residential property, which is located approximately 40m away.

Although the proposed opening hours (11:00 – 23:00) are later than those contained in policy HFTA7 of the Council's Draft Interim Policy Statement: Hot Food Takeaways (2009), the policy allows for a less rigid approach where the premises is "*situated in a town or local centre and there are no residential properties in close proximity to the premises*". In this case it is considered that the later opening hours are therefore justified.

The scheme is considered acceptable in terms of neighbour amenity.

### Highway Safety

The proposed development is favourably located on the edge of the town centre shopping area, close to Bank Street car park and Rawtenstall Bus Station.

However, it is located adjacent to the left filter lane of the A682 St. Mary's Way where a service gate is located in the pedestrian barrier. As a consequence there may be a temptation for visitors to the premises to park in this filter lane and use the gate to access the premises. Any car parked in this location would be an obstruction that could cause traffic to have to manoeuvre around it, causing problems for traffic in adjacent lanes.

An objection has been received from LCC (Highways) on the above grounds, and as a result the proposal is considered to be unacceptable in terms of highway safety.

## 8. REASON FOR REFUSAL

The proposed development entails the change of use of a shop (use class A1) to a hot food takeaway (use class A5) adjacent to the A682 St. Mary's Way. By reason of its position next to a service gate in the pedestrian barrier along St. Mary's Way and the brief nature of visits to hot food takeaways in general by their customers, the proposal would increase the likelihood of cars being parked in the left filter lane of St. Mary's Way whilst customers visited the takeaway. This would cause an unacceptable risk to highway safety on the A682 St. Mary's Way. The proposed development is therefore contrary to policy RT4 of the Regional Spatial Strategy (2008) and policy DC1 of the Rossendale District Local Plan (1995).

## 9. RECOMMENDATION

That the Committee be minded to refuse the application.

<b>Contact Officer</b>	
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