

<b>Application Number:</b>	2013/0033	<b>Application Type:</b>	Full
<b>Proposal:</b>	Proposed change of use from A1 retail unit to retail sales of tyres and tyre change facility, including the installation of roller-shutter to front and rear elevation of building and erection of 2m high fence around rear parking area.	<b>Location:</b>	Former Furniture Centre, Beaconsfield Street, Haslingden
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	19 March 2013
<b>Applicant:</b>	Mr Javaid Feroze	<b>Determination Expiry Date:</b>	27 March 2013
<b>Agent:</b>			

<b>Contact Officer:</b>	Richard Elliott	<b>Telephone:</b>	01706-238639
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REASON FOR REPORTING	Tick Box
<b>Outside Officer Scheme of Delegation</b>	<input type="checkbox"/>
<b>Member Call-In</b> Name of Member: Reason for Call-In:	<input checked="" type="checkbox"/> Cllr Ann Kenyon The development would cause problems with parking and traffic, noise and disturbance to residents and would be a health and safety danger.
<b>3 or more objections received</b>	<input type="checkbox"/>
<b>Other (please state):</b>	

## 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.

## 1. RECOMMENDATION

That the application be Refused for the reasons set out in Section 10 of the Report.

## 2. SITE

The application relates to a 1-storey building to the north west side of Beaconsfield Street, and yard to its rear. Its use as a furniture store ceased in February 2012.

The building is stone-fronted, with a frontage to the road of 30m in length and a depth of 17m. deep. Though not far from either Manchester Road or Bury Road, it is situated in a predominately residential area to the south-east of Haslingden Town Centre, comprising largely of terraced houses to the S and W and 3-storey flats to the E and N.

The section of hardstanding associated with the building extends from the north-west corner of the building, measuring approximately 14m x 18m, and at present is un-fenced. It thereby appears part of the large resident garage/parking court adjacent to it and is used at times by residents for parking.

## 3. RELEVANT PLANNING HISTORY

None.

## 4. THE PROPOSAL

Permission is sought to change the use from A1 retail to a sui generis use for the retail sales of tyres and tyre change facility. The Application Form indicates the intended opening hours would be from 9.00am – 6.00pm Monday to Saturday and 10.00am – 4.00pm on Sundays, with no working on Bank Holidays. The Applicant anticipates that the proposed business would employ 2 people full-time and 2 part-time.

The submitted drawings show that the eastern half of the building would be used for tyre storage, with a small part partitioned-off as a customer waiting-room, whilst the western half would possess three tyre-fitting bays with a 8m wide vehicle manoeuvring area to their rear. To enable vehicles to both access the tyre-fitting bays and the 5 parking spaces to be provided in the rear yard, a black-coloured 5m wide roller-shutter door is to be formed in both the front and rear elevation of the building.

Internally the property would have three working bays with space within the site for vehicles to turn. One half of the building would be used for tyre storage. Five parking spaces are proposed within the rear yard and accessed through the property to be used for staff and allowing customers to park and wait if necessary. The roller shutter doors would be sited to the front and rear elevations nearest to Salisbury Street. The doors would measure 5m wide to be powder coated black.

The 2m high black or dark green palisade fence to be erected around the rear yard will ensure it is not parked on by local residents as it will only be accessible through the building.

The applicant has provided a bat survey which concludes that no signs of bats within the building were found.

In support of the proposed scheme the applicant has said :

- The lawful use of the premises is as a retail unit which could open 24/7 and is of a size which could be occupied by a food retailer more appropriate within the town centre as it would generate considerably greater traffic movements/need considerably more parking than did the previous furniture shop.
- They have no objection to the imposition of Conditions limiting them to the above hours of opening and to a wheel brace or a socket wrench being used to remove wheels/bolts

tightening with a hand-held torque wrench. Also the tyre changing bays are set back from the proposed main entrance of the building, hence noise emanating from the building will be further reduced.

## **5. POLICY CONTEXT**

### **National Planning Guidance**

#### National Planning Policy Framework (2012)

Section 1 Building a Strong, Competitive Economy

Section 2 Ensuring the Vitality of Town Centres

Section 4 Promoting Sustainable Transport

Section 7 Requiring Good Design

Section 8 Promoting Healthy Communities

Section 10 Meeting the Challenge of Climate Change

### **Development Plan**

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

Policy DP1-9 Spatial Principles

Policy RDF1 Spatial Priorities

Policy RT 2 Managing Travel Demand

Policy RT4 Management of the Highway Network

Policy EM1 Environmental Assets

#### Rossendale Core Strategy DPD (2011)

AVP 6 Haslingden and Rising Bridge

Policy 1 General Development Locations and Principles

Policy 8 Transport

Policy 9 Accessibility

Policy 10 Provision for Employment

Policy 11 Retail and Other Town Centre Uses

Policy 13 Protecting Key Local Retail

Policy 18 Biodiversity, Geodiversity and Landscape Conservation

Policy 23 Promoting High Quality Designed Spaces

Policy 24 Planning Application Requirements

#### Other Material Planning Considerations

Planning for Growth – Ministerial Statement (March 2011)

## **6. CONSULTATION RESPONSES**

### LCC (Highways)

No objection

There are 5 off street parking spaces being provided to the rear of the building - these are best used by the staff to ensure that the adjacent residents are not unnecessarily affected by staff vehicles parking on-street all day. During busy periods the waiting customers vehicles could park behind the staff vehicles in the rear car park.

The 3 tyre bays and internal manoeuvring area is large enough to allow vehicles to enter, turn and exit onto Beaconsfield Street in forward gear.

The parking area is to be fully enclosed and access to it will be through the building. This is desirable as the other means of access to the rear via the narrow access road between Mendip House and the rear of Salisbury Street is unsuitable.

There are 9 garages to the rear which require access off the hard standing area. The proposed fence is positioned approximately 6 metres from the garage doors which is the recommended distance for a vehicle reversing out of a garage and therefore access to the garages will be maintained.

Currently the hard standing area is used for parking by adjacent residents and there will be between 5 – 7 spaces lost. The hard standing is unmarked and the remaining hard standing area may benefit from being formally marked out as a parking area to maximise the space and prevent obstructive parking.

The applicant has acknowledged that a larger tyre delivery vehicle would be unsuitable due to the double parking that occurs on Beaconsfield Street and has indicated that it will be carried out in small transit type vans approximately once a week.

#### RBC (Environmental Health)

This is a predominantly residential area, with the site having boundaries with houses on Beaconsfield Street/Salisbury Street and flats at Pennine House on Bury Road.

Operational noise from the tyre changing facility, with open tyre bays, and increased noise from traffic and vehicle movements on site would be seriously detrimental to the amenities of nearby residents and the area in general.

### **7. REPRESENTATIONS**

To accord with the General Development Procedure Order 2 site notices were posted on 07/02/13 and 62 neighbours were consulted by letter on 06/02/13 and a press notice was published on 08/02/13.

A 47-name petition and 81 letters have been received objecting to the development, including objections from Councillor's Ann Kenyon, Gladys Sandiford and Annabel Shipley. The grounds for objection are summarised below:

- Traffic
- Parking
- Noise
- Loss of privacy
- Health and Safety of Nearby Residents
- Unsuitable use for the area
- The area to the rear is not owned by the applicant

A 189-name petition and 3 letters of support have been received. Support is given for the following reasons:

- The development will benefit the area, and will encourage other empty building owners to occupy their premises thus stopping unsociable activities in the area.
- Job creation

A letter has been received from Jack Straw MP following being contacted by the applicant. The letter states that the applicant has a similar outlet in Blackburn. It is stated that the proposal may help to deliver sustainable development and support economic growth in line with the 'Planning for Growth' Ministerial Statement which should be considered when making a decision on the application.

## 8. ASSESSMENT

The main considerations of the application are: 1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; and 4) Access/Parking; 5) Ecology.

### Principle

Tyre-fitting businesses by their very nature, and particularly where they have 3 bays and such a sizeable tyre-storage area, will wish/have a need to generate a significant through-put of vehicles. Accordingly, they are most appropriately sited within the commercial part of a town centre or, alternatively on sites that are edge-of-centre/fronting main roads where there is a significant commercial element within the mix of uses.

This site is located within the Urban Boundary of Haslingden and is not far from its Town Centre. However, it is within a predominantly residential area and has its frontage to a residential street, not a main road (Manchester Road) or a through road (Bury Road). Even when fronting such a well-trafficked road, tyre-fitting businesses tend to have large/garish signage in order to advertise their presence.

Accordingly, I do not consider these premises an appropriate location for a tyre-fitting business. Having regard to its scale of the operation proposed, and its need for signage, it will both look and generate a level of traffic/parking inappropriate within this predominantly residential area.

Whilst the lawful use of the premises is for retail use and could open for any manner of retail use falling within Use Class A1, and without limitation of its hours, I do not consider that this fallback-position is such as to tip the balance in favour of the use for which permission is being sought. The prospect of securing re-use of the building, with the job-creation indicated, is not to be lightly dismissed but in this instance is not sufficient to persuade me that the grant of a permission is warranted in the absence of evidence to demonstrate that the premises have been marketed for retail or other appropriate uses without success.

### Visual Amenity

Owing to its single storey height, natural stone to the front elevation and traditional openings with stone heads and cills, the building does not presently form a particularly prominent or unattractive feature in the street-scene.

Roller-shutter doors are, by their nature, of utilitarian appearance. In this instance the formation of the proposed roller-shutter in the front elevation will diminish the attractiveness of the building, as too will the signage which is the norm for tyre-fitting businesses. I do not have the same concern about the roller-shutter proposed in the rear elevation or the fence proposed around the rear yard.

The proposed use, by its very nature would begin to alter this character. Introducing the steel roller shutters to the front and rear and enclosing the area to the rear with 2m high pallisade fencing would further begin to erode the character of the area, and taking into account the associated noise and traffic, providing a use of form and function that would be more closely associated with an industrial/commercial area.

The scheme is considered unacceptable in terms of visual amenity.

### Neighbour Amenity

In addition to the detriment to visual amenity of residents, the Council's Environmental Health Officer has objected to the proposal due to the likelihood of noise and disturbance for local residents that will be caused by a tyre-fitting operations within the building and associated traffic movements.

The scheme has been designed to ensure that all operations can take place within the building. However, clearly the proposed shutter doors would have to be kept open throughout the day to provide the necessary access and parking for the use. There would, therefore, certainly be noise emanating from the building of a kind/level more appropriate to a commercial/industrial area, where it would not have an impact on residential neighbours over and above what the current use allows.

The Council's Environmental Health Section has objected to the scheme stating that the use would be seriously detrimental to the amenities of nearby residents and the area in general, owing to the proximity of neighbours and the operational noise from tyre changing and vehicle movement to and from the site. I have no reason to disagree with this view. Furthermore, I do not consider that a condition as advised by the applicant to control noise levels emanating from the building would be sufficient to address this concern even if it were possible to enforce and thereby avoid intermittent noise of tools used for tyre changing.

Owing to the location of the site, surrounded predominately by residential properties, I consider that the proposed use would be unacceptably detrimental to the amenities neighbouring residents could reasonably expect to enjoy.

#### Access/Parking

I am satisfied that there would be sufficient provision within the building to avoid work to wheels/vehicles needing to take place on street/externally. Likewise, I do not consider enclosure of the rear yard to give cause for concern by reason of loss of resident garaging/parking facilities they are currently entitled to.

There has been no objection from the Highway Authority. Accordingly, I do not consider that a refusal of the scheme could be substantiated in terms of highway safety. However, LCC Highways wishes the premises to operate with the roller-shutter doors open which is of concern for the reasons set out above. At times I consider the proposed hours of opening will result in traffic movements and, more particularly, the need for parking on-street that competes with that of residents.

#### Other Material Planning Considerations

I understand the concerns expressed by residents regarding health and safety and the site being a potential fire hazard owing to the number of tyres to be stored on site. Health and safety/fire risk, however, would be controlled under separate legislation.

### **9. RECOMMENDATION**

That the application be Refused for the following reason.

#### **REASON FOR REFUSAL**

Notwithstanding the employment provided by the development, the premises cannot accommodate the tyre-fitting element of the business without causing unacceptable detriment to the character and appearance of this primarily residential area and the amenities its residents could reasonably expect to enjoy. Accordingly, the scheme is considered to be contrary to Section 7 the National Planning Policy Framework (2012), Policy DP7 of the Regional Spatial Strategy and Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).