



REPORT FROM:	PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER
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TO:	POLICY AND RESOURCES COMMITTEE
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DATE:	16th SEPTEMBER, 2021
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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO POLICY AND RESOURCES COMMITTEE 16TH SEPTEMBER 2021

Application Ref: 21/0237/FUL

Proposal: Full: Change of Use of land of existing car park and siting of a container to be used as a Hot Food Takeaway (Use Class Sui Generis)

At: Land adjacent to Queens Mill, Bankhouse Road, Nelson

On behalf of: Mr Abdul

Date Registered: 1st April 2021

Expiry Date: 27th May 2021

Case Officer: Laura Barnes

This application has been referred from Nelson, Brierfield & Reedley Committee.

Site Description and Proposal

The application site relates to a car park adjacent to Queens Mill, Bankhouse Road, Nelson. It is located within a mixed use area, with surrounding uses including a car garage, fire station, residential and a nursery school. It is approximately 40m outside the Town Centre Boundary. The proposal is to site a container on part of the car park and use this as a Hot Foot Takeaway.

Relevant Planning History

None relevant

Consultee Response

Lancashire Constabulary – Designing Out Crime Officer

No objection, with crime prevention advocated

LCC Highways

No objection

Environmental Health

The Council's Environmental Health Team have reviewed the proposals and have the following comments:

We would be concerned about the potential effect of noise and odour from the takeaway, as well as operating hours. It would be important to carefully control odours as the building is to have a partly open side, where the serving hatch is, which may allow odours to escape into the surrounding environment more easily than a closed building would.

Request conditions for hours, noise and vibration and odour extraction.

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

Public Response

Nearest neighbours have been notified, no response 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.

Policy ENV5 (Pollution and Unstable Land) seeks to minimise air, water, noise, odour and light pollution.

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.

Bradley Area Action Plan

The application site is identified within the Bradley Area Action Plan as “New & Improved Parks” The plan states at Policy 4 that it will encourage environmental improvements to the area. Whilst this has some weight, as part of the Development Plan, it is understood that the funding for these proposals is not currently available and hence why in the short term this land has been leased as a car park.

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 does not replace an existing town centre use of a building but is for the siting of a container on an existing car park. Taking this into account, the applicant should have prepared a sequential assessment to consider preferable sites within a Town Centre location. It is likely that there will be other vacant / available units and sites within the town centre which could accommodate the use. As such, the proposal would result in harm to the vitality and viability of Nelson Town Centre.

Flood Risk

The proposed site is located within an area of Flood Risk. Policy ENV7 of the Core Strategy requires development to ensure that it would not worsen the conditions downstream, in accordance with national policy. The existing use is a car park which by its nature has a large amount of hard standing, the surface area of the proposed container is reasonably small (less than 15m²) and would not result in a worsening of flood risk elsewhere.

Design & Visual Amenity

Details of the colour of the container have not been provided. However, the planning statement provides an indication of the company’s proposed marketing logo which is dark in colour. Details of the paint colour could be secured by appropriately worded planning condition.

The proposed container would be located to the side of an existing building which is currently being used for retail, on a car park adjacent to an MOT testing and tyre centre. It takes up a prominent position which is highly visible from the public highway. A metal container, the likes of which are used for transporting cargo, would not be appropriate in such a prominent location and would have an adverse impact upon the wider visual amenity of the surrounding area, contrary to Policy ENV2 of the Local Plan: Part 1 Core

Strategy, Policy 4 of the Bradley Area Action Plan, and paragraph 134 of the National Planning Policy Framework.

Amenity

The proposed container is to be sited in a car park in a mixed use area (existing retail unit adjacent, MOT testing centre to the rear with residential and educational / community use opposite). Therefore, it would not conflict with the existing adjacent commercial uses. However, there are also residential dwellings on Bankhouse Road and Regent Street, No. 59 Bankhouse Road is approx. 30m from the proposed location of the container. As such, the neighbouring amenity of the residents of these dwellings needs to be carefully considered. The applicant has not indicated the proposed operating hours on the application form. However, the Environmental Health Officer has reviewed the proposals and has recommended that the hours of operation are controlled. It is recommended that the hours of operation are controlled by condition to 11am and 11pm Monday to Saturday and 11am to 9pm Sundays and Bank Holidays.

Concern has been raised by Lancashire Constabulary regarding the waste disposal being within close proximity to the container, leading to an increased risk of fire and potential to attract anti-social behaviour. The applicant has provided a plan indicating the proposed location of the bins. However, it is recommended that further detail of this including the proposed management of waste and the security of it overnight is provided. This information could be secured by planning condition for a site waste management plan.

Subject to this condition, the proposed development would be acceptable in terms of residential amenity in accordance with policies ENV2 and ENV5.

Highways

The proposed use would not be likely to result in a significant increase in vehicular traffic over the existing retail use and the MOT testing centre adjacent. The Highways Authority have not objected to the proposed development. The proposal would not result in a danger to highway safety and accords with Policy 31 of the Pendle Replacement Local Plan.

RECOMMENDATION: Refuse

For the following reasons:

1. The application site is located outside the Town Centre Boundary and a sequential assessment has not been undertaken to establish whether there are any more suitable sites located within the Town Centre. This would result in harm to the vitality and viability of Nelson Town Centre. As such, the application site is outside the Town Centre boundary and is not preferable in terms of the hierarchy

set out in Policy 25 of the Pendle Replacement Local Plan and Policy WRK4 of the Local Plan: Core Strategy or National Planning Policy Framework.

2. The proposed development being a flat roof metal shipping container represents poor design, this is compounded by being sited in a prominent position adjacent to the public highway, contrary to Policy ENV2 of the local Plan Part 1 Core Strategy, Policy 4 of the Bradley Area Action Plan and paragraph 134 of the National Planning Policy Framework.