

Application Number:	2014/0397	Application Type:	Full
Proposal:	Change of use from Retail to Hot Food Takeaway, including Bin Storage Area to rear & Extract Flue on rear roof-plane	Location:	17 St James Street, Bacup
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	16 December 2014
Applicant:	Mr A Hussain	Determination Expiry Date:	10 November 2014
Agent:	Mr J Hodkinson		

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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	Yes
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.

1. RECOMMENDATION

That Permission be granted subject to the Conditions set out in Section 11.

2. BACKGROUND

At its meeting in July 2014 Committee considered an application that sought permission to change the use of 17 St James Street from A1 Retail to a Hot Food Takeaway, including refurbishment of the existing shopfront and the installation of an extraction flue on the rear roof-plane.

A copy of the Officer Report and Committee Minute in respect of Application 2014/0177 are appended.

In short, the application was refused for the following reason :

The applicant has failed to demonstrate that adequate arrangements can be made for the storage/disposal of waste the proposed hot food takeaway will generate that are both convenient to access for the operator and for the refuse collection service. As a consequence there is a likelihood of commercial bins being left on the highway and harm to the character and appearance of the public realm and to the Bacup Town Centre Conservation Area, contrary to Policy 16 & Policy 24 of the Council's adopted Core Strategy DPD (2011) and Policy HFTA5 of its Hot Food Takeaways Interim Policy Statement (2011).

The Applicant has sought to address the Reason for Refusal in this re-submission.

3. **SITE**

The application relates to a mid-terraced building on the west side of St James Street. It is a 2-storey building, constructed in stone and slate, possessing a timber shopfront that is not in its original form (now being askew to the pavement, with brick stall-riser and broad rendered panel extending up to the cill of the first-floor windows). The building possesses no rear yard, extending up to the lane to the rear and with a satellite dish that projects over it.

The property has been vacant for over 2 years but was last used as a bakers shop.

The building to each side is 2-storey, but of different build and significantly lower eaves and ridge height. That to the north side (No 15) is occupied by Pizza King, which has a rather garish red-painted shopfront/fascia sign and aluminium flue projecting through a first-floor rear window. That to the south side (No 19) is occupied by a newsagent, which has a projecting shutter-box at fascia level and a satellite dish and various projecting signs above.

On-street parking is permitted to the front, whilst opposite is Bacup Bus Station. The lane to the rear is narrow, but properly surfaced, and has to its other side the backs of 1-storey Market buildings.

The application site lies within the Primary Shopping Area of Bacup Town Centre, part of a terrace designated as a primary shopping frontage, and is also within the Bacup Town Centre Conservation Area. The Character Appraisal produced for the Conservation Area identifies this terrace as containing 'Positive' Unlisted Building of Medium Quality' and views south along St James Street are recognised as 'Important Views'.

4. **RELEVANT PLANNING HISTORY**

2014/0177 Change of use from Retail to Hot Food Takeaway, including the installation of Extract Flue on the rear roof-plane

The Application Form indicated that the opening hours of the proposed hot food takeaway were unknown, but the business was expected to employ 2 people full-time and 4 part-time.

The submitted drawings showed the existing shopfront was to be refurbished & re-painted and a new front door fitted. It was also said that a litter bin will be provided in the public area of the building, to discourage the dropping of litter. The first-floor of the building was to be used for ancillary storage and staff toilets. The proposed

ventilation system would entail the installation of steel duct within the building with only 1m projecting above the rear roof-plane, this part to be stove-enamelled black.

With respect to waste generated by the proposed business :

- The Design & Access Statement submitted with the application stated that it would be bagged and stored in the cellar, to be placed outside on collection day; waste cooking oil will be collected by a specialist contractor by appointment.
- The Council's Environmental Health Section having advised that this was unacceptable from a food hygiene point of view, the Agent indicated that his Client had negotiated and agreed with the adjacent Pizza King for a bin to be stored in their yard.
- The Council's Environmental Health Unit advised that it would have no objection to this scheme so long as there was certainty that the arrangement would endure.
- Between publication of the Officer Report and the Committee Meeting it became apparent that the Applicant had not secured agreement for a bin to be stored in the rear yard of the adjacent Pizza King. Accordingly, the Applicant sought agreement from the Manager of Bacup Market for their bin to be sited adjacent to 2 bins of the Council. An email from the Market manager was circulated to the members of Committee which advised that, if a licence and charge could be agreed, there would not be objection to fitting of *"a trade bin in a secure frame, similar to our bins, on the space next to the utility block, without obstructing the drains or grids.....however I do wonder whether it's really practical for the business"*.
- The resulting waste bin would be approaching 30m from the rear door of the application building, requiring movement down a narrow passageway for a quarter of this length. After consideration of the application Committee resolved : *"That the application be refused due to the premises not having sufficient refuse storage and inadequate alternative provision being in place."*

With respect to other matters the Agent advised that the National Planning Policy Framework encourages sustainable economic development and the proposal accords with the Council's own Hot Food Takeaway Policy Statement. Most particularly :

- This property is in a sustainable location and there are no nearby residential properties.
- There is a large residential population within walking distance, and bus stops and parking facilities nearby.
- There will not be an over-concentration of takeaways in Bacup - there is and will remain a good mix of small shops, there being only one takeaway at present in this terrace of 16 properties.
- Whilst the initial intention was to install a new shopfront of aluminium construction, it is now intended to retain and refurbish the existing shopfront.
- The proposed flue will not have significant visual impact.
- The existing shop is accessed by steps to the front and it is not possible to provide level access as the unit is not large enough to install a ramp.

The Council's Conservation Officer advised that, as submitted, the proposal was not considered to sustain or enhance the significance of the conservation area due to the proposed treatment of the existing shopfront. However, it could be brought to an acceptable standard for the conservation area through the below recommended conditions :

- 1) Applicant to submit specification for repair of existing fascia board, pilasters and consoles after removal of metal canopy. All repair and any replacement work to be agreed in writing with the Council prior to commencement of any works.
- 2) Applicant to remove render above fascia board and repair stone underneath. Applicant to submit full specification for removal of render and repair of stone to be agreed in writing with Rossendale Borough Council prior to commencement of any works.
- 3) No shutters to be used.

LCC Highways had no objection.

5. **PROPOSAL**

This application is a re-submission of Application 2014/0177 - seeking permission to change the use of the property from A1 Retail to a Hot Food Takeaway, including refurbishment of the existing shopfront and the installation of an extraction flue on the rear roof-plane - but differs in that it proposes partitioning-off part of the ground-floor space at the rear of the building as a bin store.

To measure 1.2m x 1.6m in area, the proposed bin store will be accessed from the lane to the rear through 1.5m high doors to be provided by forming an opening below an existing window (the sill of which will be raised by 0.6m).

6. **POLICY CONTEXT**

National

National Planning Policy Framework

- 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 12 Conserving and Enhancing the Historic Environment

Development Plan

Rossendale Core Strategy DPD (2011)

- AVP2 Area Vision for Bacup, Stacksteads, Britannia & Weir
- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 11 Retail and Other Town Centre Uses
- Policy 16 Preserving & Enhancing the Built Environment
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

Other Material Planning Considerations

7. **CONSULTATION RESPONSES**

RBC Environmental Health

No objection to this resubmission.

RBC Conservation

The site lies within the Bacup Conservation Area, on St James Street, which runs north-south from St James' Square. The Bacup Conservation Area Appraisal was adopted as a material planning consideration in 2011. The building is identified as a positive unlisted building in the appraisal and views south along St James Street are recognised as Important Views on the Conservation Area Appraisal Map 3.

The Council's Shopfront Design Guide was adopted as a material planning consideration in 2012. Buildings along St James Street are a combination of two-storey 18th and 19th century terraced stone buildings, in two bays with shops on the ground floor and living accommodation above. A rhythm is created in the street scene by the varying roof heights resulting from gradual development over time. The roof lines are unified by a continuous horizontal line of fascia boards along each shop frontage. At No 17 the horizontal emphasis has been marred by later additions and alterations to the shopfront resulting in a confused and unwelcoming design.

The proposal is to retain the existing shopfront and remove the fixed metal framed canopy. The shopfront is timber with a modern brick stall riser. The installation of the fixed canopy has involved removal of sections of the pilasters. Above the timber fascia board is another timber section, its purpose within the shopfront design is unclear. Above this a rendered section sits between the timber and first floor windows. These additions create an unbalanced vertical emphasis and do not take into account the proportions of the host building. Consoles to each side of the fascia that would frame the shopfront are missing and the window mullions do not possess any historic or architectural interest. Although the shopfront is timber, which is considered a more appropriate material for the conservation area than a metal shopfront, the detailing and overall design are not of a high quality.

The Council's Shopfront SPD recommends consideration of the vertical and horizontal subdivisions within the frontage and between adjoining properties. Proposals which fail to take the layout of the adjoining buildings into account will not be accepted. Further, the Council will not accept designs which are out of proportion with the established fascia height, depth and width of neighbouring properties.

No details of shuttering have been submitted and external shuttering should be prevented. No details of the repair that will be needed to the pilasters or fascia have been submitted that will result from the removal of the canopy.

The proposed ventilation system will project 1m from the rear roof slope. This will have a harmful visual effect on the character and appearance of the conservation area and cannot be positioned in the chimney to minimise visual impact. However this will be enamelled black to blend in with the slate roof.

The proposal as it currently stands is not considered to sustain or enhance the significance of the conservation area due to the proposed treatment of the existing shopfront. It is also contrary to Core Strategy Policies 16 and 24, failing to preserve or enhance the built

environment and failing to positively contribute to the townscape, historic environment and local distinctiveness of Rossendale.

The existing shopfront could be brought to an acceptable standard for the conservation area through the below recommended conditions :

1. Applicant to submit specification for repair of existing fascia board, pilasters and consoles after removal of metal canopy. All repair and any replacement work to be agreed in writing with the Council prior to commencement of any works.
2. Applicant to remove render above fascia board and repair stone underneath. Applicant to submit full specification for removal of render and repair of stone to be agreed in writing with Rossendale Borough Council prior to commencement of any works.
3. No shutters to be used.

LCC Highways

No objection

It is anticipated that the proposed hot food takeaway will generate the maximum number of customers during the evening hours and there will be a number arriving by car.

The waiting restriction on St James Street allows drivers to park for 30 minutes Mon-Sat 8am - 6pm and after 6pm the on-street spaces are unrestricted.

The proposal will be of no detriment to the highway network.

8. NOTIFICATION RESPONSES

The application has been publicised by way of a press notice and a site notice and neighbours/previous objectors were notified by letter on 15/9/14.

No comments have been received from near-neighbours.

The following comments have been received from a resident of Maden Road :

“I was surprised to see in the application it was stated there were not a large number of takeaway outlets in Bacup centre. To my knowledge there are nine and three cafes. Surely with the proposed redevelopment of the town centre what we don't need are any more...”

The following comments have been received from Cllr Helen Jackson, Member for Irwell Ward :

“I strongly object to the above proposal (little different) from the previous application from the same person) to open a hot food takeaway in the former Cordey's site on St James Street in Bacup. I spoke against this earlier application at DC and shall do so again assuming it comes to DC. Again, there is insufficient regard for disposal of waste and a complete lack of recognition that Bacup has already numerous hot food takeaways.”

The following comments have been received from Cllr Andrew McNae :

“It is also worth noting that Bacup has a number of vacant properties that were fast food takeaways and presumably have extant permission. No need to add to this...”

9. **ASSESSMENT**

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

- 1) Principle
- 2) Housing
- 3) Heritage Issues/Visual Amenity
- 4) Neighbour Amenity
- 5) Waste Storage / Disposal
- 6) Access/Parking

Principle

Both national and local policies promote economic growth and seek to bring vacant buildings back into use, whilst seeking to maintain a balance of uses in town centres to ensure their vitality and viability.

Policy HFTA 1 of the Council's Hot Food Takeaway Policy states:

When considering whether a proposed hot food takeaway would result in an over-concentration of such uses to the detriment of the vitality and viability of a town centre, neighbourhood centre or local retail parade, regard will be had to:

- The number of existing hot food takeaway establishments in the immediate area and their proximity to each other;
- The type and characteristics of other uses, such as housing, shops and public houses;
- The importance of the location for local shopping, and the number, function and location of shops that would remain to serve the local community;
- The potential benefits of the proposal for the wider community; and
- Any known unresolved amenity, traffic or safety issues arising from existing uses in the area.

In this instance it is not considered that the proposed takeaway will result in an over-concentration of such uses there being only one other takeaway in this terrace of 16 properties, comprising of a good mix of retail/town centre uses. Whilst 3 of the other properties in the terrace are presently vacant none have been hot food takeaways or could open as such without first applying for and obtaining planning permission.

The application is therefore considered acceptable in principle.

Heritage Issues/ Visual Amenity

S.72 (1) of the T&CP (Listed Buildings & Conservation Areas) Act 1990, states that :

“In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of [the Act], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

Under paragraph 131 of the National Planning Policy Framework (NPPF), in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

Policy 24 of the Core Strategy indicates that the Council will seek to ensure that each proposal positively contributes to the townscape, historic environment and local distinctiveness of Rossendale. Policy 16 (5b) states that the Council will seek to ensure that heritage assets (in this case the conservation area) will be safeguarded and secured by ensuring development is of a high standard of design, reinforcing the local distinctiveness of Rossendale.

In the interests of preservation and enhancement of the character and appearance of the Bacup Town Centre Conservation Area it is important to secure re-use of buildings. This building has been vacant for 2+years.

With respect to external works to the front of the building, the applicant is proposing to retain and refurbish the existing timber shopfront (including its re-painting) and to fit a new front door. Besides securing fuller details of the intended colour-scheme and design of front door, together with masking of the brick stall-riser in a suitable manner, I concur with the view of the Council's Conservation Officer that it is appropriate to Condition that the Applicant :

- repair the existing fascia board, pilasters and consoles after removal of metal canopy in accordance with a specification agreed in writing with the Council prior to commencement of any works.
- remove render above the fascia board and repair stone underneath in accordance with a specification agreed in writing with the Council prior to commencement of any works.

Also that no external shutters be fitted.

To the rear of the building, the proposed flue will project from the rear roof-plane by 1m, but not exceed the ridge-height, and is to be stove-enamelled black. It will be visible to the public only at distance and against the backdrop of the slate roof. This being the case, I do not consider that it will detract to an unacceptable extent from the character and appearance of the building or the area. I concur with the view of the Council's Conservation Officer that the doors to the proposed bin store should be timber, in order to better reflect the character of the Conservation Area. I also consider it appropriate to Condition that the satellite dish that projects from the rear elevation of the building be removed.

Subject to the above, it is considered that the proposed external alterations to the building would enhance the character and appearance of the building itself and the Conservation Area.

Neighbour Amenity

There are no residential properties in such close proximity to the site that their occupiers are likely to be caused unacceptable disturbance by evening use of this property, which is on a main road frontage, opposite the bus station and near to public houses.

Waste Storage / Disposal

The building possesses no rear yard in which to store waste bins. I can appreciate the Council's Environmental Health Section having objection to the application when it initially proposed that food and other waste be bagged and stored in the cellar, to be placed outside on collection day.

The Council's Environmental Health Unit has advised that the bin store now proposed is acceptable from a food hygiene point of view. A condition is recommended to ensure that it is provided prior to opening of the hot food takeaway and thereafter retained.

Access/Parking

The Highway Authority has not objected to the proposal, there being on-street parking to the front of the premises and public car parks nearby.

CONCLUSION

It is considered that this re-submitted application satisfactorily addressed the reason for refusal of Application 2014/0177.

10. SUMMARY REASON FOR APPROVAL

The proposed use is appropriate in principle within a Town Centre and, subject to the conditions, is not considered likely to detract to an unacceptable extent from the character & appearance of the Bacup Town Centre Conservation Area, neighbour amenity or highway safety. The proposal has been considered with particular regard the National Planning Policy Framework (2012), and Policies AVP2 / 1 / 8 / 9 / 11 / 16 / 23 / 24 of the Council's adopted Core Strategy DPD (2011), Hot Food Takeaways Interim Policy Statement (2011) and Shop Front Design Guide SPD (2012).

11. RECOMMENDATION

That Permission be granted, subject to the Conditions below.

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 submitted drawings, unless otherwise required by the conditions below or otherwise first agreed in writing by the Local Planning Authority.
Reason : For the avoidance of doubt.
- 3) Prior to the commencement of any works a specification shall be submitted to and approved in writing by the Local Planning Authority for :
 - a) masking of the brick stall-riser, design of front door and the intended colour(s) for the scheme of painting;
 - b) repair of the existing fascia board, pilasters and consoles after removal of the existing metal canopy; &
 - c) removal of render above the fascia board and repair of the stonework behind (unless it can be demonstrated to the Council this is not reasonably practical).The approved scheme of works shall be implemented prior to first use of the premises as hereby permitted.

Reason : In order to preserve and enhance the character and appearance of the front elevation of premises located on a prominent main road frontage within a Conservation Area, in accordance with Policies 1 / 16 / 24 of the Council's adopted Core Strategy DPD (2011).

- 4) Notwithstanding what is shown on the approved drawings, the bin-store shall be fitted with doors of timber-boarded construction (not metal-grille gates) which shall be painted prior to first use of the premises as hereby permitted; the bin-store shall thereafter be kept available at all times for use as such. Furthermore, the satellite dish that projects from the rear elevation of the building shall be removed prior to first use of the premises as hereby permitted.

Reason : In order to preserve and enhance the character and appearance of the rear elevation of premises located within a Conservation Area and to prevent littering and pollution, in accordance with Policies 1 / 16 / 24 of the Council's adopted Core Strategy DPD (2011).

- 5) No external shutters shall be installed without submission and approval of an application for planning permission.

Reason : For the avoidance of doubt and to protect the character and appearance of premises located within a Conservation Area, in accordance with Policies 1 / 16 / 24 of the Council's adopted Core Strategy DPD (2011).