

Application Number:	2011/538	Application Type:	Full
Proposal:	Variation of Condition 5 from Outline Planning Permission 1985/110 and Condition 3 of Reserved Matters Approval 1985/250 to allow the sale of ancillary food items	Location:	Former Focus DIY Unit, Bocholt Way, Rawtenstall
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	24 January 2012
Applicant:	K S Scandinavian Property Investments Ltd	Determination Expiry Date:	2 February 2012
Agent:			

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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

Other (please state):

MAJOR

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.

	RECOMMENDATION(S)
	Approval, subject to the conditions detailed in Section 9 of the report.

APPLICATION DETAILS

1. SITE

This application relates to the site formerly occupied by Focus, now vacant, which is situated on the north side of Bocholt Way. Whilst its customer car park is accessed from this road its service yard is accessed from the road to the rear.

The building has a ground floor area of approximately 2,700sq m, with ancillary office space above, and has parking for 75 cars. The site has pedestrian links to the centre of town via Longholme Road to the west.

The site is within the Town Centre Boundary of Rawtenstall, but outside of the Primary Shopping Area, as identified in the Council's recently adopted Core Strategy DPD. The Bus Station and Lidl are situated to the north-east of the site and Tesco is to the south-west, on the opposite side of Bocholt Way.

2. RELEVANT PLANNING HISTORY

1985/110 Demolition of existing building and erection of retail warehouse incorporating garden sales area and open retail sales area with access from Bocholt Way (Outline)
Approved

1985/250 Demolition of existing building and erection of retail warehouse incorporating garden sales area and open retail sales area with access from Bocholt Way (Reserved Matters)
Approved

Condition 5 of 1985/110 and Condition 3 of 1985/250 read as follows :

"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1972 the proposed retail use shall be restricted to non-food sales."

1999/080 Variation of Conditions 5 and 3 to allow for sale of pet food.
Approved

Condition 4 of the permission reads as follows :

"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the proposed retail use of the building shall be restricted to non-food sales save that pet food may be sold from an area not exceeding 200sqm floor area within the building."

1999/401 Construction of new garden centre with existing service yard (amended scheme)
Approved

Condition 2 of the permission reads as follows :

"Before the garden centre hereby approved is first brought into use the pedestrian footway link between the customer car park and the bus station shall be provided in accordance

with the approved details.”

3. THE PROPOSAL

The owners of the site, KS Scandinavian Property Investments Ltd, have received interest from a firm wishing to trade from the existing building as Family Bargains, which operates elsewhere as a primarily bulky-good retail use.

However, permission is sought to vary Condition 5 of 1985/110 and Condition 3 of 1985/250 to allow for some food/drink sales from a maximum of 340sq m (ie15%) of the net retail sales floorspace of the building to tie in with the Family Bargains business model.

The applicant proposes the new condition be worded thus:

“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the sale of food and drink (excluding pet food) from the retail unit shall be limited to 340sqm unless otherwise agreed in writing with the Local Planning Authority.”

In the Planning Statement accompanying the application it is stated that :

“The majority (95%) of the food and drink goods that will be sold from the store will be classified as ‘non-perishable’ and will consist of predominantly tinned and packaged food such as soup, pasta, cooking sauces, condiments, tea, coffee, sugar, biscuits and cakes. It is important to note that this range does not include fresh fruit/vegetables or bread.

“Perishable food items will comprise approximately 5% of the range sold from the premises and will include milk, packaged sandwiches (although the range will be limited and expected to contribute in the region of 0.2% of the store turnover) and frozen foods (although the offer will be very limited and will extend to just one chiller cabinet), but excluding bread and fresh fruit and vegetables.

“The limited range of food items sold from the premises means that the store will not be viewed (or used) as a convenience goods destination and will not compete with retailers within the primary shopping area in these terms. Customer food purchases will be made on an ‘impulse’ basis.

“The projected annual turnover of the store is expected to be in the region of £3.3m, of which the contribution from food and drink sales will equate to £297,000 (or (% of total turnover). This demonstrates the ancillary nature of the proposed store’s food and drink offer and confirms that food and drink will not ‘drive’ or perform a dominant role in generating sales.”

4. POLICY CONTEXT

National

PPS1 Sustainable Development

PPS4 Economic Growth

PPG13 Transport

Development Plan

Regional Spatial Strategy for the NW of England (2008)

DP1-9 Spatial Principles
W1 Strengthening the Regional Economy
W5 Retail Development
RT2 Managing Travel Demand
RT4 Management of the Highway Network
EM1 Environmental Assets

RBC Core Strategy DPD (2011)

AVP4 : Rawtenstall, Crawshawbooth, Goodshaw and Loveclough

Policy 1 General Development Locations and Principles

Policy 8 Transport

Policy 9 Accessibility

Policy 11 Retail and Other Town Centre Uses

Policy 12 The Valley Centre

Policy 13 Protecting Key Local Retail

Policy 17 Rossendale's Green Infrastructure

Policy 23 Promoting High Quality Designed Spaces

Policy 24 Planning Application Requirements

Other Material Planning Considerations

Draft National Planning Policy Framework (2011)

5. CONSULTATION RESPONSES

RBC (Forward Planning)

The application seeks to vary conditions to widen the range of goods permitted to be sold from the building. The applicant would like it to be permissible for 15% of the net sales area to be used for the sale of some food and drink goods, this equates to 340sq m. In their submission they state that 95% of food and drink goods will be non-perishable. The perishable goods on-sale include milk, packaged sandwiches, and frozen food (one chiller cabinet), excluding bread and fresh fruit and vegetables.

The permissions relating to the now vacant Focus building specifically excluded the sale of food from this unit, although application 1999/080 allowed for up to 200sq m of the building to be used for the sale of pet food.

The site is located within the town centre boundary for Rawtenstall (as amended by the adopted Core Strategy of 2011) but is outside of the Primary Shopping Area. The 'centre' for retail development is defined by PPS4 as the primary shopping area (PSA), whilst 'edge of centre' locations for retail purposes, are well connected to, and within easy walking distance (i.e. up to 300m) of the PSA. Hence this is an 'edge of centre' location.

Policy 11 of the adopted Core Strategy Development Plan Document (DPD) states that retail development will be focused within the defined centres (meaning primary shopping areas), and this policy identifies Rawtenstall as the Borough's dominant Town Centre, and the focus for medium and large scale retail development.

The policy seeks to direct Retail proposals to the Primary Shopping Area. It states that proposals for new convenience retail floorspace of greater than 200sq m will be resisted outside of the defined Primary Shopping Area boundaries unless:

- Under the sequential test a more appropriate site cannot be identified, or
- It forms part of a wider Council endorsed regeneration scheme, and the proposal will improve consumer choice and diversify employment opportunities, or other agreed

benefits, and

- It can be demonstrated to the Council's satisfaction that it will not have an unacceptable adverse impact on the vitality and viability of other centres.

The definitions of convenience and comparison goods follow the industry-recognised classifications as follows:

Convenience goods comprise the following listed items:

- Food;
- Alcoholic drink;
- Tobacco;
- Newspapers and magazines; and
- Non-durable household goods.

Comparison goods comprise:

- Books
- Clothing and footwear;
- Furniture, floor-coverings and household textiles;
- Audio-visual equipment and other durable goods;
- Hardware and DIY supplies;
- Chemists' goods;
- Jewellery, watches and clocks;
- Bicycles;
- Recreational goods; and
- Other miscellaneous goods

The applicant has not quantified the amount of convenience or comparison goods to be sold, apart from the 15% of food/drink (equating to 340m²). However, it is expected that this will be more than 340m², given that is the amount of floor space the applicant wants to dedicate to food sales, without any additional items that can be classified as non-durable household goods (e.g. washing-up liquid), although it should be noted that the Focus store would have sold similar types of convenience goods too, as part of their overall sales area. Hence this development is contrary to Policy 11 of the Core Strategy, unless the proposal meets the criteria set out in Policy 11, which includes the proposal being part of a council endorsed regeneration scheme, or no more appropriate site identified. This site is not identified specifically in the recent Rawtenstall Vision document. The applicant has looked at other sites within the PSA of Rawtenstall (the Valley Centre and St Marys Way Car Park), neither of which is deemed suitable.

Nevertheless, it is considered that there are other material considerations relating to this site that need to be taken into account, particularly the existing use. The site already has permission for retail sales, and this application seeks to widen the range of goods, whilst still ensuring that the unit is primarily a destination for the sale of comparison goods, i.e a bulky goods retail unit (as noted in their Planning Statement in para 6.10). For this reason it is suggested that conditions relating to the nature of the goods to be sold need to be worded, in line with the comments in Paragraph 6.12 - 6.14 of the applicant's planning statement. This is to ensure that of the 340sq m to be dedicated to food, 95% will be non-perishable (i.e. tinned and packaged food). Of the 5% perishables to be sold this needs to be restricted to milk, packaged sandwiches and frozen food, and to preclude the sale of fresh fruit/vegetables, bread, or newspapers/magazines, tobacco or alcoholic drinks. For this to be enforceable the applicant will need to agree with the Local Planning Authority a

floor plan identifying the sales area for the food and drink offer.

In order to better link this site with the Primary Shopping Area, and to encourage the possibility of linked trips, it is desirable that the applicant be required to provide a well sign-posted 'pedestrian-friendly' route from the store to Bacup Road and operate their customer car park as a short-stay (ie. 2 to 3 hours) public car park.

LCC (Highways)

LCC parking standards for an A1 class non-food store requires 99 off street parking spaces under the current standards. Taking into account the former use as a DIY store and the current provision of 75 off street parking spaces I would suggest that the shortfall in spaces could be accommodated on adjacent car parks if the pedestrian links were improved. Therefore there would be no objection subject to a condition to enter into a 278 Agreement to improve the highway pedestrian links.

The pedestrian route between Tesco's and the Former Focus store across Bocholt Way requires some improvement at the pedestrian refuge to allow pedestrians to more easily negotiate the road. There has been a serious injury accident in the previous 5 years data involving an elderly pedestrian who has hit by a car whilst crossing Bocholt Way at the pedestrian refuge.

The pedestrian route to the rear of the store onto Longholme Road requires some improvement to allow pedestrians easier access to the footway leading to Bacup Road. It may be necessary to introduce a TRO to restrict parking in the area.

The car park will require re-marking with 8 disabled parking spaces with 3 motorcycle spaces and 8 cycle spaces. If 30 or more full or part time staff are employed then the motorcycle and cycle parking should be covered and secure.

It will be necessary to submit a Green Travel Plan for approval prior to the premises being occupied. Lancashire County Council Sustainable Travel Team offer assistance to all business on request.

RBC (Env Health)

No objection

Rawtenstall Chamber of Commerce

No comments received

6. REPRESENTATIONS

To accord with the General Development Procedure Order 3 site notices were posted on 22/11/2011 and 20 neighbours were consulted by letter on 15/11/2011. A press notice was published on 18 November 2011.

One objection has been received by Winners Discount Store on New Hall Hey Road, Rawtenstall. They comment that during the last 12 months the store has had an approximately 45% downturn in sale resulting in a loss of 20 jobs; of the 14 staff remaining 13 reside locally. The competition resulting from the proposed business will have a detrimental impact on Winners and would likely result in a loss of further jobs and may even mean the store is no longer viable.

7. ASSESSMENT

The main issues to be considered in the determination of this application are:

- 1) Principle
- 2) Visual Amenity
- 3) Access/Parking

Principle

The principle of a retail unit in this area is already established and no extension of the building is proposed.

It is necessary to establish whether the introduction of ancillary food sales would have an unduly detrimental impact on the vitality and viability of the Primary Shopping Area (PSA).

In this regard I concur with the assessment of the Forward Planning Section that this application relates to an established retail unit permitted to sell mainly comparison goods and this would continue to be the case if (not more than 15% of the net sales floorspace could be used for the food and drink offer). For this reason I do not consider that the proposed retail floorspace for food and drink would draw significant trade from the PSA, particularly so given the proximity of the Lidl and Tesco stores, provided that the building is suitably conditioned to limit both the amount of food and drink sold and the types of food and drink that may be displayed / sold. I do consider that signage within the site to direct customers to the footpath links to the PSA along with an element of parking that would allow customers to combine a trip to the PSA would improve the relationship with the PSA. The applicant's agent is aware of this and is working to have an agreement in place that would allow for the above. Subject to such conditions the scheme is considered acceptable in principle and would not harm the vitality and viability of Rawtenstall Town Centre.

Visual Amenity

No extension or external changes to the building are proposed; it can be expected that Family Bargains will apply for advertisement consent in relation to the signage they require in due course.

Access/Parking

I concur with the advice of the Highway Authority that the existing car parking/manoeuvring areas should be re-marked out, and proper provision made on the site for the mobility-impaired/motor bikes /motor cycles, in accordance with current standards. The scheme to be submitted in this regard should also provide a well sign-posted 'pedestrian-friendly' route from the store to Bacup Road.

As the parking standards are expressed as maximums, it follows that the number of parking spaces the existing areas of hardstanding are able to accommodate are adequate to be compliant with the standard. I can appreciate the wish of LCC Highways to avoid the cars of customers visiting these premises having to park on surrounding roads and the contrary wish for the parking spaces on this site to be available to customers for longer (ie. 2 to 3 hours), to enable linked-trips to other shops. The need for on-going monitoring and management of parking on and around the site is most appropriately addressed through a Green Travel Plan. ensure that the existing visits to the site by both employees and customers are minimised.

8. SUMMARY REASON FOR APPROVAL

The proposal is considered acceptable in principle and, subject to the conditions, will not detract from the vitality and viability of Rawtenstall Town Centre or its Primary Shopping Area, visual and neighbour amenity or highway safety. It is therefore considered that the proposal accords with the provisions of PPS1 / PPS4 / PPG13, Policies DP1-9/ RT2 / RT4 / W1/ W5 / EM1 of the Regional Spatial Strategy and Policies 1 / 8 / 9 / 11 / 12 / 13 / 17 / 23 / 24 of the Council's Core Strategy DPD (November 2011).

9. CONDITIONS

Condition 5 of outline permission 1985/110 and condition 3 of reserved matters permission 1985/285 be varied to read as follows :

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the sale of food and drink (excluding pet food) from the building shall be limited to an area not exceeding 340sq m and prior to any such use of the building a floor plan shall have been submitted to and approved in writing by the Local Planning Authority defining the area to be used as such; the floor plan shall indicate the area to be used for both perishable and non perishable goods. Furthermore, the perishable goods shall be limited to 5% of the defined area and shall at no time contain fresh fruit/vegetables, bread (other than in packaged sandwiches), or newspapers/magazines, tobacco or alcoholic drinks, unless otherwise first agreed in writing by the Local Planning Authority.

Reason : To protect the vitality and viability of Rawtenstall Town Centre's Primary Shopping Area, in accordance with PPS4 and Policy 11 of the Council's Core Strategy DPD (November 2011).

Additionally :

1. Prior to the first use of the 'defined area' referred to above a scheme shall be submitted to and approved in writing by the Local Planning Authority providing details of :
 - a) Re-marking out and signing of car parking bays / manoeuvring areas and pedestrian routes;
 - b) Facilities to be made available for the parking of motor bikes and cycles.The approved scheme shall be implemented prior to first use of the 'defined area'.
Reason : In the interests of sustainability and highway/pedestrian safety, in accordance with the provisions of PPS1 and PPG13, and Policies 1 / 24 of the Council's Core Strategy DPD.

2. Prior to the first use of the 'defined area' referred to above a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted plan shall provide details of the objectives, targets and measures to promote and facilitate public transport use, walking, cycling and for the on-going monitoring and management of parking on and around the site to avoid parking on the surrounding roads whilst maximising opportunities for use of the on-site parking by customers making linked-trips to other shops. The initiatives contained within the approved plan shall be implemented and the plan up-dated in accordance with the provisions it contains.
Reason : A Travel Plan is a document setting out a package of measures for reducing the number of car trips made to the development in the interests of sustainability and highway/pedestrian safety, in accordance with the provisions of PPS1 and PPG13, and Policies 1 / 24 of the Council's Core Strategy DPD.