



REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: NELSON COMMITTEE

DATE: 30th November 2015

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications

REPORT TO NELSON COMMITTEE ON 04 JANUARY 2016

Application Ref: 13/15/0466P

Ref: 19033

Proposal: Full: Demolition of garage and erection of two storey extension to side, single storey extension to rear and creation of parking space to front.

At: 51 LOWTHWAITE DRIVE NELSON BB9 0SU

On behalf of: Mrs S Ansar

Date Registered: 30 September 2015

Expiry Date: 25 November 2015

Case Officer: Alex Cameron

Site Description and Proposal

This application has been brought before Committee at the request of a Councillor.

The application site is a semi-detached dormer bungalow style house located within the settlement of Nelson surrounded by similar properties. The land the house is sited on slopes steeply down from front to rear and the rear boundary of the garden abuts the side boundary of No.11 Kelswick Drive. The materials of the existing house are brick walls, timber clad dormers, concrete tile roof and upvc fenestration.

The proposed development is the erection of a two storey side extension with a single storey element to the rear and raised decking to the rear of the existing house. The proposed two storey side extension would have a footprint of 7m x 7.2m and would follow the roof line of the existing house, the single storey rear element would have a footprint of 7.2m x 4m with a flat roof of up to 3.8m in height. The proposed extensions would be constructed from brick with timber clad dormers, concrete tile roof and upvc fenestration.

Amended plans have been submitted lowering the proposed decking, proposing a 2m fence to the side and an obscure glazed window to the rear.

Relevant Planning History

None.

Consultee Response

LCC Highways - No objection, please attach the following conditions: driveway level, car parking scheme, highway works; and note: section 184 agreement.

Nelson Town Council - No objections or observations.

Public Response

8 neighbours notified - Three responses received objecting to the development on the following grounds:

Any hard standing for additional parking should not worsen the existing surface water drainage

situation.

The proposed decking to the rear would infringe on my privacy as it would be level with my property allowing visual access into my home through my patio doors. Could the decking not remain at the current garden level?

The lay of the land from the property towards 11 The Warings would result in the single storey extension being too much of an intrusion on our privacy.

The proposed extension would be wider than the existing property and would not be in keeping with the street scene or other extensions in the area.

Officer Comments

Policy

Replacement Pendle Local Plan

Policy 13 of the Replacement Pendle Local Plan identifies the need for good quality and design in new development and states that siting and design should be in scale and harmony with its surroundings.

Emerging Core Strategy

Policy ENV2 of the emerging Core Strategy states that all new development will be required to meet high standards of design, this is expanded upon in relation to domestic extensions by the Design Principles SPD.

Design

The design and materials of the proposed development would be in-keeping with the existing property. Although the proposed side extension is substantial, more than the width of the existing house, there is a large gap between the side of the property and No.59b, the property is also set down below the road level, taking this and that the area consists of a mixture of different housing designs into account, the proposed side extension would not result in an unacceptable impact on the street scene.

Amenity

Due to the land levels falling steeply down towards the garden of 11 The Warings to the rear, the window in the rear of proposed rear extension would overlook the rear garden of that property separated by 5m. However, this window is proposed to be obscure glazed and this could be ensured with a condition.

The adjoining property at No.53 has a patio area adjacent to the boundary. The proposed decking would be at approximately the same level as the adjacent patio. The proposed patio doors in the side of the rear extension would face towards the patio of No.53 separated by 5.5m.

Although the patio is not currently particularly private, as there is just a 1m fence to the side, it could be made private with a 2m fence on the boundary without the need for a planning application. A 2m fence is proposed to the side of the proposed decking, this would be adequate to ensure an acceptable level of privacy in relation to the decking.

However, the floor level of the house and the proposed rear extension is approximately 1m above the ground level of the patio and proposed decking. Taking this difference in levels into account,

there would be a direct view from the patio doors to the side of the proposed rear extension over the 2m fence and down into the patio area of No.53. This would result in an unacceptable impact upon the privacy of the adjoining property contrary to Policies 13, ENV2 and the guidance set out in the Design Principles SPD.

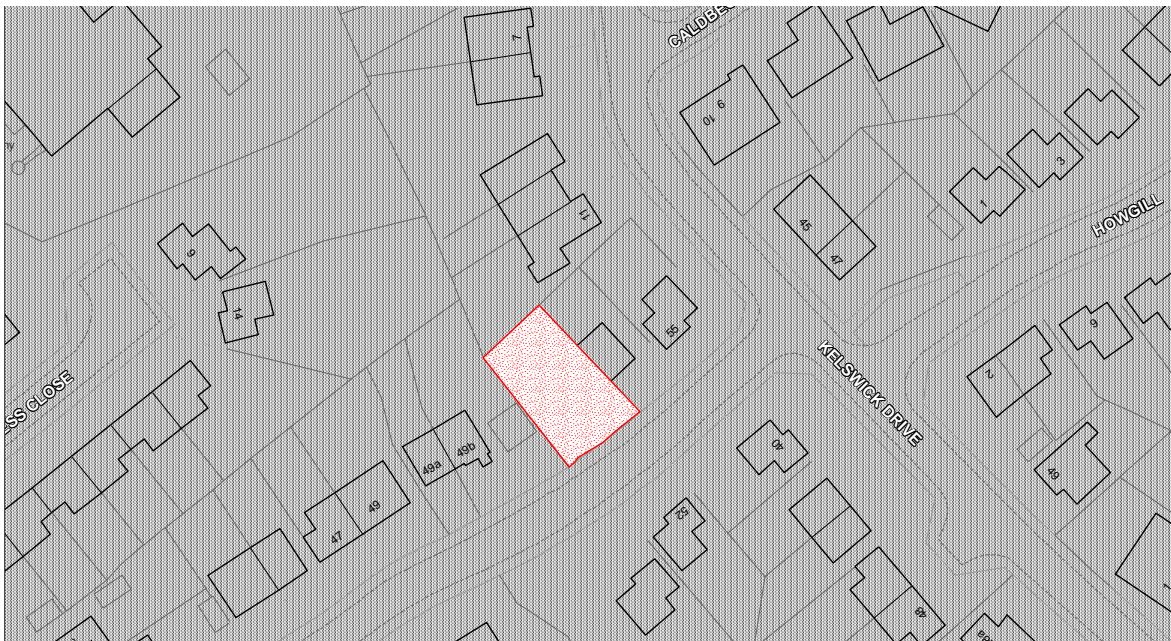
Highways

An acceptable level of off-street car parking provision is proposed and adequate drainage of the proposed parking area could be ensured with a condition. Therefore, the development is acceptable in terms of highway safety.

RECOMMENDATION: Refuse

For the following reasons:

1. The proposed development would result in an unacceptable impact upon the privacy of the adjoining house to the detriment of the residential amenity of its occupants contrary to Policy 13 of the Replacement Pendle Local Plan, policy ENV2 of the emerging Core Strategy and the guidance set out in the Design Principles SPD.



Application Ref: 13/15/0466P

Ref: 19033

Proposal: Full: Demolition of garage and erection of two storey extension to side, single storey extension to rear and creation of parking space to front.

At: 51 LOWTHWAITE DRIVE NELSON BB9 0SU

On behalf of: Mrs S Ansar

REPORT TO NELSON COMMITTEE ON 04 JANUARY 2016

Application Ref: 13/15/0519P

Ref: 19092

Proposal: Full: Sub-division of existing retail (A1) unit at ground floor to create retail unit and hot food takeaway (A5) with alterations to shop front, installation of flue and creation of 2 flats at first floor level.

At: 115 MANCHESTER ROAD NELSON BB9 7HB

On behalf of: Mr M Arif

Date Registered: 26 October 2015

Expiry Date: 21 December 2015

Case Officer: Lee Greenwood

Site Description and Proposal

This application is brought to Committee at the request of Councillors and is a resubmission of a scheme refused earlier this year (ref – 13/15/0282P).

It seeks to sub-divide an existing retail unit at 115 Manchester Road, Nelson to create two units at ground floor comprising a retail unit (Class A1) and hot food takeaway (A5).

At first floor, two self-contained flats are proposed. Associated external alterations are proposed to facilitate the changes. Although the principle of the development is primarily the same, some changes have been made which will be discussed in the Officer Comments section below.

The property is located on the A682 which is a primary route in to the town. The building lies some 100m from the nearest point of the town centre boundary to the east and falls within both the St Mary's Conservation Area and the wider Whitefield Conservation Area.

The earlier application was refused on three grounds;

- 1.** The proposed shop front and external alterations would constitute an inappropriate form of development in the Whitefield Conservation Area, by way of the materials proposed. The development would not enhance or preserve the Conservation Area, having a detrimental impact on the character and appearance of the heritage asset. The application thereby fails to accord with Policies 10 and 13 of the Replacement Pendle Local Plan, Conservation Area Design Guidance and SPD: Design Principles.
- 2.** The development would have an adverse impact on the amenities of adjacent residents by way of overlooking and privacy loss from upper floor windows and disturbance from comings and goings associated with the A5 use. The proposed site layout would also give rise to impacts upon occupants of the proposed flats, by way of noise, fumes and odours from the ground floor use and extraction flue. The proposal would therefore fail to accord with Policies 8, 13 and 20 of the Adopted Replacement Pendle Local Plan.
- 3.** The increased traffic movements generated by the proposed development would lead to an increase of on-street parking along Manchester Road which would restrict the free flow of traffic in the vicinity of the site. There would also be an increase in vehicles manoeuvring around the site which would be detrimental to highway safety due to its location on a main road in close proximity to several junctions. The development is thereby contrary to paragraph 32 of the National Planning Policy Framework.

Relevant Planning History

13/15/0282P - Change of use from retail (A1) to shop (A1) and hot food takeaway (A5) at ground floor and 2 x 3 bed flats at first floor including external alterations - **Refused**

13/12/0168P - Certificate of Lawfulness (Existing Use) Use as general retail (A1) - **Approved**

13/01/0638P - alterations to frontage - **Approved**

13/85/0793P - change of use from warehouse to fireplace showroom - **Approved**

Consultee Response

LCC Highways; no comments received.

PBC Conservation; The property is prominent along Manchester Road within the Whitefield Conservation Area. It was the subject of a heritage grant scheme in recent years and received English Heritage and Pendle Council funding for the careful reinstatement and repair of the timber shopfronts, windows and doors, using evidence from old photographs. It is important that the historic appearance of the property is maintained, in order to preserve the character and appearance of the Conservation Area at this point, but also to protect the Council's and English Heritage considerable investment in the building.

The only change from the previous proposal appears to be the use of double glazed timber frames, presumably for both shop windows/doors and upper floor windows, though this is not clear from the plans. Though I would support the use of timber for any new framing, more detailed drawings (including sections), and amendments are needed in respect of the shopfront design, clearly indicating which existing elements are to be retained, and where new frames are proposed. The important original elements of the shopfront should be retained unchanged; these comprise the timber fascia, console brackets and all pilasters, and the recessed area to the right hand side containing two original timber doors. The two shop windows can be replaced if necessary in double glazing with new timber framing to the same profile as the existing frames. The treatment to the central recessed entrance needs to be clarified; any new doors should be timber to match the existing shop door.

The framing pattern to the upper floor and side windows is an original feature of the building and should remain the same as existing.

If two separate shop units are to be created, it is important that consideration is given to the position and type of signage to each unit, in order to retain the balanced appearance of the frontage.

PBC Environmental Health; suggest conditions relating to sound insulation and technical specification for odour control equipment.

Nelson Town Council; no comments received.

Public Response

Twelve neighbours notified, site and press notices also displayed; four responses received, commenting on;

- same concerns as previous application - no consideration given or changes made in this

- resubmission
- object strongly to A5 use
- loss of privacy
- no need to create new flats due to number of empty homes
- smells/odours
- additional litter despite bins
- potential for anti-social behaviour
- proposed rear fire door prevents any parking to rear in an area with limited provision
- impact on parking for residents of Hope St who have pedestrian access to front only
- double yellow lines to front mean cars will park temporarily and cause obstructions
- large amount of A5 uses in the vicinity
- potential for rodents/vermin
- local residents work shifts and hours/use would impact on them
- impacts on elderly and disabled residents - ambulances have struggled to access Hope Street recently due to parking issues
- site is at the gateway to Nelson and the style of the building should be in keeping with conservation area status

Relevant Planning Policy

Code	Policy
ENV 1	Protecting and Enhancing Our Natural and Historic Environments
ENV 2	Achieving Quality in Design and Conservation

ENV 5	Pollution and Unstable Land
LIV 5	Designing Better Places to Live
LP 10	Areas of Special Architectural or Historic Interest
LP 13	Quality and Design of New Development
LP 25	Location of Service and Retail Development
LP 8	Contamination and Pollution
SDP 5	Retail Distribution

Officer Comments

As with the original scheme, the main issues to consider in this application are design, amenity, the suitability of the proposed uses and highway safety.

Policy

Policy 8 of the Replacement Pendle Local Plan seeks to control issues of noise and pollution. This is supported by Policy ENV5 of the Core Strategy.

Policy 10 seeks high standards of design within conservation areas, which preserve or enhance the character and appearance of the area. This is supported by Policies ENV1 and 2 of the Core Strategy.

Policy 13 requires new development to be in scale and harmony with the surrounding area. The Design Principles SPD also contains advice on shop fronts.

Policy 20 seeks to ensure that the layout and design of new housing reflects the site surroundings and provide a quality environment for residents, whilst protecting the amenities of neighbouring properties. This is supported by Policy LIV5 of the Core Strategy.

Policy 25 relates to the location and retail development. It generally requires that uses such as hot food takeaways are located with a defined town or local shopping centres as a priority. This is supported by Policy SDP5 of the Core Strategy.

However, the Policy text then goes on to advise in paragraph 25.11 that where existing commercial uses exist outside of defined town centres, these uses can be replaced by other commercial use of the same scale. The matter of 'same scale' is not defined in the Local Plan, however in an appeal decision in 2007 relating to a similar situation at 95 Skipton Road, Colne (which was a vacant retail shop), the Inspector said the following;

"As the premises could be re-used as a shop, I am unconvinced that a change of use at the appeal premises to a hot food takeaway would lead to a further dispersal of retail activity outside the town centre thus undermining the viability and vitality of the centre. There would be therefore no conflict with the objectives of Policy 25 of the Replacement Pendle Local Plan"

This interpretation has subsequently been taken in to account in applications which include changes from A1 to A5, outside of defined centres.

Principle of Proposed Uses

The site is currently vacant but has an established A1 retail use. This section of the report will assess the relevant issues relating to the three uses proposed in this scheme.

Retail

The continued use of part of the ground floor for retail purposes raises no adverse issues.

Hot Food Takeaway

Whilst the policy principle of having an A5 use outside a defined town centre is acceptable in this instance, site specific assessments must be undertaken with regard to the likely impacts and relationships with adjacent uses.

In this case the property is closely surrounded by residential units on three sides. As with the earlier application, this proximity continues to raise concerns with regard to the potential impacts and intensity of such a use, which would be above and beyond those associated with retail. No information is provided which shows that the applicant has sought to address the reason for refusal in this regard.

Cooking and preparation would take place to the rear of the ground floor, in close proximity to dwellings on Hope Street. With direct access to this back street to be provided as part of the proposed scheme, residents would be subject to increased movements from staff and deliveries until and beyond the proposed closing times (10pm, 7 days per week) resulting in a reduction in the level of amenity currently enjoyed.

This associated activity on surrounding streets would also be exacerbated by parking restrictions (double yellow lines) to the front of the site and beyond in both directions. Customers who choose not to park at the front despite these restrictions are likely to stop on adjacent streets. This would again create noise and disturbance for residents through the generation of trips to the site, especially on Hope Street where the applicant has previously advised that customers will park.

Hot food takeaways have a propensity to create points of focus and gathering, with customers waiting both in and outside the premises. In town centre and more appropriate locations, this impact is mitigated by the relatively low level of residential properties. In this instance, dwellings

are the predominant use in the locality and the terraced nature of the area means there are a high number of residents within a short distance of the site.

Whilst controls could be imposed by way of planning condition, the significant differences between A1 and A5 uses mean that the impacts could not be effectively mitigated.

A similar relationship between an A5 use and residential properties was found to be unacceptable by the Inspector in an Appeal at 255 Brunswick St, Nelson (ref - 13/13/0547P). In reaching her decision the Inspector looked at the close proximity of a residential terrace to the rear and found that the takeaway use would be intrusive and harmful to living conditions of those occupants. The case also contained other similar features to this submission, in that the property was vacant. In concluding the Brunswick Street case, the Inspector said;

"I note that the proposal would bring the property back in to use, which taking in to account the impetus for growth within the Framework, must carry some weight. I also note that the proposal would involve a replacement of the existing shop front which is in need of repair. However these matters would not outweigh the likely harm that would arise to the living conditions of the adjoining residential occupiers".

In light of this and taking in to account the factors detailed above, the A5 element of the proposed scheme remains unacceptable.

Flats

The proposed layout of the flats has been revised since the refused application.

It is now sought to create two, 2 bedroom units with independent access to each, one from Manchester Road and one from the rear elevation adjacent to Hope Street. Internally the flats have been re-orientated so that they are each directly above the one of the proposed units below.

The principle of such a use would be acceptable accounting for the sustainable location of the site. However, the scheme would potentially create issues for both existing residents and future occupants of the flats.

The new upper floor layout of the site means that one of the flats would be located directly over the hot food takeaway. Two of the bedrooms within this unit would also have the extraction flue running directly past their windows. This relationship is unacceptable.

The proposal would also result in first floor windows to the rear serving habitable rooms. With only modest separation between the site and Hope Street (5m to rear yards, 9m between elevations) this would result in an unacceptable loss of privacy for both parties.

In light of these issues, the proposal remains contrary to Policy 20.

External Alterations

Changes to the external fabric of the building are proposed to facilitate the intended uses. There would also be some reconfiguration and replacement of the shop front. Hardwood is now proposed whereas upvc was sought in the refused application.

Changes would also be made to rear openings to provide pedestrian access and create domestic windows above. To the gable several existing flues would be removed and replaced with a single unit to serve the A5 use.

The application site is located within both the Whitefield and St Mary's Conservation Areas, as such there is a duty under section 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Council will seek particularly high standards of design which preserves or enhances its surroundings as outlined in Policy 10 of the Replacement Pendle Local Plan.

These policies are supported by both the Design Principles SPD and the Conservation Area Design and Development Guidance SPD which contain more detailed advice regarding shop front alterations.

The site has previously been the subject of grant funding from both English Heritage and the Council to reinstate timber frontage.

The Council's Conservation Officer broadly supports the use of natural materials however it is of importance that the historic appearance of the property is maintained owing to its prominence and the time/expense previously invested in repairing and reinstating the frontage.

More detailed drawings would be required to show the elements to be retained and those to be changed. As a whole however the form, shape and detailing of the frontage should be kept.

In principle some minor works (such as replacement windows) would be acceptable. The scheme does not therefore directly conflict with Policy as the earlier submission had and could be controlled by condition.

Highways

The site has no dedicated off-street parking provision and this section of Manchester Road is subject to waiting restrictions.

The applicant had previously indicated that customers could seek to park to the gable elevation or on the back street between the site and Hope Street. The characteristics of this narrow cobbled back street and the limited parking availability mean that customer accessibility would be difficult.

The layout of Hope Street, with only pedestrian access to the front of the houses, means that residents also seek to park in this area. An A5 use would undoubtedly increase the demand for the parking in an area without off-street provision, especially in to the evenings when the majority of residents will be at home.

The site is within a sustainable location and any illegal parking to the front would be a highway enforcement matter. However there are concerns that in introducing such a use along this frontage, customers visiting by car would choose the most convenient option and simply park outside the premises regardless of the restrictions. On a busy thoroughfare such as this, in close proximity to two several junctions, inconsiderate parking would lead to a restriction in the free flow of traffic around the site.

Other Matters

Several other matters have been raised in objection to the scheme. Problems with litter are noted, however the scheme includes on site bin provision and storage areas for all proposed uses.

Whilst there may be some disruption during any construction work associated with the proposed change of use, any statutory nuisances which occur can be controlled via more appropriate legislation.

The presence of other similar uses in the area and empty properties nearby has been raised, however they would not form material considerations in this instance.

Summary

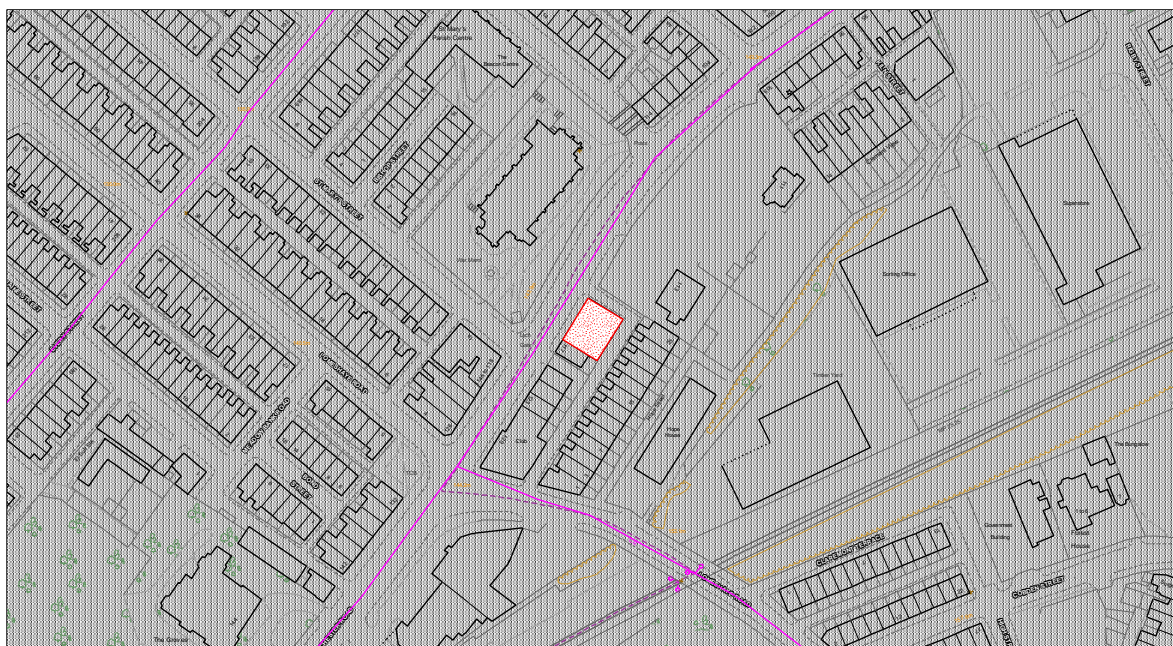
The proposed scheme is fundamentally the same as that refused during application 13/15/0282P, with the exception of the shop front materials to be used. Whilst the issues relating to frontage design could feasibly be dealt with via condition requiring the submission of detailed sections/drawings, two of the three reasons for refusal remain directly relevant to this resubmission. In the absence of any change in circumstances, this application cannot be supported.

The applicant has failed to satisfactorily address these previous concerns and the application thereby fails to accord with the relevant provisions of the Replacement Pendle Local Plan and the Core Strategy, with regards to impacts on amenity and highway safety.

RECOMMENDATION: Refuse

For the following reasons:

1. The development would have an adverse impact on the amenities of adjacent residents by way of overlooking and privacy loss from upper floor windows and disturbance from comings and goings associated with the A5 use. The proposed site layout would also give rise to impacts upon occupants of the proposed flats, by way of noise, fumes and odours from the ground floor use and extraction flue. The proposal would therefore fail to accord with Policies 8, 13 and 20 of the Adopted Replacement Pendle Local Plan.
2. The increased traffic movements generated by the proposed development would lead to an increase of on-street parking along Manchester Road which would restrict the free flow of traffic in the vicinity of the site. There would also be an increase in vehicles manoeuvring around the site which would be detrimental to highway safety due to it's location on a main road in close proximity to several junctions. The development is thereby contrary to paragraph 32 of the National Planning Policy Framework.



Application Ref: 13/15/0519P

Ref: 19092

Proposal: Full: Sub-division of existing retail (A1) unit at ground floor to create retail unit and hot food takeaway (A5) with alterations to shop front, installation of flue and creation of 2 flats at first floor level.

At: 115 MANCHESTER ROAD NELSON BB9 7HB

On behalf of: Mr M Arif

REPORT TO NELSON COMMITTEE ON 04 JANUARY 2016

Application Ref: 13/15/0523P

Ref: 19093

Proposal: Full: Change of use of first floor to create dessert parlour (Class A3) with associated kitchen/preparation area and customer seating.

At: 292-296 LEEDS ROAD NELSON BB9 8EP

On behalf of: Mr N Iqbal

Date Registered: 26 October 2015

Expiry Date: 21 December 2015

Case Officer: Lee Greenwood

Site Description and Proposal

This application is brought to Committee at the request of Councillors and seeks a change of use of the first floor at 292-296 Leeds Road in Nelson to a dessert parlour (Class A3). Responses from third parties indicate that the works have already been carried out and completed at the time of writing, therefore the submission is retrospective.

The property comprises a hot food takeaway at ground floor (13/11/0606P) and what was previously a vacant area above. It is located on a busy thoroughfare, with the A56 being the primary vehicular route between Nelson and Colne.

The site would be accessed via a separate entrance to the takeaway, using an existing pedestrian doorway along the Bradley Hall Road elevation.

The site is within the settlement boundary of Nelson and of no special designation in the Replacement Pendle Local Plan.

Relevant Planning History

13/15/0296P - Advertisement Consent: Display of one illuminated wall mounted sign to front (East elevation) and one illuminated projecting sign to side (North elevation) - **Approved**

13/12/0385P - vary condition 3 of planning approval 13/11/0606P to change opening hours - **Approved**

13/11/0606C1 - discharge condition 4 of approval - **Approved**

13/11/0607P - Advertisement Consent - Display 2 x externally illuminated fascia signs and 1 x externally illuminated hanging sign **Approved**

13/11/0606P - Full: Change of use from a shop (A1) to hot food takeaway (A5) on ground floor only, new shopfront framework, glazing, extraction duct, air conditioning condensers and new doors - **Approved**

Consultee Response

LCC Highways; no objections

PBC Env Health; require an assessment of noise from the externally mounted plant.

Lancs Constabulary; no comments received.

Nelson Town Council; no comments received.

Public Response

Thirteen neighbours notified; one response received commenting on;

- work has already been undertaken - undermines the system
- introduction of further light in a residential area
- more suited to a town centre
- no mention of opening hours
- will add to number of cars and litter

Relevant Planning Policy

Code	Policy
ENV 5	Pollution and Unstable Land
LP 25	Location of Service and Retail Development
LP 8	Contamination and Pollution
SDP 5	Retail Distribution
WRK 4	Retailing and Town Centres

Officer Comments

The main issues to consider in this application are the suitability of the use, highway safety, impacts on amenity and compliance with Policy.

Policy

Policy 8 of the Replacement Pendle Local Plan seeks to ensure that new development does not adversely impact on neighbours by way of unacceptable noise or other types of pollution. This approach is also emphasised in Policy ENV 5 of the Core Strategy.

Policy 25 advises that service and retail development should be located within town centres as a priority. Elsewhere such uses should be supported by a statement detailing the site selection process, with preference given to those which are on the edge of a town centre (defined as being within 300m) accessible by a choice of means of transport. This position is supported by Policies SDP5 and WRK4 of the Core Strategy and the National Planning Policy Framework (paragraphs 23 and 24).

Use

The applicant is seeking to change the use of this first floor area, which measures circa 144 square metres, to an A3 use. Policy 25 of the Local Plan and WRK4 of the Core Strategy require that such uses are located within a town centre as a priority.

The site is outside the centre and more than 300m away from the defined boundary and therefore cannot be considered edge of centre for the purposes of the Policy. In light of this the Agent has been asked to provide a supporting statement regarding site selection and the lack of suitable town centre premises, however no response has been received.

in this case the development does not require extensive floor space nor is there any indication why the use could not be located within the centre. As such the development falls squarely contrary to the aforementioned local and national policies. It is acknowledged that the existing takeaway below was granted consent in 2011, however the gradual cumulation of further uses outside of established centres will adversely impact the viability and vitality of those areas.

Amenity

The applicant has provided no hours of operation within the submission, marking the relevant question as 'not known'. The ground floor use is established and has consent to operate until 11pm, although as this is technically a separate use it is unclear if activities are to match those below.

The primary impacts on immediate neighbours would be noise and disturbance from comings/goings and potential views and privacy loss from upper floor windows. In order to avoid direct views of adjacent bedroom windows due to the distance between the site and adjacent dwellings, it would be prudent to add a condition to any approval granted that some form of obscure glazing/panelling is added to the windows particularly to Leeds Road. This would reduce impacts from internal lighting (especially in winter) and avoid overlooking.

In terms of noise and disturbance, the proposed use would add to existing late night activities in the immediate area. Although with the access located at the rear on to Bradley Hall Road would reduce any potential impacts to a degree as there are fewer dwellings immediately facing this elevation. In light of this and the separation to neighbours, any noise impacts are likely to be short term as customers leave the premises.

Environmental Health Officers have advised that they would require an assessment of the noise from externally mounted plant. However these are existing units and approved as part of the 2011 consent. No further additions are proposed in this scheme.

Highways

LCC Engineers have assessed the development and raise no undue concerns. The site is accessible on foot for nearby residents and is also located on a busy bus route. They are satisfied that vehicular movements associated with the use would not be significant or to a degree which would cause capacity in terms of highway capacity or safety.

Unlike the 2011 application the location of the access to the rear means that customers are unlikely to park illegally on Leeds Road where there are restrictions. Vehicles would be more likely use Bradley Hall Road where no such limitations exist.

Summary

Despite requests from Officers, the application fails to address the requirements of Policy 25 of the Local Plan, Policies SDP5 and WRK4 of the Core Strategy and the requirements of the Framework.

RECOMMENDATION: Refuse

For the following reasons:

1. The proposed development fails to comply with Policy 25 of the Replacement Pendle Local Plan, Policies SDP5 and WRK4 of the Core Strategy and the provisions of the National Planning Policy Framework by virtue of its siting and the lack of a supporting statement to

demonstrate compliance with the sequential approach. The use would therefore be detrimental to the vitality and viability of Nelson town centre.



Application Ref: 13/15/0523P

Ref: 19093

Proposal: Full: Change of use of first floor to create dessert parlour (Class A3) with associated kitchen/preparation area and customer seating.

At: 292-296 LEEDS ROAD NELSON BB9 8EP

On behalf of: Mr N Iqbal

REPORT TO NELSON COMMITTEE ON 04 JANUARY 2016

Application Ref: 13/15/0541P **Ref:** 19118
Proposal: Outline: Erection of 5 detached dwellings (Access only)
At: LAND OFF BAMFORD STREET NELSON BB9 0PA
On behalf of:
Date Registered: 5 November 2015
Expiry Date: 31 December 2015
Case Officer: Alex Cameron

Site Description and Proposal

The application site is an open green space within a residential area of Nelson. These are terraced houses on Bamford Street to the west, Marsden Hall Road runs to the south with allotments beyond, the rear of terraced houses on Barkerhouse Road are to the north and Tweed Street, which is a no through road blocked from Marsden Hall Road by bollards, runs to the east.

This is an outline application for access only for up to 5 dwellings on the site. The indicative plans show five driveways, three onto Tweed Street and two onto Marsden Hall Road.

Relevant Planning History

None.

Consultee Response

PBC Environmental Health - No comments.

Yorkshire Water

United Utilities - no objection to the proposed development provided that the following conditions are attached to any approval: Foul and surface water on separate systems, surface water drainage scheme.

The Coal Authority – No comments.

Environment Agency – No comments.

Natural England – No comments.

Lancashire constabulary Architectural Liaison

LCC Highways - The Highway Development Control Section is of the opinion that the development should have a negligible impact on highway capacity in the immediate vicinity of the site.

Nelson Town Council

Public Response

26 neighbours notified - 2 responses have been received objecting to the proposed development on the following grounds:

The erection of the new houses would block the views of the countryside from the rear of my property.

The development would cause too much disruption with noise and building rubble.

Parking on Bamford Street is really bad without having properties built in front of the street.

The development will cause lots of unnecessary problems including access for them being built.

The area is currently quiet, there properties will more than likely go to large families and result in annoyance and nuisance to everyone else around this land.

The street is quiet and safe for children at the moment.

I would not like my property to be devalued.

Officer Comments

Policy

The starting point for consideration of any planning application is the development plan. Policies which are up to date and which conform to the provisions of the National Planning Policy Framework must be given full weight in the decision making process. Other material considerations may then be set against the Local plan policies so far as they are relevant.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in paragraphs 18 to 219 of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Paragraph 47 of the Framework requires local planning authorities to identify a supply of deliverable housing sites to provide five years' worth of their housing requirements.

Replacement Pendle Local Plan

Policy 13 (Quality and Design of New Development) states that the Council will protect and enhance the heritage and character of the Borough and the quality of life for its residents by encouraging high standards of quality and design in new development. The proposal's compliance with Policy 13 is addressed in the design and amenity sections.

Policy 20 (Quality Housing Provision) requires that layout and design reflects the site and surroundings and provides a quality environment for its residents, whilst protecting the amenity of neighbouring properties. Policy 20 also states that development of residential garden ground will only be acceptable on sites equal or less than 0.2 hectares and regarded as infill plots.

Policy 31 (Parking) requires a maximum of two off-street parking spaces per three bedroom house.

Emerging Core Strategy

Policy SDP1 sets out the presumption in favour of sustainable development which runs through the plan.

Policy SDP2 prioritises new development within settlement boundaries.

Policy LIV1 sets out the Council requirement to deliver new housing at a rate of 298 dwellings per annum.

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving heritage assets.

Principle of the development

The site falls within the settlement boundary of Nelson and had no other land use designations. It is within walking distance of public transport and access to essential services and therefore is in a sustainable location.

The Framework encourages the development of previously developed land but does not set a sequential test for applications. Therefore although the land is green field there is no policy position that would require any brownfield land to come forward ahead of this site.

The principle of residential development of the site is acceptable in accordance with the National Planning Policy Framework and emerging Core Strategy.

Design and Visual Amenity

This application is for access only, details of design would be assessed the reserved matters stage should consent be granted in outline. The site is within an existing residential area and, subject to acceptable design and materials, it is clear that dwellings could be accommodated on the site without harm to the visual amenity of the area.

Residential Amenity

Indicative layout plans submitted that demonstrate that five dwellings could be accommodated on the site without unacceptable harm to the amenity of adjacent properties. The layout would be fully assessed the reserved matters stage should consent be granted in outline.

Highways

Full details of layout and parking provision would be assessed with layout at the reserved matters stage should consent be granted in outline. However, the indicative plans demonstrate that the site can be suitably and safely accessed and that an acceptable level of parking could be accommodated within the site.

Ecology

The site has no features which may provide habitat for protected species

Other issues

Concerns have been raised regarding loss of views from adjacent properties to countryside beyond and loss of value of nearby properties. However, the loss of this type of private view and

impacts of the value of adjacent land or properties are not issues that could be used as the basis to refuse a planning application

Summary

The access to and principle of the proposed development are acceptable and therefore the application is recommended for approval.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed access and principle of the development is acceptable in accordance with the emerging Core Strategy and Replacement Pendle Local Plan. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

Subject to the following conditions:

1. An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: In order to comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: A15-05 / 01, A15-05 / 02.

Reason: For the avoidance of doubt and in the interests of proper planning.

4. Foul and surface water shall be drained on separate systems. The development shall not commence unless and until a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) has been submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no

surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall thereafter only be completed, maintained and managed in accordance with the approved details.

Reason: To control surface water flow disposal and prevent flooding.



Application Ref: 13/15/0541P

Ref: 19118

Proposal: Outline: Erection of 5 detached dwellings (Access only)

At: LAND OFF BAMFORD STREET NELSON BB9 0PA

LIST OF BACKGROUND PAPERS

Planning Applications

NW/HW

Date: 16th December 2015