

Application Number:	2014/0177	Application Type:	Full
Proposal:	Change of use from Retail to Hot Food Takeaway, including the installation of Extract Flue on the rear roof-plane	Location:	17 St James Street, Bacup
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	22 July 2014
Applicant:	Mr A Hussain	Determination Expiry Date:	27 June 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 10.

2. 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 (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 approximately 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 the 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'.

3. RELEVANT PLANNING HISTORY

None.

4. PROPOSAL

The applicant seeks 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.

The Application Form indicates that the intended opening hours are unknown, but the business would employ 2 people full-time and 4 part-time.

The proposed ventilation system will 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.

The submitted drawings show the existing shopfront is to be refurbished & re-painted and a new front door fitted. It is also said that a litter bin will be provided in the public area of the building, to discourage the dropping of litter.

The submitted Design & Access Statement stated that waste will 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 it is unacceptable from a food hygiene point of view to bag and store food waste in the cellar, to be placed outside on collection day, the Agent has negotiated and agreed with the adjacent Pizza King for a bin to be stored in their yard.

The first-floor of the building will be used for other storage and staff toilets.

The Agent advises 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 waste storage arrangements originally proposed were discussed and agreed with the Council's Operations Department prior to submission of the application (and similar to those of the neighbouring properties), but have been modified to address the concerns of the Environmental Health Section.
- 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.

5. **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

RBC Bacup Town Centre Conservation Area Character Appraisal (2011)
 RBC Hot Food Takeaways Interim Policy Statement (2011)
 RBC Shop Front Design Guide SPD (2012)

DCLG 'Planning practice guidance for renewable and low carbon energy' (2013)

6. **CONSULTATION RESPONSES**

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.

RBC Environmental Health
Object

1. There are inadequate facilities for the storage and disposal of waste. Although there is reference made on the planning application regarding waste, this provision is unacceptable from a food hygiene point of view.
2. Consider there is an over concentration of hot food takeaways in Bacup town centre.

[To address Point 1 the Agent has agreed with the adjacent Pizza King for a bin to be stored in their yard - Subject to certainty that this arrangement will endure the Council's Environmental Health Section has advised that this will be acceptable from a food hygiene point of view.]

7. NOTIFICATION RESPONSES

The application has been publicised by way of a press notice and a site notice and neighbours were notified by letter on 31/5/14.

The following objections has been received :

Pizza King, 15 St James Street

Having fast food machines and appliances might affect our building which is already quite old. Besides, there are too many takeaways in Bacup which is a small area - more takeaways might affect our business which is struggling to survive. This might result in cutting the numbers of our employees who have families to feed up. To have a takeaway next door might result in clashes due to not having enough parking spaces in front of the shops.

Pizza & Kebab House, Yorkshire Street

I just want to express my opposition to the proposal of changing the bakers shop to a takeaway. As you must already be aware there are many takeaways in the area. I am not too happy with this proposal because I am already struggling in paying bills and rent. I am just about making ends meet. Another takeaway would cause me financial difficulty and problems.

Flat 5a Yorkshire Street

I am very concerned that another (Hot) take-away food outlet is being considered for Bacup. There is already an abundance of hot food outlets, which all contribute to the amount of litter that is left strewn around. There are approx. 7 other take-away's in the immediate area. I would be happier seeing a sit down establishment, plus I think it will put strain on the existing business's which the Council should seriously consider, as a further dilution of outlet income & profit.

18 Hazel Grove

If Bacup has been awarded Heritage money to upgrade the Town and to encourage more varied shops to be opened, and as a consequence more visitors, then why open more Take-Away establishments in the town, particularly on the main street. The ones we already have look untidy and in some cases dirty.

I thought that the Government was encouraging its people to become healthier and less obese. This is not the way to go about this.

Our main street should be welcoming not full of take-aways, which are closed during the day. This makes the town look derelict.

14 Hoghton Avenue

1. We object to any more Take-Away establishments to be opened in the town, particularly on the main street.
2. We thought that the Government were encouraging its people to become more healthy and less obese. This is not the way to go about this.
3. The take-aways we already have look untidy and in some cases dirty.
4. We understand that Bacup has been awarded Heritage money to upgrade the Town to encourage more varied shops to be opened, and as a consequence attract more visitors
5. Our main streets should be welcoming not full of take aways, hairdressers and charity shops.

8. 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 the proposed takeaway is not considered to 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 4 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 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 only change proposed is the installation of a flue of 1m in height that will project from the rear roof-plane 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 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 Agent has indicated that they have now negotiated and agreed with the adjacent Pizza King for a bin to be stored in their yard. Subject to certainty that this arrangement will endure the Council's Environmental Health Section has advised that it will be acceptable from a food hygiene point of view.

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 parking nearby.

9. 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 (March 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).

Rossendale Core Strategy DPD (2011)

AVP2	Area Vision for Bacup, Stacksteads, Britannia & Weir
Policy 1	General Development Locations and Principles
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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

10. 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 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. Prior to the commencement of any works a Waste Management Strategy shall be submitted to and approved in writing by the Local Planning Authority which shall provide for the storage and disposal of wastes arising from the proposed use. The approved strategy shall be implemented prior to first use of the premises as hereby permitted and thereafter adhered to, unless a variation is first submitted to and approved in writing by the Local Planning Authority.
Reason : In order to prevent littering and pollution, , in accordance with Policies 1 / 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 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).