



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

TO: POLICY AND RESOURCES COMMITTEE

DATE: 24th JUNE, 2021

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO POLICY AND RESOURCES COMMITTEE 24TH JUNE 2021.

Application Ref: 21/0043/FUL

Proposal: Full: Change of use from a shop (Use Class E) to hot food takeaway (Sui Generis), erection of single storey rear extension and alterations to access for flat above.

At: 237 Leeds Road, Nelson

On behalf of: Mr Rana

Date Registered: 10/03/2021

Expiry Date: 05/05/2021

Case Officer: Laura Barnes

This report has been referred from the Nelson, Brierfield and Reedley Committee as members were minded to approve the application, contrary to officer recommendation. However, the proposed change of use would result in unacceptable highway safety issues. Approval of this application would result in a significant departure from policy.

Site Description and Proposal

The application site relates to an existing shop on Leeds Road, within the settlement boundary of Nelson.

The intention is to convert the shop into a Hot Food Takeaway, with a single storey extension and alterations to accommodate a flat above.

Relevant Planning History

None relevant

Consultee Response

LCC Highways

Having considered the information submitted, I would offer the following comment:

Situated in a commercial area of the town of Nelson and with significant traffic regulation orders along the frontage of the site and in the immediate vicinity. I would question the validity of granting change of use of business premises to hot food take away. There is little / no "on street parking provision" with the potential should planning permission be granted for the obstruction of an adjacent bus stop.

From a highway perspective, I would wish to raise an objection to applicant proposals.

Environmental Health

Noise & Vibration from Industrial plant, Extract Ventilation & Ducting

A scheme for the enclosure of any noise emitting plant and machinery with sound-proofing material, including details of any sound-insulating enclosure, mounting to reduce vibration and transmission of

structural borne sound, and ventilation or extract system, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved scheme shall be completed prior to the first occupation of the building and shall thereafter be retained. Before any plant is used on the premises other than as provided in the approved scheme, a further scheme evidencing the same matters shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be completed before the plant is first used.

Reason: To protect the amenities of occupiers of adjoining and nearby properties.

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Sound Insulation

A scheme for the sound insulation of odour control equipment referred to in condition [A] set out below shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in full accordance with the approval scheme prior to the permitted use being commenced. The approved sound insulation works shall thereafter be maintained in efficient working order.

Note

1. Regard shall be had of the following: DEFRA Guidance on the control of Odours and Noise from Kitchen Extraction Systems.

Reason: To protect the amenities of occupiers of adjoining and nearby properties.

Operating Hours

The use hereby permitted shall only be conducted between the hours of 11:00am and 11:00pm on weekdays, Saturdays, Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of adjoining and nearby properties.

Public Response

Nearest neighbours have been notified and no response has been received.

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy (LPP1)

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.

ENV4 sets out that where an adverse impact [upon highway safety] is identified, applicants should ensure adequate cost effective mitigation measures can be put in place. Where the residual cumulative impacts of the development are severe, planning permission should be refused.

Policy WRK4 (Retailing and Town Centres) states that main town centre uses should follow the following sequential approach:

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

Proposals for hot-food takeaways in close proximity to establishments that are primarily attended by children and young people will be resisted.

Replacement Pendle Local Plan (RPLP)

Policy 25 states that new retail and service development should be located within a defined town centre as the first order of priority. The supporting text states that where existing commercial uses exist outside of a town centre they can be replaced by some other commercial use of the same scale.

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP.

Principle of the Development

The site is located outside of a town centre, Policy 25 of the RPLP allows existing commercial uses outside of town centres to be replaced by other commercial uses of the same scale.

The proposed use of the building would not be of a greater scale of impact than the existing use. Taking this into account, the proposed hot food takeaway is acceptable in accordance with Policy 25.

The site is located approximately 160m from The Zone, Community Hub. It is acknowledged that there are other Hot Food Takeaways within closer proximity than this.

Visual Amenity

The proposed development includes an extraction / ventilation flue on the proposed plans. However, the Environmental Health /officer has requested that should the scheme be approved, details of the ventilation and extraction system are submitted. Whilst it would be visible from the junction with Reedyford Road and Leeds Road, it would not be unacceptably prominent and would be acceptable in terms of visual amenity. It is noted that there is an extraction / ventilation flue to a neighbouring property which is located to the rear.

The proposed development is acceptable in terms of visual amenity in accordance with policy ENV2.

Amenity

The proposed development includes the erection of a single storey extension. Whilst there is an existing single storey rear extension currently, the proposed development seeks to extend this to cover the entire rear yard. It is noted that there is an existing single storey rear extension to the neighbouring dwelling (No. 239) as such the proposed development would not result in an unacceptable overbearing impact upon the neighbour.

The applicant has not provided an indication of operating hours on the application form. On this basis, it must be assumed that 24/7 operation is being applied for. The Environmental Health Officer has

commented on this application suggesting a restriction of operating hours, in the interests of neighbouring amenity, this could be controlled by condition.

Overall, in terms of amenity issues there would be no unacceptable impacts, in accordance with Policy ENV2 of the Local Plan: Part 1 Core Strategy.

Design

The application seeks planning permission to erect a flat roof single storey rear extension, whilst this is to the rear, it would be visible in the streetscene on Reedyford Road. However, it would not cause an unacceptable impact upon the character and visual amenity of the street scene.

The application form does not include details of materials, with exception of the door which is to be UPVC, neither are there details on the plans. However, a condition could be applied to ensure that the proposed materials, with the exception of the flat roof, are to match the existing property.

It is noted that the plans indicate that the applicant wishes to erect illuminated signage to the front and side elevations. This type of development would need an advert consent and is not dealt with as part of the determination of this application. Moreover, the Council does not have any details of the type of illumination, colour or hours which this would be lit.

Overall, the proposed development is acceptable in relation to Policy ENV2 of the Local Plan: Part 1 Core Strategy.

Highways

The Highways Authority have reviewed the proposed development and have objected on highway safety grounds due to the lack of car parking. It is noted that there is a bus stop directly outside the front of the application site and double yellow lines, where parking is prohibited in much of the surrounding area to the front and side of the property. It is also at a junction, where parking may cause a danger to highway safety.

There is a concern regarding waste storage, as it is common to have wheelie bins etc stored in the rear yard, where this application proposes to build across the entire rear yard. It would not be acceptable to have waste receptacles in the back street, causing a restriction to a highway. The application form which accompanies the planning application does not indicate the arrangements for waste storage, neither do any of the plans submitted. As such, there is not sufficient information regarding waste storage in order to determine the application.

As such, the proposed development conflicts with paragraph 108 of the Framework which requires any impact upon highway safety to be mitigated. The proposed development has not provided any mitigation for the proposed impact.

RECOMMENDATION: Refuse

The proposed development does not have any off-street parking and is located on a road junction which may encourage dangerous car parking, resulting in a danger to highway safety, contrary to

paragraph 108 of the Framework, Policy ENV4 of the Local Plan: Part 1 Core Strategy and Policy 31 of the Pendle Replacement Local Plan.