

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

**TO: POLICY AND RESOURCES COMMITTEE**

**DATE: 17<sup>th</sup> DECEMBER, 2020**

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning application.

# **POLICY AND RESOURCES COMMITTEE REPORT 17<sup>th</sup> DECEMBER 2020**

**Application Ref:** 20/0572/FUL

**Proposal:** Full: Change of use from dwelling (Use Class C3) to retail (use Class E) (Re-Submission).

**At:** 174 Railway Street, Nelson

**On Behalf of:** Mrs Asia Parveen

**Date Registered:** 02.09.2020

**Expiry Date:** 04.12.2020

**Case Officer:** Charlotte Pinch

This report has been referred from Nelson Committee as members were minded to approve the application, against officer's recommendation.

A previous application on the site, 19/0446/FUL, was refused by the Council under delegated powers for a comparable proposal. This proposal would undermine the vitality and viability of Nelson Town Centre.

If approved this would result in a significant departure from policy and the development would undermine the vitality and viability of Nelson Town Centre. Also, due to the previous decision of the Council to refuse a comparable proposal in 2019, an approval in this case could lead to a potential Ombudsman case.

## **Site Description and Proposal**

This application is to be decided at committee as it was called in by a Councillor.

The application site is a two storey, end-of-terrace property located within the east of the settlement boundary of Nelson. The property is sited on Railway Street in a mixed residential/commercial area with residential properties adjoining and to the rear and commercial properties across the road. The property has been used previously as a retail premises until that use ceased.

The proposal seeks to change the use of the building from a dwellinghouse (Use Class C3) to retail use (Use Class E). This is a re-submission of a previously refused application 19/0446/FUL. This re-submission now shows two ground floor rooms to be used for E purposes, as a retail area at the front and workshop behind, the previous application only proposed one room.

This application was submitted after 1<sup>st</sup> September 2020, after the recent amendments to the Use Classes Order took effect. As such, the description of development has been amended to remove reference to Use Classes A1 (Retail). Under the amended Use Classes order retail uses now fall within Class E (Commercial, Business and Service).

No external alterations to the building have been applied for.

## **Planning History**

13/11/0125P - Full: Change of use on ground floor from offices (A2 use class) to private tuition rooms (D1 use class) – Approved with Conditions – May 2011.

17/0778/FUL – Change of use from Retail (Use Class A1 with residential (to a dwellinghouse (use Class C3) – Approved with Conditions February, 2018.

19/0446/FUL - Full: Change of use of part of ground floor from residential (Use Class C3) to retail (Use Class A1) – Refused – 2019.

## **Consultee Responses**

### **LCC Highways**

Having considered the information submitted, the above proposal raises no highway concerns. Therefore the Highway Development Support Section would raise no objection to the proposal on highway safety grounds.

### **Lancashire Constabulary**

No objection.

## **Publicity**

One letter of comment was received from a neighbouring occupier, raising no objections to the proposal.

## **Officer Comments**

The main considerations for this application are the principle of retail in this location and potential impacts on amenity.

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

- Policy WRK4 requirements for retail in town and shopping centres and restrictions outside of this.
- Policy SDP2 identifies the settlement hierarchy in terms of the location of new development. Nelson is identified as a Key Service Centre, being one of the areas in which future growth will be focussed.
- Policy ENV5 seeks to prevent pollution and potential noise issues for residential areas.

Other policies and guidance's are also relevant:

- Saved Replacement Local Plan Policy 31 that sets out the parking standards for developments.

### 1. Principle of Retail

The site is located within the settlement boundary and is outside Nelson Town Centre where services, facilities and public transport provision are readily available.

All applications or allocations should identify sites that are suitable, available and viable by following a sequential approach in order of priority:

1. Town and local shopping centres;
2. Edge of centre locations and
3. Out of centre sites which are well serviced by a choice of transport and have a higher likelihood of forming links with a nearby centre.

Retails proposals on edge of centre or out of centre sites will generally be resisted.

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.

Whilst this site was previously a retail shop it is now a dwellinghouse and there are other shop premises both occupied and vacant within close proximity to this site which, if necessary, could serve the needs of local people. However, these premises have clearly closed for a reason and these existing premises can easily be re-used as commercial properties in the future.

The close proximity to Nelson town centre and existing retail premises in this location means that there is no requirement for this property to resume its use as a retail premise at this time. There are vacant properties within Nelson Town Centre which can serve any identified need as well as the four vacant shops nearby and three premises which are occupied as well as others on Railway Street. If this property was allowed to be used as retail then this would undermine the vitality and viability of Nelson Town Centre and therefore is contrary to Policy 25 of the Replacement Pendle Local Plan.

The agent, on behalf of the applicant, had provided some additional details to provide background in relation to the application. Amongst other points it was stated that previous application errors had been made and that the property has not been used as a dwelling in the front retail area of the shop.

However, despite these comments, it is important to note that in the 2017 application (17/0778/FUL) the application form stated that the domestic use of the ground floor shop area had already been in place for 15 years at the time of the application. Therefore, the domestic use had already been implemented.

In light of this the proposed use as retail would not accord with policy and would seek to undermine the vitality and viability of Nelson Town Centre.

## 2. Impact on Amenity

The proposed development would be unlikely to raise adverse issues for existing neighbours in terms of comings and goings and deliveries due to the small scale nature of the property and the adjacent commercial properties.

The scheme therefore is acceptable in this respect.

## 3. Highway Safety

The site is located in a mixed use area with high demand for on-street parking. With this in mind the scheme is suitable in relation to the local effects on highway safety. This is no provision for off-street parking in this location.

#### 4. Summary

The proposal seeks to change the use of the building from residential to mixed residential and retail use. This proposal is not acceptable in policy terms and fails to accord with saved Policy 25 of the Replacement Pendle Local Plan and Policy WRK4 of the Pendle Local Plan Part 1: Core Strategy (2011 – 2030).

#### **RECOMMENDATION: Refuse**

For the following reason:

1. The site falls outside of Nelson Town Centre therefore the use of the premises as mixed residential and retail would undermine the vitality and viability of Nelson Town Centre and fails to accord with policies WRK4 and SDP5 of the Pendle Local Plan Part 1: Core Strategy and saved Replacement Pendle Local Plan Policy 25.

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