

**REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER**

**TO: WEST CRAVEN COMMITTEE**

**DATE: 8<sup>th</sup> May, 2018**

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning application.

## REPORT TO WEST CRAVEN COMMITTEE ON THE 8<sup>TH</sup> May, 2018

**Application Ref:** 18/0137/FUL

**Proposal: Full:** Change of use from retail (Use Class A1) to mixed use retail with hot food takeaway (Use Class A1 and A5) and installation of flue to rear.

**At:** 7-9 Colne Road, Earby

**On Behalf of:** Sukhraj Singh

**Date Registered:** 13 March, 2018

**Expiry Date:** 07 May, 2018

**Case Officer:** Christian Barton

Application referred to committee due to 3 objections being received.

### **Site Description and Proposal**

The application site is a double frontage, two-storey commercial property located within the town centre of Earby and the Earby Conservation Area. The building sits on Colne Road (A56), a main route lined with properties of varied styles and uses. The off-license is surrounded by residential and commercial properties to three sides with public amenity areas found to the west. The natural stone built property has a white painted timber shop front at present with walled yards areas to the rear.

The proposal seeks to change the lawful use of the premises from retail (Use Class A1) to retail with a hot food takeaway (Use Classes A1 and A5). The two uses are to be internally connected and are to share a trade access to the rear. A galvanized steel extraction flue is also proposed to the rear of the property to accommodate the new use proposed.

### **Planning History**

13/99/0172P – SUBDIVIDE SHOP TO FORM HOT FOOD TAKE-AWAY AND ERECT FLUE TO REAR OF NO. 9 AT – Refused – May 1999.

### **Consultee Response**

Earby Town Council – **Object** to the installation of an additional flue and extended opening hours which would be detrimental to the residential amenities.

A condition must be in place that the company should be using fat traps and extraction units to avoid fat being discarded through the drainage system.

LCC Highways - The above proposal raises no highway concerns and I would therefore raise no objection to the proposal on highway safety grounds.

Lancashire Constabulary – No comments received.

## Public Response

Comments have been received from neighbours regarding;

- Lack of need for further takeaways locally
- Increased odours and fumes
- Littering
- Highways safety and further parking demand
- Concerns regarding increased opening hours.

## Officer Comments

The main considerations for this application are the principle of the development, any potential impacts on residential amenity, the design and impacts on the Earby Conservation Area.

The relevant Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) policies are:

- CS Policy ENV1 seeks to protect and enhance the natural and historic environment and sets out the requirements for development proposals.
- CS Policy ENV2 sets out general design principles, historic environment and climate change.
- Saved Replacement Local Plan Policy 25 relating to the location of service and retail development.
- Saved Replacement Local Plan Policy 26 concerning non-shopping uses in town centres and local shopping areas.

Other policies and guidance's are also relevant:

- The Design Principles Supplementary Planning Document (SPD) applies to extension and sets out the aspects required for good design.
- The Conservation Area Design and Development Guidance Supplementary Planning Document (SPD) gives guidance on developments within Conservation Areas.

### 1. Principle of the Development

The site is contained within the Earby Local Shopping Centre; Policy 25 stipulates that new A5 uses should be located within such defined areas, this is acceptable. The site is also located as part of a Secondary Shopping Frontage whereby Policy 26 specifies a minimum A1 use of 50% in terms of frontage length.

From a recent survey of the frontage, a current A1 use proportion of 55.5% was calculated. A mixed use was initially proposed for the premises, the effects of which would have reduced the total A1 use proportion on that particular frontage to 42%, falling below the threshold specified in Policy 26.

The Agent has subsequently submitted amended plans separating the existing double frontage into a takeaway and off-licence in terms of both frontage and floor space. Based on this new

proposed layout, the total A1 use proportion for the frontage would be 51.5% following development, this is acceptable.

The floor space of both units 7 and 9 is to be controlled with an appropriate condition to prevent the A5 use sprawling into the A1 floor space, currently set at 44.8 square meters. The floor space for each of the respective units must be controlled in order to conserve the commercial balance of the frontage in alignment with Policy 26.

## 2. Impacts on Amenity

The primary issue arising from the proposed change of use would be the potential for impacts on the adjacent properties. A number of residential dwellings and first floor flats are located as part of the row in addition to neighbouring detached dwellings in close proximity.

The plans provided show that the deliveries and cooking of food would take place at ground floor level to the rear of unit 7. The kitchen is to utilise an extraction flue located to the rear of the premises that is to extend 1m above the eaves of the building. Within the vicinity of the site a number of restaurants, cafes and takeaways exist at present each with their own venting systems. Operating an A5 use from the premises and the addition of a single flue would have negligible further effects on the residential amenity of the area based on this. Policy 26 specifies that applications for an A5 use must be supported with an Odour Risk Assessment and technical details of the venting systems. These have been received and comments are awaited from Environmental Health and will be reported to the meeting.

Further residential impact would be limited given the current use of the building as an off-licence. Deliveries for the takeaway and off-licence are to utilise the same rear access, deliveries specifically for the takeaway are unlikely to have an adverse impact on the residential neighbours. Customers would utilise an existing access to the front of the premises off Colne Road. This area of Colne Road is within the settlement centre and already has a range of services. The proposed use would not adversely impact upon the adjoined neighbours of the site based on this current arrangement and the opening times of existing businesses within close proximity.

## 3. Design and the Earby Conservation Area

The works proposed are acceptable from a design perspective, a flue is proposed to the rear of the premises. The flue is to be galvanized steel and black in colour with this choice of design aligning with the guidance of the Conservation Area Design and Development Guidance SPD. A condition should be attached to any permission in order for its appearance to be controlled.

## 4. Highway Safety

The site is within a settlement centre and has good accessibility to short stay parking areas and public transport. No objections have been raised from LCC Highways regarding the scheme and they are of the opinion the proposed development would have a negligible impact on highway safety. There is also ample space available in the rear yard of the site for bin storage therefore this is acceptable.

## Summary

The proposal seeks to alter the use of the premises to a mixed A1 and A5 use along with the installation of a flue to the rear. The site is within a defined Shopping Centre with the proposed use being suitable for the allocated Secondary Shopping Frontage. The scheme is acceptable in terms of the impacts on neighbouring properties with the design of the flue being appropriate for the age and style of the property and the Earby Conservation Area subject to appropriate conditions.

The development is therefore acceptable in this location and complies with Policies ENV1 and ENV2 of the Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030), Policies 25 and 26 of the Saved Replacement Local Plan, the Design Principles Supplementary Planning Document and the Conservation Area Design and Development Guidance Supplementary Planning Document.

### **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 proposal is acceptable in terms of design and materials and would not unduly adversely impact on 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**

Subject to the following conditions;

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Side Elevations 01 (Drawing Number 1), Proposed Elevations (Drawing Number 5 – Amendment A), Proposed Floor Plan and Roof Plan (Drawing Number 6 – Amendment C) and Proposed Floor Plan Class Use Areas (Drawing Number 7).

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

3. Prior to the commencement of external works, details of the materials to be used for the extraction duct including colour samples shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.

**Reason:** To ensure a satisfactory form of development in the interest of visual amenity of the area.

4. Prior to the commencement of development on site, a scheme for the fumes, vapours and odours (including grease and carbon filters) to be extracted and discharged from the premises shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved scheme prior to opening for business and shall thereafter be maintained in efficient working order.

**Reason:** In order to ensure that odours outside the premises are minimised in the interests of residential amenity.

5. Prior to the commencement of development on site, a scheme for the sound installation of odour control equipment shall have been submitted to and approved in writing by the Local

Planning Authority. The scheme shall be implemented in full accordance with the approved scheme prior to opening for business and shall thereafter be maintained in efficient working order.

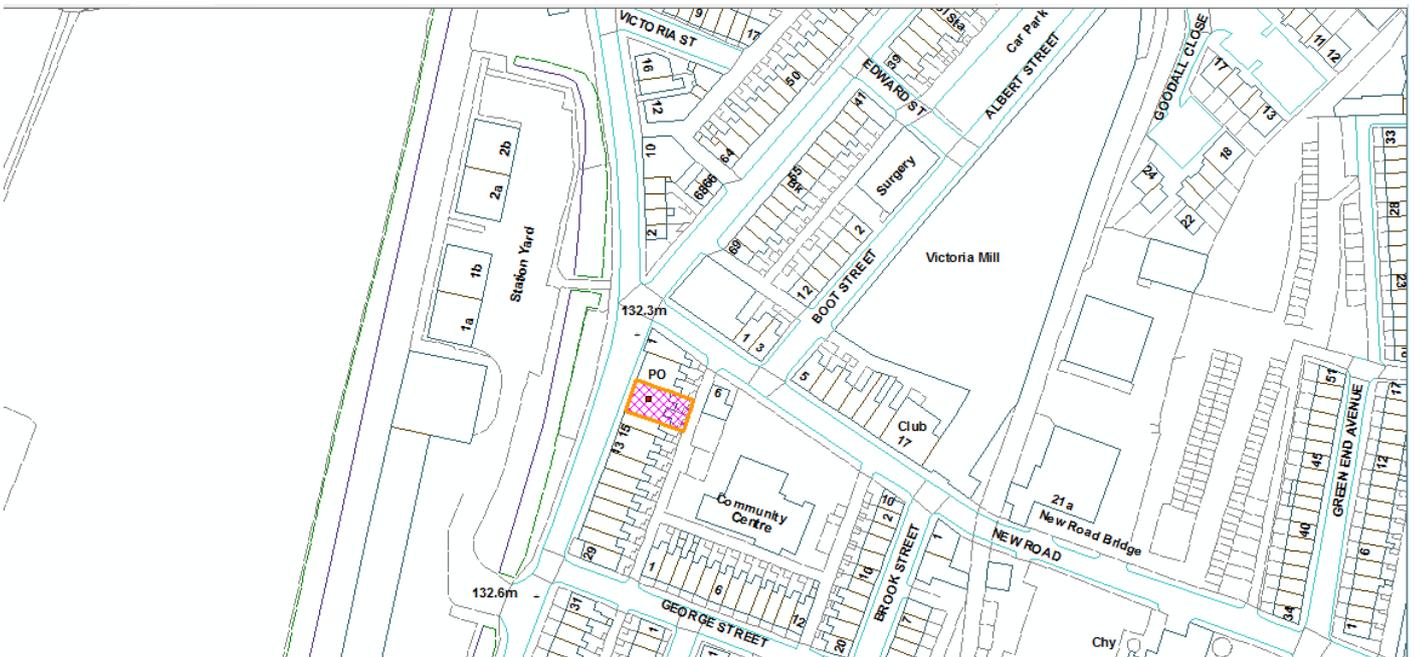
**Reason:** In the interests of residential amenity.

6. The premises shall not be open for customers or any other person not employed within the business operating from the site outside the hours of 06.00 and 23.00 hours Monday - Sunday (including Bank Holidays).

**Reason:** In the interests of residential amenity.

7. The floor area of unit 7 shall at all times be limited to 20 square meters, as shown on the plan 'Proposed Floor Plan Class Use Areas (Drawing Number 7)' and shall not be varied or altered without prior written consent from the Local Planning Authority.

**Reason:** In order to preserve the viability and viability of Earby Town Centre.



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**On Behalf of:** Sukhraj Singh

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NPW/MP**

**Date: 27th April 2018**