

Application Number:	2016/0474	Application Type:	Full
Proposal:	Change of use from motorcycle store to convenience store (A1)	Location:	801 Burnley Road Rawtenstall
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	13 th December 2016
Applicant:	Mr Shabaz Ahmed	Determination Expiry Date:	16 th December 2016
Agent:	Mr Shams-Ul Alam		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	Cllr A Barnes I am concerned about siting an off license at this point in the road. The area has many double yellow lines - for good reason - and I am concerned that people in a hurry will disregard these and park anyway.
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.

1. RECOMMENDATION

That Permission be refused for the reasons set out in Section 9.

2. SITE

This application relates to a 2-storey building situated on the corner of Burnley Road (A682) and Goodshaw Avenue.

The premises have been used for many years for the display and sale of motorbikes, though now vacant. The building is of stone/slate construction and has a shopfront/fascia sign that extends the length of the front elevation and part way down the northern gable. It has a floor area of 223sqm, the ground floor 25sqm larger than the first-floor by reason of the 1-storey addition occupying half of the rear yard.

The rest of the properties in the terrace are in residential use, as too are the properties to the other side of Goodshaw Avenue and beyond the private road running to the rear of the terrace. To the opposite side of the main road is the former Jester public house, now converted to a funeral directors.

Double yellow lines extend to the front and side of the terrace the application building forms part of and also to the front and side of the terrace to the opposite side of Goodshaw Avenue.

The application building and those in the vicinity are located within the Urban Boundary.

3. PROPOSAL

The application seeks permission to change the use of the building to an A1 retail unit, the submitted drawings indicating that the ground floor is to be used for the display and sale of convenience goods, except for the 1-storey addition to the rear which is to be retained as a store room. The first-floor is to be used for further ancillary storage, an office and staff facilities. No external alterations to the building are proposed.

The Application Form indicates hours of opening for the shop are to be 8am to 11-30pm on 7 days of the week. The Agent has since advised that it is intended to open 7am to 10pm each day.

In favour of the proposal, the Agent has stated that the proposal :

- will bring back into use a vacant building in a prominent location
- is for change of use to a convenience store, where only small items of daily needs and necessities will be stocked; &
- is to serve the nearby residents, who will travel to the premises mainly on foot.

In response to concerns expressed by LCC Highways about on-street parking/servicing that the convenience store may give rise to the Agent has :

- advised that *“the client has another small shop which he services throughout the week using a small van. This avoids the employment of a large vehicle which will clearly not work in this instance”*
- submitted an amended Plan to show that :
 - the ‘small van’ they envisage making deliveries is of a size it will be able to back into the rear alley and goods then taken into the building via their back yard;
 - they are willing to provide a guard rail at the kerbside of Burnley Road fronting their building to help discourage customers parking here; and
 - verbal agreement has been reached with the funeral directors opposite to enable store customers to park on the forecourt fronting their building.

4. PLANNING HISTORY

None.

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

Development Plan Policies

Rossendale Core Strategy DPD (2011)

- Policy AVP4 Area Vision for Rawtenstall, Crawshawbooth, Goodshaw & Loveclough
- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 11 Retail & Other Town Centre Uses
- Policy 13 Protecting Key Local Retail & Other Services
- Policy 24 Planning Application Requirements

6. CONSULTATION RESPONSES

RBC Environmental Health

No comments

LCC Highways

In response to the application as first submitted the Highway Authority advised that it had highway safety concerns relating to the lack of customer parking and servicing area for the unloading of goods.

It has considered the amended Plan since submitted by the Agent and has stated : “*The amended plan that has been submitted does not address the concerns that were originally raised by the Highway Authority.*”

Its views are more fully set out in the Assessment below.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order the application was publicised by site notice and letters to neighbours.

A total of 64 people (from 40 properties) have put their name to the same letter, which objects to the application for the following reasons :

- The character of the area will be spoiled, the intended hours of opening anti-social and adversely affecting aural amenity
- The business is inappropriate, especially given the near proximity of a convenience store 300m to the south
- The internal layout is inappropriate as it places fridges/freezers adjoining the neighbouring residential property and the till visible from the street.
- More stationary / moving traffic will be generated in an already busy residential area / where there is a variation in traffic speeds / where double yellow lines have been provided because of existing highway dangers

Limey Valley Residents Association has commented that :

- The planning application makes no mention of the License to sell alcohol that has been sought and raises the potential for public nuisance and touches also upon the safety and welfare of children and road safety.
- The association has some sympathy with residents' concerns. By the same token it appreciates that it is desirable to have such a large premises occupied. Given that a generation ago, the building housed a Co-op convenience store, it can see the logic of this sort of operation opening up once again. What it cannot support is the provision of yet another outlet for the sale of alcohol given the property 250m to the south and, a further few minutes' walk away, 2 convenience stores in Crawshawbooth.

8. **ASSESSMENT**

The main considerations of the application are :

- 1) Principle; 2) Traffic/Parking; & 3) Neighbour Amenit

Principle

The application site is situated within the Urban Boundary and fronts a main road along which a bus service runs. To this extent the site is in a sustainable location.

However, National and Core Strategy attach great importance to ensuring the vitality of town and other centres. In this instance the nearest such centre is Crawshawbooth, identified by the Core Strategy as a Neighbourhood Centre.

In Section 2 of the National Planning Policy Framework, entitled 'Ensuring the vitality of town centres', it is stated that :

"Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. (Para 24)

When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. (Para 26)*

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be

refused.” (Para 27)

Policy 11 of the Core Strategy, entitled ‘Retail and Other Town Centre Uses’, states (amongst other things) that :

“Retail development, together with other town centre uses, including offices, leisure, arts, culture and tourist facilities, will be focused within the defined town and local centres.

Retail proposals will be directed to the Primary Shopping Areas (PSA). Proposals for non-retail uses appropriate to town centres will be considered favourably within the town centre boundary, which encompasses but extends beyond the PSA.

Proposals for new convenience retail floorspace of greater than 200m² 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.*

All developments (convenience and comparison) will be expected to provide Impact Assessments where they are above the following thresholds:

- Rawtenstall Town Centre – 750m²*
- Bacup and Haslingden District Centres – 500m²*
- Elsewhere within the borough – 200m²”*

The application seeks permission to change the use of an existing building to a convenience store. As this is a town centre use it ought to seek a location within a town centre and, in the absence of such a site, an edge-of-centre location. Given the proposed use falls to be considered a main town centre use which is located outside of a defined shopping area the application ought to be accompanied by a Report providing an assessment of whether there are sequentially preferable sites available for the convenience store proposed.

The application was submitted without such a Report and that which has since been received carries out an assessment for sequentially preferable sites in relation to Rawtenstall Town Centre; it identifies 3 possible development sites which are presently on the market, dismissing 2 as too small & for rent rather than purchase and the third as requiring planning permission for A1 Retail Use & works of such scale that they would take time and incur costs making this alternative unviable.

As the applicant has not carried out an assessment for a sequentially preferable site in relation to Crawshawbooth Neighbourhood Centre the proposals are contrary to National and Core Strategy policies as it has not been demonstrated that there are no sequentially preferable sites for the proposed store. It is considered that the proposed development has the potential to adversely impact on the vitality of Crawshawbooth Neighbourhood Centre by drawing trade away from convenience stores within it and from other business within the centre as a result of loss of linked trips.

Traffic / Parking

As first submitted LCC Highways advised that it had highway safety concerns with the proposal, relating to the lack of customer parking and servicing area for the unloading of goods. It advised that, when compared with the motorbike store, the proposed convenience store would generate short duration stops by customers, which often results in customers stopping on double yellow lines, and the servicing of the store will be much more frequent.

In response to the amended Plan since submitted by the Agent LCC Highways has commented as follows :

“The amended plan that has been submitted does not address the concerns that were originally raised by the Highway Authority.

Servicing/Deliveries

The applicant has proposed the daily servicing of the store by a small LGV to the rear of the store via the back street.

This cannot be guaranteed or controlled under the Planning Act and it is likely to present difficulties for the operation of the store. It is unlikely that the applicant could have full control over the type of vehicle which delivers to the store for certain goods, eg fresh goods (milk, bread, veg) and it is inevitable that these deliveries would be undertaken from Burnley Road.

The existing double yellow lines allow the loading and unloading of goods from vehicles and only the introduction of a loading restriction Traffic Regulation Order could restrict this provision. This type of restriction is rarely considered outside of a Town Centre location due to the requirement for high levels of enforcement and therefore this would not be appropriate here.

It is the view of the Highway Authority that the loading and unloading of goods from Burnley Road or Goodshaw Avenue is likely to occur on a daily basis and this would be a safety concern for highway users on the network.

Customer Parking

The plan refers to the front forecourt of the Funeral Directors which I assume is the cobbled strip along the Burnley Road elevation, rather than the car park to the side/rear.

The cobbled forecourt is shown as adopted highway on the records and therefore it would not be under the control of Alderson and Horan to allow parking. We wouldn't want to encourage parking on the cobbled forecourt as this would result in vehicles manoeuvring/reversing over the footway.

The front and side elevations on Burnley Road and Goodshaw Avenue are covered by double yellow lines which prohibits parking 24 hours a day. The parking restrictions are in place to ensure that adequate sightlines are maintained at the road junction and to provide an adequate road width to accommodate the volume of traffic, including the large vehicles and buses.

The convenience store will generate short duration stops by customers collecting a loaf of bread for example, which often results in customers stopping on double yellow lines as the risk of prosecution is very low. This is a concern for highway safety reasons.

The applicant has proposed the introduction of a pedestrian guardrail within the highway along the Burnley Road elevation of the premises. The Highway Authority would not support the introduction of a guardrail within the highway that did not have safety benefits for the wider use of all highway users. Whilst there may be a small deterrent to customers stopping alongside the guardrail, it is unlikely to prevent it and more likely to be restrictive to pedestrians crossing the road.

As a secondary point the guardrail would need to be set back 450mm from the kerb edge which would result in a narrowed footway which would be detrimental for pedestrians.

To conclude the Highway Authority does not support the change of use of these premises to a convenience store which will result in an intensification of its existing use and a highway safety concern which cannot be mitigated for within the highway.”

Neighbour Amenity

The Application Form indicates that the proposed convenience store will be open to the public 7 days a week between 8am to 11-30pm, wider than the motorbike shop that last occupied the premises. Nevertheless, the activities to go on within the building are not likely to give rise to noise and disturbance for neighbours. Notwithstanding that the public entrance is to continue to be in the elevation facing Goodshaw Avenue its use is not considered likely result in unacceptable noise and disturbance for neighbours given it is setback from the main road by only 3m.

However, at the intended hours of opening in the evening/at the weekend unacceptable noise and disturbance for residents of properties fronting Burnley Road and Goodshaw Avenue is likely to arise as a result of car-borne customers, particularly if they avoid parking on the double-yellow lines immediately to the front and side of the building.

9. RECOMMENDATION

That Permission be Refused.

Reasons for Refusal

1. The applicant has not complied with the National Planning Policy Framework and Policy 11 of the Council's adopted Core Strategy (2011), which require submission of an assessment to demonstrate that there are no sequentially preferable sites for the proposed convenience store within/on the edge of Crawshawbooth Neighbourhood Centre. In the absence of this, and having regard to the size of the application building, the Council is not satisfied that the proposed convenience store will not adversely affect the vitality of Crawshawbooth Neighbourhood Centre.
2. The proposed development will adversely impact on highway safety within the immediate vicinity due to lack of adequate off-street parking and servicing space. Notwithstanding the double yellow lines on the highways immediately to the front and side of the building the proposed convenience store is likely to result in short-stay customer parking and unloading of goods on the highway near to the junction of Burnley Road & Goodshaw Avenue. Such activity will unacceptably obstruct sightlines at the road junction and fail to maintain an adequate road width to accommodate the volume of traffic, including the large vehicles & buses that use Burnley Road (A682). The proposal is therefore contrary to Policies 1, 8 and 24 of the Council's Adopted Core Strategy (2011).

3. The proposed development will result in noise and disturbance to the detriment of the amenities of the residents of properties fronting Burnley Road and Goodshaw Avenue. The proposed opening hours will result in activity at the site late into the evening and at the weekends in the form of people visiting the premises, vehicles visiting and leaving the premises and car doors opening and closing which will adversely impact on the level of amenities the neighbours can reasonably be expected to enjoy. As such the proposed development is contrary to Policies 1 and 24 of the Council's Adopted Core Strategy (2011).