

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING
SERVICES MANAGER

TO: NELSON COMMITTEE

DATE: 06 MARCH 2017

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications

REPORT TO NELSON COMMITTEE ON 06 MARCH 2017

Application Ref: 16/0509/VAR

Proposal: Full: Variation of Condition: Vary condition 2 of planning permission 13/12/0142P to allow opening hours of 08:00 - 20:00.

At: Leeds Road Service Station, 112 Leeds Road

On behalf of: Mr Waqas Mahmood

Date Registered: 18/07/2016

Expiry Date: 12/09/2016

Case Officer: Alex Cameron

Site Description and Proposal

This application was deferred from Committee in October for further discussions with the Applicant.

The application site is a former petrol filling station which is now in use as a car wash. The site faces onto Leeds Road with dwellings opposite and to the west side across Barkerhouse Road, to the south is former church with planning permission for change of use to 7 flats and to the east are vehicle repair garages.

This application is to vary condition 2 of the planning permission for the car wash to allow opening hours of 8am to 8pm. Condition 2 currently restricts the hours of use to 9am to 6pm

Relevant Planning History

13/12/0142P - Full: Change of use from petrol filling station to a car wash (Retrospective). Approved.

Consultee Response

PBC Environmental Health - I have completed a rudimentary noise survey inside a house on Leeds Road opposite the car wash. Results as follows:

In the front lounge with the window closed the noise of operations at the car wash is not audible over the noise of passing traffic and over normal living activities.

In the front bedroom with the window closed and with no other noise in the room, the operations are just discernible above the other environmental noise (primarily passing traffic).

I have noted that a single glass panel barrier has been installed at the Leeds Rd boundary of the site, and not triple-glazed as was promised.

In my opinion extending hours to 0800 to 2000 Monday to Saturday will not significantly affect the amenity of residents, but the current opening time of 0900 should be retained on Sundays and Bank Holidays to allow extra rest for residents on these days.

LCC Highways – No objections regarding the proposed change of opening times and are of the opinion that the proposed variation should have a negligible impact on highway safety and highway capacity in the immediate vicinity of the site.

Public Response

29 neighbours notified. Six responses have been received objecting on the following grounds:

- We live directly opposite the car wash and it does affect us as it is very noisy at times.
- We can't open our windows due to the noise.
- The proprietor doesn't keep to the hours set by the current planning permission.
- I believe that if the hours were granted the car wash would open longer than those hours.
- The existing hours are long enough. The use should never have been granted.
- The proposed 12 hour continuous opening hours will be intolerable for residents.
- I strongly object to 12 hour opening on a Sunday when other places have to close early.
- I have to close my curtains because of car headlights and people that work there staring in my window.
- Vehicles are cleaned on the pavement when the site is full.

Officer Comments

Policy

Replacement Pendle Local Plan

Policy 8 (Contamination and Pollution) states that proposals where noise is likely should be accompanied by a statement illustrating the level of potential (noise) pollution and any remedial action to be undertaken. In circumstances where there is likely to be harmful pollution, such as noise pollution, development will be permitted where any remedial action is sufficient to reduce the risk of pollution.

Residential Amenity

Planning permission was granted for the current use with the evidence being that there would be no unacceptable impact on neighbouring land uses. The operation of the business has however attracted a number of complaints that it is operating in a way that is having a negative impact on residents. This has resulted in an investigation by Environmental Health as to the causes and remedy of the impacts.

Since the application was last brought before Committee the Applicant has met with planning and environmental health officers. The applicant stated their intention to install a screen to reduce the impact of the development and agreed to undertake a noise survey to assess the noise impact of the development on adjacent dwellings. A screen has been installed, however, a noise survey has not submitted.

In order to establish whether the operation of the car wash is resulting in a nuisance, an environmental health officer has undertaken an assessment, visiting a neighbouring property to observe the noise from the living room and front bedroom.

The conclusion of the environmental health officer was that, the level of noise from the car wash is within acceptable limits and extending hours to 08:00 to 20:00 Monday to Saturday will not significantly affect the amenity of residents, but the current opening time of 09:00 to 18:00 should be retained on Sundays and Bank Holidays to allow extra rest for residents on these days, when there would typically be less background noise such as passing traffic.

Highway Safety

The proposed hours of opening would not result in an unacceptable highway safety impact.

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 variation of condition is acceptable in terms of residential amenity. 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

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 location plan, 1:500 site plan, 6.105

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

2. Within one month of the date of this permission, a scheme detailing the surface-water regulation system installed at the site shall be submitted to and approved in writing by the Local Planning Authority. Should the system require any further works, they shall be completed in accordance with the approved plans within a timescale to be first agreed in writing with the Local Planning Authority.

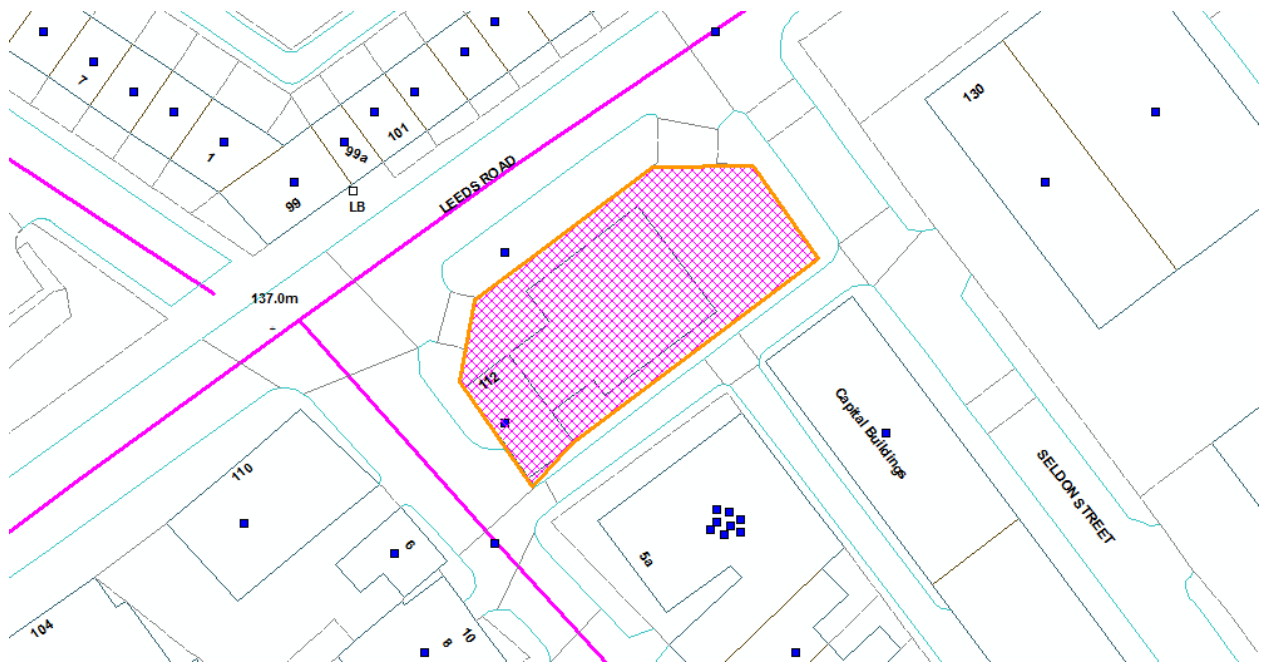
Reason: To control surface water run-off.

3. The use hereby permitted shall not be conducted outside the hours of 08:00 to 20:00 Monday to Saturday and 09:00 to 18:00 on Sunday and Bank Holidays.

Reason: In the interests of amenity.

4. Any external lighting at the site shall be turned off when the premises are closed for business.

Reason: In the interests of amenity.



Application Ref: 16/0509/VAR

Proposal: Full: Variation of Condition: Vary condition 2 of planning permission 13/12/0142P to allow opening hours of 08:00 - 20:00.

At: Leeds Road Service Station, 112 Leeds Road

On behalf of: Mr Waqas Mahmood

Application Ref: 16/0724/HHO

Proposal: Full: Erection of dormer to front roof slope and single storey extension to the rear.

At: 239 RAILWAY STREET NELSON BB9 0SE

On behalf of: Mr R M Asif

Date Registered: 1 November 2016

Expiry Date: 27 December 2016

Case Officer: Kathryn Hughes

This application was deferred from the previous meeting to allow a site visit to take place.

Site Description and Proposal

The application site is a mid-terrace dwellinghouse located in a mainly residential area of the town within the settlement boundary.

The proposed rear extension would measure 3.5m x 4.78m x 3.65m to eaves height and 4.9m to ridge height. The extension would be constructed in render and pebble dash walls and slate roof. The extension would accommodate an enlarged kitchen. The outbuilding would be demolished.

The front dormer would measure 3.7m x 2m x 3.9m. The rear dormer would be carried out under permitted development rights.

Relevant Planning History

13/14/0175P - Full: Demolish outbuilding and erection of a single storey extension to the rear - Refused 12/6/2014.

13/14/0380P - Full: Demolish outbuilding and erection of a single storey extension to the rear (Resubmission) - Refused 12/6/2014.

Consultee Response

LCC Highways – No highway concerns and therefore I raise no objections to the proposal on highway safety grounds.

Nelson Town Council

Public Response

Nearest neighbour's notified by letter with one letter of objection received from a neighbour citing the following concerns:-

- not in keeping with the surrounding area;
- restrict daylight to the house;
- surface water drain concerns;
- gas main issues;
- during construction there would security, access and construction work issues;
- will the eaves height exceed current legislation,
- concerns over disruption from build.

Officer Comments

The main issues in this application are design, amenity and compliance with Policy.

Policy

Policy ENV2 of the Local Plan Part 1 seeks to ensure the highest standards of design in new development.

The adopted Supplementary Planning Document: Design Principles also encourages high standard of design for developments such as dormer windows. Front dormer windows are not considered appropriate unless they are a characteristic of the area or relate to the design of a building. If they are accepted at the front of a terraced house the design should be of a high quality and visually appropriate.

Design

The surrounding area is predominantly characterised by tradition terraced housing located on to or immediately adjacent to the public footway. The application site and the properties within this terrace row (237-251 inclusive) are attractive stone built properties with slate roofs.

No other dormers are visible to the front of this terraced block and it is clear that they are not a traditional or intrinsic feature of the wider area. The untouched slope of the slate roof and stone chimneys are an essential part of the visual harmony of the terrace.

The proposed dormer window would be of a 'box' style, covering the majority of the roof slope, appearing as a dominant feature. Details of materials have not been provided. Its bulk and scale would be out of keeping and seen as an incongruous addition within the terrace, being immediately visible in the streetscene. It would have a significantly detrimental impact on the character and appearance of the street scene, contrary to Policy ENV2 and would fundamentally conflict with guidance contained within the SPD.

The scheme also seeks to erect a single storey rear extension this itself is acceptable in design grounds and would raise no adverse issues

Amenity

The front dormer would introduce windows to the upper floors the existing separation distances to nearby neighbours would be maintained.

The rear extension does project slightly more than at present but the reduced height mitigates this and would be acceptable in terms of amenity impact.

No part of the development raises any adverse privacy or amenity issues.

Highways

The proposed development raises no adverse highway safety issues.

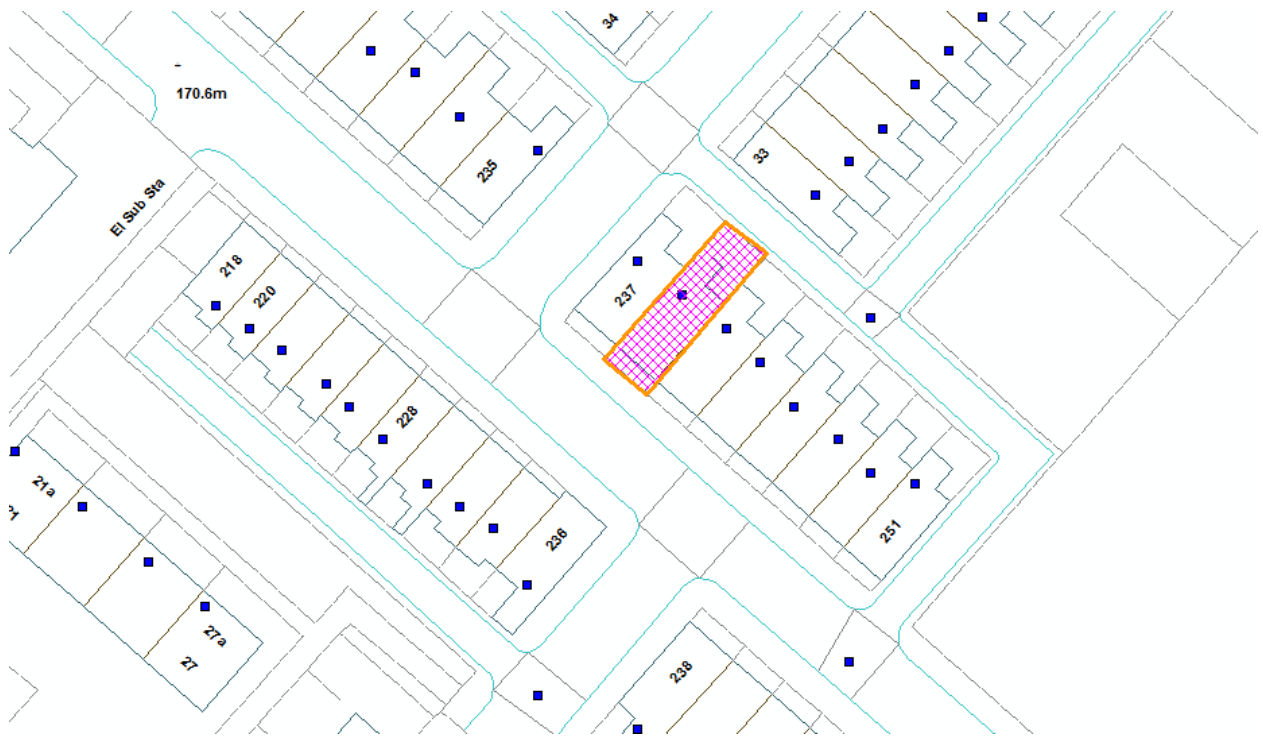
Summary

Whilst the single storey rear extension would be acceptable in terms of design and amenity the proposed front dormer window would introduce a feature which is not traditional or common in this streetscene. The front dormer would lead to a reduction in the design quality of the area and be detrimental to the character and appearance of the area contrary to Policy ENV2 of the Local Plan Part 1 and SPD: Design Principles.

RECOMMENDATION: Refuse

For the following reasons:

1. The dormer window to the front elevation would appear incongruous in the streetscene, introducing a visually inappropriate addition which is not a feature of the area and it would adversely affect the character and appearance of the row. The development thereby fails to accord with Policy ENV2 of the adopted Pendle Local Plan Part 1 and the Design Principles Supplementary Planning Document.



Application Ref: 16/0724/HHO

Proposal: Full: Erection of dormer to front roof slope and single storey extension to the rear.

At: 239 RAILWAY STREET NELSON BB9 0SE

On behalf of: Mr R M Asif

Application Ref: 16/0822/FUL

Proposal: Full: Change of use from dwelling (C3) to retail shop (A1) (with living accommodation above), erection of single storey extension to front and installation of new shop front.

At: 113 Halifax Road, Nelson

On behalf of: Mr Naveed Haider

Date Registered: 14 December 2016

Expiry Date: 8 February 2017

Case Officer: Neil Watson

This report has been brought before Members as more than three objections have been received.

Site Description and Proposal

The application site an existing residential property in Nelson located within the settlement boundary but outside of the Town Centre.

The proposal is to use the premises as a retail shop and erect a single storey extension to the front elevation and installation of new shopfront.

The premises used to be a corner shop. It has been in use as a dwellinghouse for at least the past fifteen years although planning permission was never formally applied for after more than four years use as a dwellinghouse this is now its lawful use.

Relevant Planning History

None.

Consultee Response

LCC Highways – Halifax Road has a poor road safety history and traffic calming features were installed some time ago to improve this. There are no parking restrictions outside the property, either on Halifax Road or Waidshouse Road. As there are no restrictions this could encourage inconsiderate parking behaviour in customers to the shop by parking close to or at the junction so obstructing the view of vehicles entering or leaving Waidshouse Road, or obstructing the footway. Vehicles parked near the junction could also make it difficult for buses to enter or leave Waidshouse Road. Parked vehicles may also obstruct the mobility crossing, posing a safety hazard to other highway users.

Given the above concerns I object to the application on highway safety grounds.

The Coal Authority – The application site falls within the defined Development High Risk Area. Records indicate that within the application site and surrounding area there are coal mining features and hazards which should be considered as part of the development proposals.

Our information indicates that the application site is likely to have been subject to past coal mining activities, which include historic unrecorded workings at shallow depth. Usually this would require a Coal Mining Risk Assessment to support the planning application; however, when considering the nature of this particular development proposal, the small single storey extension proposed would not require substantial foundations or earthworks. Therefore we do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the scale and nature of development proposed in this particular case and do not object to this planning application.

In the interest of public safety, however, the Coal Authority would recommend that should planning permission be granted an appropriately worded informative is included in the Decision Notice.

PBC Environmental Health – A condition restricting the opening hours to 8am – 10pm weekdays and Saturdays and 9am to 10pm Sundays and Bank Holidays would be appropriate in this area.

Any electrical equipment installed in a room that shares a party wall with adjacent occupied premises shall have appropriate fixings and mountings to prevent noise or vibration transmitting into the adjacent premises.

Nelson Town Council

Public Response

Nearest neighbours notified by letter. 20 letters/emails have been received from 15 separate addressed raising objections on the following grounds:

- Traffic congestion. Road is very busy and is a main line bus route;
- Parking near the junction will affect buses and refuses vehicles using this route
- No parking is provided as part of this application;
- Increased risk to children using bus stops for school and college and walking to St. Paul's;
- Poor visibility when entering Halifax Road from Waidshouse Road;
- Adversely affect property values;
- Will cause more litter;
- Aware this was a shop in the distant past but traffic has increased since then;
- Impacts from noise and car doors in a quiet, pleasant residential area especially as the shop plans to open seven days a week until late at night;
- There are already similar shops at Hill Place, Chapelhouse Road and Railway Street;
- Shop will encourage unsavoury character in an area already struggling with anti-social behaviour;
- Potential light pollution from illuminated signs;
- Planning permission for three houses nearby involves the moving of the bus stop closer to the junction with people relying on parking on the street which can cause difficulties to access drives;
- We have had problems with coal mining subsidence in the area;
- Is there a need for a large shop in this area when it failed previously due to a lack of customers and a well-stocked shop at Hill Place;
- I have not seen any statutory notices displayed and most of the downstairs work has been done with a full skip and rubbish to the rear of the property;
- Deliveries will cause a problem;
- I believe that some work has been carried out without building regulations being passed. No planning permission for change of use has been applied for;
- There is an unadopted road to the side of your property and this could be used for parking for people visiting the shop causing potential noise nuisance to the children and damage to the road with general wear and tear;
- We have had problems in the past with youths drinking in the field and congregating at the bus stop etc;

- There are already two off-licences in the area – Hill Place and Chapelhouse Road so a third is unnecessary. There are 12 shops in walkable distance;
- No mention of lighting on the shop front yet the application states it will have an illuminated front;
- No provisions have been made for waste disposal;
- No mention of deliveries and times;
- The road has been resurfaced and increase traffic will increase the rate this needs to be done; and
- The proposal would have a general negative impact on the aesthetics and attitude to the neighbourhood;

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Officer Comments

The main issues are compliance with policy, principle of use, impact on amenity and highway issues.

1. Policy

The relevant policies are:

SDP2 lists development that would be appropriate in which settlements provided that they are of a nature and scale that is proportionate to the role and function of that settlement or where they have been specifically identified in the plan to help meet the strategic growth needs of the borough.

SDP5 sets out the retail hierarchy for retail provision.

ENV2 sets out general design principles, historic environment and climate change.

WRK4 sets out the location for retail and service providers. This sets out a sequential test that all applications for retail development must follow a sequential approach to location with the hierarchy being town centres first, edge of centre sites next and then out of centre sites. In the first instance retail uses should be directed to the Town Centre as identified in SDP5.

The policy states that “Retail proposals on edge-of-centre or out of centre sites will generally be resisted. “Within the settlements identified in Policy SDP2, the provision of small-scale retail uses that enable people to meet their daily needs for convenience shopping, within walking distance of their homes and places of work, will be encouraged, particularly where they relate to the re-opening of village or corner shops. Outside of these settlements the provision of small-scale retail units that meet growing demand for local produce, or which help to support local tourism, may be appropriate.

The following saved policies in the Replacement Pendle Local Plan are also relevant here:

Policy 31 ‘Parking – sets the maximum required maximum requirements for different use classes.

The Design Principles Supplementary Planning Document sets out the general principles for the Design of Shopfronts.

National Planning Policy Framework

The Framework places town centres at the heart of communities. The policy requires that applications for town centre uses should be assessed using a sequential approach unless policies in a Local Plan indicate otherwise. The Adopted Local Plan also has a sequential test for retail development.

2. Principle of Use

Policy WRK4 has as its main aim that town centres are to be the main focus of retail development and that unless there are other circumstances then retail development should be located in those centres. There is some scope to allow for convenience stores to be opened when they assist in allowing people to meet their daily shopping needs.

There is a convenience store 300m from the site and one 455m away on Chapelhouse Road. These are 3 and 5 minute walks away respectively and serve the local area for convenience shopping.

The unit would be more convenient for a small number of houses located up to a kilometre away up Halifax Road to the south east but the distance and low numbers it would serve would not justify a departure from the policy of requiring retail developments to be located in town centres first.

3. Impact on Amenity

The site is in a residential area immediately adjacent to residential properties. The proposal would result in an increase in activity at the site and would result in more comings and goings and deliveries. There is no provision on site for loading and unloading and therefore this would have to be carried out on the highway.

The site is surrounded by residential properties and whilst there would be an increase from noise, comings and goings and vehicle movements for such a small scale proposal this would be an acceptable increase.

The small scale extension and ramp to the front would not result in a loss of amenity and would be acceptable in this location.

The hours of operation can be controlled by appropriate conditions. The site has been used previously as a retail store albeit some 15/16 years previous and would serve a local need in this area. It is unlikely that this small scale proposal would result in a detrimental impact on residential amenity and the use of the premises as retail would be appropriate in a residential area.

Details of deliveries and waste storage have been requested.

Therefore it would accord with policy ENV2

4. Design and Materials

The proposed extension and access ramp to the shopfront would square off the existing bay window and provide disabled access to the unit. There is a small yard to the rear which can accommodate waste materials.

Amended plans had been submitted removing any windows to the front elevation. This would have introduced an alien feature to this residential area and would have failed to reach the required design criteria as set out in the Local Plan and the Design Principles SPD.

The applicant was advised that this would not be acceptable and therefore these plans have been withdrawn and the original plans submitted are those under consideration.

The extension to the front and access ramp is relatively small scale and with the shopfront windows now remaining would be acceptable.

The proposal is acceptable in terms of design and materials.

5. Highway Issues

LCC Highways have raised objections to the proposal.

It is understood that Halifax Road has a poor road safety history and traffic calming features has been installed in order to improve this.

With regards to inconsiderate parking close to or at the junction this can be controlled by other mechanisms and can happen at any junction where people parking contrary to the Highway Code.

Obstruction of mobility crossing and creating a safety hazard to other highway users would be a matter of enforcement by the relevant parties.

Nearby residents have also raised concerns over lack of off-street parking provision and increased traffic. Other concerns mainly relate to inconsiderate parking which might result in obstruction and difficulty in manoeuvring for buses and refuse vehicles.

Whilst these are genuine concerns it is unlikely that a shop of such as small scale as that proposed that it would result in residual cumulative impacts of development are severe.

6. Other Issues

There is a history of coal mining working in the area at shallow depth and therefore it would be advisable for an informative to be attached to any permission regarding this in the interests of public safety.

The applicant has suggested opening hours of 7am – 11pm Monday to Saturday and 8am – 10pm Sundays and Bank Holidays.

Environmental Health has suggested that the opening hours should be 8am – 10pm weekdays and Saturdays and 9am to 10pm Sundays and Bank Holidays.

Also that any electrical equipment should have appropriate fixings and mountings to prevent noise or vibration transmitting into the adjacent premises.

In my view opening hours of 8am to 10pm everyday would be acceptable in this residential area.

The retail use would need to be restricted to A1 convenience retail shop only which would prevent any other A1 uses such as sandwich bars, dry cleaners and funeral directors which would attract customers from further away and create more traffic parking issues in the locality. A condition preventing any permitted change of use to offices and cafes would also be appropriate.

7. Summary

The development would not fulfil the role of serving a local shopping need that is not already served by existing retail development. The development lies outside of a town centre and does not satisfy the sequential tests for retail development as set out in both the National Planning Policy Framework and policy WRK 4 of the adopted local Plan Part 1.

RECOMMENDATION: Refuse

1. The development would result in an out of centre retail development that would not serve a local convenience need that is not met by existing retail units. The development cumulatively with other similar retail developments outside of town centres would detrimentally impact on those centres and is contrary to paragraph 24 of the National Planning Policy Framework and policy WRK4 of the adopted Pendle Local Plan Part 1: Core Strategy.



Application Ref: 16/0822/FUL

Proposal: Full: Change of use from dwelling (C3) to retail shop (A1) (with living accommodation above), erection of single storey extension to front and installation of new shop front.

At: 113 Halifax Road, Nelson

On behalf of: Mr Naveed Haider

LIST OF BACKGROUND PAPERS

Planning Applications

NW/SM

Date: 24 February 2017