

Application Number:	2018/0505	Application Type:	Full
Proposal:	Variation of Condition 5 (floor space used for food sales) pursuant to planning approval 2014/0384, to enable the sale of convenience goods from Unit 4.	Location:	New Hall Hey Retail Park, New Hall Hey Road, Rawtenstall, Rossendale, Lancashire, BB4 6HR
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	29 th November 2018
Applicant(s):	Ms Karen Fox	Determination Expiry Date:	11 th January 2019
Agent:	Mr Keith Jones		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	✓
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	
Other (please state):	Major Application

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

Approve the application subject to the conditions set out in this report.

APPLICATION DETAILS

2. SITE

The application site relates to units on the existing retail park constructed off New Hall Hey Road and Swanney Lodge Road in Rawtenstall. The site is adjacent to the A682, south west of Rawtenstall town centre.

It is understood that three of the units are occupied by Marks and Spencer, TK Max and Pets at Home, with one unit (Unit 4) vacant and available for lease.

The site is located within the urban boundary

3. RELEVANT PLANNING HISTORY

2007/0030 - Erection of 3 retail units measuring 3356 sq m, 1412 sq m and 1412 sq m. (Approved)

2014/0384 - Variation of Conditions 3, 4 and 20 (varied to widen the range of goods) that can be sold from the Retail Park. Conditions 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21 and 22 to be removed. Conditions 3, 4 and 20 (to be replaced with a single condition that permits 1162 sq.m gross of the floorspace to sell all Class A1 goods (including convenience foods) and ancillary uses and 5026 sqm to sell all Class A1 goods except food and ancillary uses from Planning Approval 2007/0030. (Approved)

4. PROPOSAL

The applicant seeks to vary condition 5 pursuant to planning approval 2014/0384 to enable the sale of convenience goods from Unit 4. It is understood that this is to allow Iceland to trade from the unit.

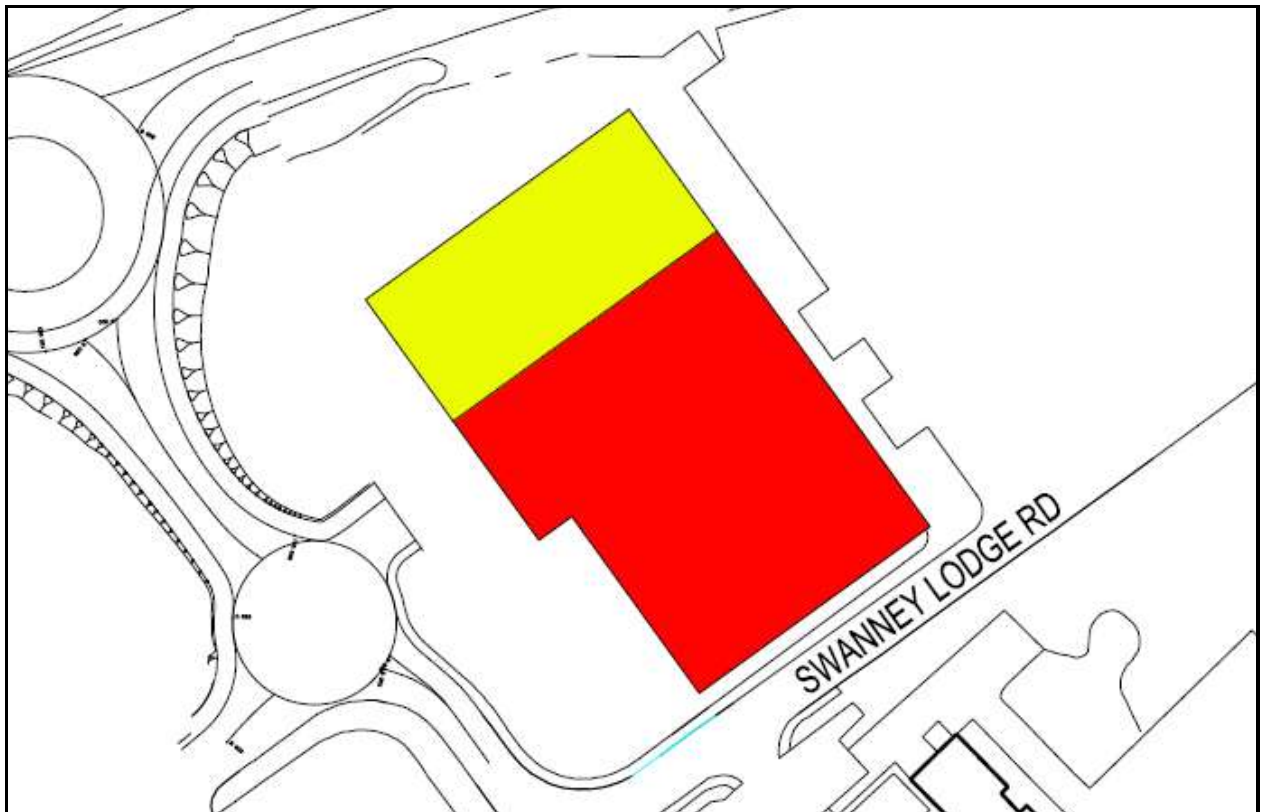
The submitted planning statement indicates the following:

“The submitted application seeks to vary the goods that can be sold from unit 4 within Phase 1. Unit 4 was constructed with the rest of the Phase 1 development but has never been occupied, despite being marketed for a number of years. The unit extends 745.8 sq. m (8,028 sq. ft.) and is located adjacent to the Pets at Home unit.”

Condition 5 of permission 2014/0384 regulates the goods that may be sold from Phase 1 of the retail park (to which the current application applies). The condition states:

“Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any order amending, revoking or re-enacting that Order, only 1,162 sq. m. of the development shall be used for food sales, excluding floorspace classed as ancillary to the main use of the unit.”

The area permitted for food sales is restricted to that highlighted in yellow on the extract from approved drawing number 9447PL07 A as shown below (this relates only to the M&S Food Hall in Unit 1):



The level of sales that may be considered ancillary for the purposes of the second part of the above condition is then defined within condition 6, which states:

“Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any order amending, revoking or re-enacting that Order, floorspace classed as ancillary shall be a maximum of 15% of the total gross floorspace of each unit.”

The applicant now proposes to vary condition 5 of planning approval 2014/0384 to read as follows:

“Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any order amending, revoking or re-enacting that Order, the floorspace hereby approved may be used for the sale of comparison goods. Additionally, up to 1,908 sq. m. may be used for the sale of convenience goods, excluding floorspace classed as ancillary to the main use of the unit.”

As proposed, the condition would enable an additional 746 sq. m of the total floor space of of the building to be used for the sale of convenience goods – effectively allowing Unit 4 to be used for the sale of such goods by Iceland.

The submitted planning statement confirms that:

“Iceland intend to operate the unit as one of their standard format stores which sells mainly own-brand and branded frozen products with some ambient, chilled produce alongside a narrow selection of fresh produce. Furthermore, the retail offer also includes “big produce packs”, which enables customers to buy certain products in bulk, such as 5kg sacks of pet food and 10 litre bottles of cooking oil.”

5. POLICY CONTEXT

National

National Planning Policy Framework (2018)

Section 2	Achieving Sustainable Development
Section 4	Decision Making
Section 6	Building a Strong, Competitive Economy
Section 7	Ensuring the Vitality of Town Centres
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well Designed Places
Section 14	Meeting the Challenges of Climate Change, Flooding, etc
Section 15	Conserving and Enhancing the Natural Environment
Section 16	Conserving and Enhancing the Historic Environment

Development Plan Policies

Rossendale Core Strategy DPD (2011)

AVP 4	Rawtenstall, Crawshawbooth, Goodshaw and Loveclough
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 and Landscape Conservation
Policy 19	Climate Change and Low & Zero Carbon Sources of Energy
Policy 22	Planning Contributions
Policy 23	Promoting High Quality Design & Spaces
Policy 24	Planning Application Requirements

Other Material Planning Considerations

National Planning Practice Guidance

6. CONSULTATION RESPONSES

LCC Highways

No comments have been received.

RBC Economic Development

No comments have been received.

RBC Forward Planning

No comments have been received.

7. REPRESENTATIONS

To accord with the General Development Procedure Order 39 neighbours were sent letters on 18/10/2018 and a site notice was posted on 18/10/2018.

No comments or objections have been received.

8. ASSESSMENT

The main considerations in this application are: 1) Principle; and 2) Access, Parking and Highway Safety.

Principle

The acceptability in principle of the use of the site for retail purposes has been established previously by planning permission 2014/0384.

However, the proposed variation of Condition 5 of the above planning approval would enable a greater amount of floor space (within Unit 4) to be used for the retail of convenience goods.

Policy 11 of the Core Strategy DPD states the following in relation to this application:

“Proposals for new convenience retail floor space 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.”*

Paragraph 86 of the Framework states:

“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

Paragraph 87 of the Framework states:

“When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”

Sequential Assessment

New Hall Hey is an out of centre location, being more than 300m from the defined Rawtenstall Primary Shopping Area. Accordingly, the application is accompanied by a sequential assessment in line with the requirements of paragraph 86 of the Framework and Policy 11 of the Core Strategy.

The sequential assessment includes five possible sites within the Rawtenstall area, and concludes that *“there are no sequentially preferable sites that are available or would likely become available within a reasonable period and that can suitable accommodate a broadly similar scale and format of development to that proposed by this application”*. It is considered that the sequential assessment is proportionate to the scale and type of permission sought, and that it has been carried out in a sufficiently robust manner in this case.

Impact Assessment

The Framework requires an impact assessment for new retail development over 2500 sq.m of floor space (paragraph 89), though the Core Strategy has set a lower threshold of 750 sq.m for sites around the Rawtenstall Town Centre area.

As the unit in question (746 sq.m) falls below the threshold for an impact assessment within Policy 11 (750 sq.m), a full retail impact assessment is not required.

However, Policy 11 of the Core Strategy does require the application to demonstrate that:

- The scheme 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
- The scheme will not have an unacceptable adverse impact on the vitality and viability of other centres.

In this respect of the first point above, the scheme would form part of a wider Council-endorsed regeneration scheme (paragraph 134 of the Core Strategy states that New Hall Hey will be developed as a high quality retail and office location). In terms of benefits, the scheme would increase customer choice in the area's convenience retail sector, would create around 20 new jobs, and would result in the occupation of a longstanding vacant unit which does not currently contribute to the local economy.

In respect of the second point above, the application is accompanied by an assessment of the potential impact of the scheme on the vitality and viability of Rawtenstall Town Centre, which concludes as follows;

“There is a clear qualitative difference between the existing high-quality convenience shops, which are mainly high quality independent retailers and the proposed Iceland store. Indeed, these differences have enabled the retailers to continue to thrive alongside the larger supermarkets on the edge of Rawtenstall, including Asda, Lidl, Aldi and M&S Foodhall. Accordingly, it is considered that the Iceland offer is sufficiently different from existing convenience retail within Rawtenstall town centre to ensure that no significantly adverse impacts will arise as a result of the development going ahead.

It is considered that given the type of retail unit in question and the type of retailer proposed, the submitted application will not result in a scheme that would compete with the Council's investment proposals at Spinning Point. Importantly, the schemes are qualitatively different; Spinning Point proposed a number of smaller, flexible units tailored to independent shops, cafes and restaurants whereas the retail units on New Hall Hey retail park provide the large, simple floorplates sought by national bulk convenience retailers such as Iceland. Accordingly, it is considered that the submitted application will not have an impact upon the investment in Rawtenstall Town Centre.”

It is considered that the submitted assessment is sufficient in this case, and it is not considered likely that the proposed variation of the condition in question (and resulting use of the unit) would have a significant adverse impact on the vitality and viability of Rawtenstall Town Centre.

As such the proposed development is appropriate in principle.

Access, Parking and Highway Safety

The local highway authority has raised no objection to the proposed scheme, and it is not considered that the proposal will have a significant adverse impact on highway safety in this case.

9. SUMMARY REASON FOR APPROVAL

The proposed development will bring back into use a large vacant unit which occupies a prominent position on the approach into Rawtenstall, within the Urban Boundary. The site is 'out of centre' however the applicant has demonstrated that the proposed development does not conflict with Section 7 of the National Planning Policy Framework and Policy 11 of the Council's Core Strategy DPD. Subject to the use of planning conditions, the proposal is acceptable in principle and with regards to highway safety. The development is in accordance with Policies AVP4, 1, 8, 9, 11, 16, 17, 18, 19, 23 and 24 of the Adopted Core Strategy DPD and the National Planning Policy Framework.

10. CONDITIONS

1. The development shall be carried out in accordance with the following:

- Drawing number 9447PL04C

Reason: For the avoidance of doubt.

2. All units shall have a minimum floor area of 740 sq.m gross.

Reason: To ensure that the proposed development does not adversely affect the viability and vitality of neighbouring town and local district centres.

3. The maximum gross internal floor space of the development shall not exceed 6,188 sq.m including ground floor and mezzanine floor space.

Reason: To ensure that the proposed development does not adversely affect the viability and vitality of neighbouring town and local district centres.

4. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any order amending, revoking or re-enacting that Order, the floor space hereby approved may be used for the sale of comparison goods. Additionally, up to 1,908 sq.m may be used for the sale of convenience goods, excluding floor space classed as ancillary to the main use of the unit.

Reason: To ensure that the proposed development does not adversely affect the viability and vitality of neighbouring town and local district centres, and in the interests of highway safety.

5. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any order amending, revoking or re-enacting that Order, floor space classed as ancillary shall be a maximum of 15% of the total gross floor space of each unit.

Reason: To ensure that the proposed development does not adversely affect the viability and vitality of neighbouring town and local district centres, and in the interests of highway safety.

6. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 or any order amending, revoking or re-enacting that Order, no more than 15% of the area highlighted yellow on drawing number 9447PL07A shall be used as an ancillary café.

Reason: To ensure that the proposed development does not adversely affect the viability and vitality of neighbouring town and local district centres, and in the interests of highway safety.

7. Prior to the first use of each unit of the development hereby permitted, a final Travel Plan consistent with the Framework Travel Plan (ref: TPMA 1210 Revision A) relating to the particular unit, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be completed and carried out in accordance with the approved details, and shall be updated and audited at intervals as approved.

Reason: To ensure multi-modal transport provision for the development and to reduce traffic impact on the local road network, in the interests of highway safety and sustainability.

INFORMATIVES

1. The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at:

http://www.rossendale.gov.uk/downloads/download/331/core_strategy_local_plan_part_1_adapted

The Council operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. In this case the applicant did not engage in formal pre-application discussions.

The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context.