

**REPORT FROM:** PLANNING, ECONOMIC DEVELOPMENT AND  
REGULATORY SERVICES MANAGER

**TO:** POLICY AND RESOURCES COMMITTEE

**DATE:** 25<sup>th</sup> JUNE, 2020

**Report Author:** Neil Watson  
**Tel. No:** 01282 661706  
**E-mail:** [neil.watson@pendle.gov.uk](mailto:neil.watson@pendle.gov.uk)

## **PLANNING APPLICATION**

### **PURPOSE OF REPORT**

To determine the attached planning application.

## REPORT TO POLICY AND RESOURCES COMMITTEE – 25<sup>TH</sup> JUNE 2020

**Application Ref:** 20/0155/FUL

**Proposal:** Full: Full: Change of use from retail shop (Use Class A1) to restaurant (Use Class A3) and hot food takeaway (use Class A5); install new shop front and vertical extract flue to the rear.

**At:** 31 Scotland Road, Nelson

**On Behalf of:** Mr Safdar Hussain

**Date Registered:** 03 March, 2020

**Expiry Date:** 12 May, 2020

**Case Officer:** Christian Barton

This application has been referred to Policy & Resources Committee as Nelson Area Committee resolved to approve the application, this would represent a significant departure from policy.

### **Site Description and Proposal**

The application site is a three-storey commercial building located in Nelson Town Centre. It sits within a designated Primary Shopping Frontage and the Whitefield Conservation Area. Commercial buildings surround the site to all sides with some having upper floor residential accommodation. The building has natural stone elevations and a slate roof and. It is fitted with windows of a range of styles.

This application involves changing the sites lawful use to form a mixed use building with a restaurant and hot food takeaway. A new black aluminium shop front is also proposed and new fascia board to conceal the existing shutter. On the rear outrigger a vertical extraction flue would be installed rising to just above the ridge height.

### **Relevant Planning History**

No relevant planning history.

### **Consultee Response**

LCC Highways – There is no objection to this proposal given the sites central location.

Lancashire Constabulary – To mitigate against the risk to crime and disorder, Lancashire Constabulary would advocate a number of security measures for this development concerning site security.

Nelson Town Council

### **Public Response**

A site notice has been posted and no public comments have been received.

## **Officer Comments**

The main considerations for this application are the principle of development, residential amenity and the road network.

### **1. The relevant Pendle Local Plan Part 1: Core Strategy (2011 – 2030) policies are:**

- CS Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to protect and enhance natural and historic environments and sets out specific requirements that aim to ensure development proposals do not detrimentally effect such environments;
- CS Policy ENV2 (Achieving Quality in Design) identifies the need to protect and enhance the character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that the siting and design of development should be in scale, context and harmony with the wider locality;
- CS Policy ENV 5 (Pollution and Unstable Land) aims to ensure that air, water, noise, odour and light pollution are minimised, both during and after construction;
- CS Policy WRK4 (Retailing and Town Centres) states that to help promote vitality, and maintain viability, we will seek to prevent high concentrations of non-shopping uses within the Primary Shopping Area and Primary and Secondary Shopping Frontages.

### **Other policies and guidance's are also relevant:**

- Saved Policy 26 (Non-Shopping uses in Town Centres and Local Shopping Areas) aims to prevent excessive concentrations of non-shopping uses within Local Shopping Frontages;
- Saved Policy 31 of the Replacement Local Plan (Parking) sets out appropriate parking standards for new developments;
- The Design Principles Supplementary Planning Document (SPD) sets out general principles for the designs of shop fronts;
- The Conservation Area Design and Development Guidance Supplementary Planning Document (SPD) gives guidance on suitable developments within Conservation Areas.

### **1. Principle of Development**

In general terms Policy WRK4 and Saved Policy 26 aim to safeguard the retail function of town centres and shopping areas. Proposals to introduce non-shopping uses within Primary Shopping Frontages are not supported where the development would lead to more than 75% of the frontage being occupied by non-shopping uses. Those requirements can be relaxed if a vacancy period in excess of 3 years can be demonstrated yet information has been provided confirming the site was in use last year. The policy base of Saved Policy 26 is clear and where the required vacancy period cannot be shown, and the non-shopping use of a Primary Shopping Frontage would exceed 25%, planning permission should be refused.

Shortfalls in A1 units have been identified in previous Retail Occupancy Surveys for this particular frontage which spans numbers 1 – 47 Scotland Road. That outcome has also been confirmed from a recent site visit and survey of the relevant premises. Currently the A1 proportion within this frontage stands at 63% which is considerably below the 75% threshold outlined in Policy 26. The addition of a further non-shopping use within this frontage would be of further detriment to its retail function, alongside that of Nelson Town Centre. The proposed development would therefore fail to

safeguard the vitality and viability of Nelson Town Centre and does not accord with Policy WRK4 and Saved Policy 26.

## **2. Residential Amenity**

The site occupies a town centre location and takeaways and drinking establishments are all within close proximity. Some of the adjacent buildings have upper floor flats yet the additional comings and goings created by this scheme would not have a detrimental impact on aural amenity when the existing surrounding land uses are taken into account.

In relation to the rear flue, such installations have the potential to cause adverse impacts on neighbours from odours, noise and vibrations if a substandard system is installed. Where relevant those impacts could be adequately controlled through condition and the proposal complies with Policies ENV2 and ENV5.

## **3. Design and the Conservation Area**

A number of different styles of shop fronts are found along this frontage constructed with use of a range of materials. Here a black aluminium shop front is proposed and a number of other premises have similar shop fronts installed. The glazing arrangement and proportions would be appropriate for the host building and the new fascia board would conceal an existing shutter. Subject to the quality and finishes of the external materials being controlled through condition, the proposed shop front would be acceptable in visual design terms.

The proposed flue would appear as a prominent addition to the buildings rear elevation. Open public areas are found to the west and the site marks the boundary of the conservation area. Each of the premises on this row appear different to the rear and the site could accommodate a flue of the proposed size subject to it being dark in colour. The plans state the flue would have a steel finish which would not be appropriate within a conservation area though that detail could also be adequately controlled through condition and the proposal complies with Policies ENV1 and ENV2.

## **4. Highways**

Saved Policy 31 requires development proposals to be served with adequate parking. The site has no parking associated with it and relaxations to parking requirements can be applied in town centre locations where appropriate. The site is served with good public transport links with public car parks within walking distance. Deliveries would also be conducted to the rear preventing obstructions. LCC Highways have raised no objections and I concur with their findings. The development would have no detrimental impacts on the local road network.

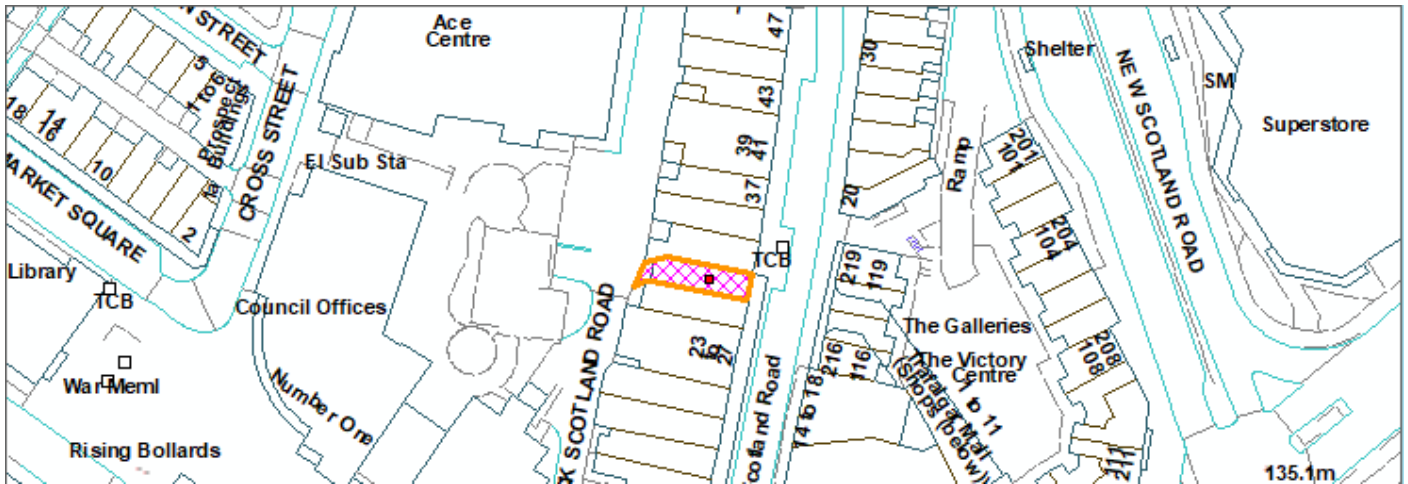
## **5. Summary**

The application seeks to change the lawful use of a shop to a restaurant and takeaway, install a new shop front and erect an external flue. Subject to appropriate conditions, the proposed external alterations would be acceptable. The proposal would however further concentrate an excessive of level of non-shopping uses within a designated Primary Shopping Frontage and fails to comply with Policy WRK4 and Saved Policy 26.

## **RECOMMENDATION: Refuse**

For the following reason;

1. The proposed change of use would result in the proportion of non-shopping uses within a designated Primary Shopping Frontage further exceeding 25% which would be of detriment to its retail function together with the vitality and viability of Nelson Town Centre contrary to Policy WRK4 of the Pendle Local Plan Part 1: Core Strategy (2011 – 2030) and Saved Policy 26 of the Replacement Pendle Local Plan.



**Application Ref:** 20/0155/FUL

**Proposal:** Full: Full: Change of use from retail shop (Use Class A1) to restaurant (Use Class A3) and hot food takeaway (use Class A5); install new shop front and vertical extract flue to the rear.

**At:** 31 Scotland Road, Nelson

**On Behalf of:** Mr Safdar Hussain