



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

**TO:** NELSON, BRIERFIELD AND REEDLEY COMMITTEE

**DATE:** 9th MAY 2022

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## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To determine the attached planning applications.

# REPORT TO NELSON, BRIERFIELD & REEDLEY COMMITTEE 9<sup>th</sup> May 2022

**Application Ref:** 21/0959/HHO

**Proposal:** Full: Erection of single storey extension to front and side of dwelling, canopy to front, create 3 No. space parking area and widen vehicular access point onto Napier Street.

**At:** 157 Napier Street, Nelson

**On behalf of:** Mr Mohammed Ansar

**Date Registered:** 27/01/2022

**Expiry Date:** 24/03/2022

**Case Officer:** Laura Barnes

This application has been called in by a Councillor

## Site Description and Proposal

The application site is a two storey semi-detached dwelling, sited amongst dwellings of a similar scale and design. The property is located within the defined settlement boundary of Nelson.

The proposal is for a single storey flat roof extension to the side of the dwelling, which projects to the front by 4.8m. It is to be rendered, to match the main dwelling. The application also seeks permission for a canopy to be inserted across the front elevation which would tie into the proposed single storey extension. The applicant also wishes to widen the driveway to create three car parking spaces to the front of the property.

## Relevant Planning History

20/0191/HHO: Full: Demolition of detached garage and erection of two storey side extension. Approved with conditions

20/0295/LHE: Prior Approval Notification (Larger Home Extension): Erection of single storey extension to rear.  
Prior notice not required (Approved)

20/0415/NMA: Non-Material Amendment: Amend Planning Permission 20/0191/HHO to insert velux windows in the front and rear roof slopes (Approved), window in the side gable and canopy to front (Refused).  
Split decision

## Consultee Response

### LCC Highways

Having considered the information submitted, the Highway Development Control Section does not have any objections regarding the proposed development at the above location, subject to the following comments being noted, and condition and note being applied to any formal planning approval granted.

The proposed parking area should be surfaced in a bound porous material to prevent loose surface material from being carried onto the adopted highway network, where it could pose a hazard to other users. The parking area should also remain free from any obstructions to ensure that vehicles can park wholly off the adopted highway network.

The existing dropped vehicle crossing will need amending to allow access to the additional parking space at the front of the house. This will need to be carried out under an agreement (Section 184) with Lancashire County Council, as the highway authority.

#### Condition

The proposed development should not be brought into use unless and until the parking area shown on the approved plans has been constructed, laid out and surfaced in bound porous materials. The parking area shall thereafter always remain available for the parking of domestic vehicles associated with the dwelling. Reason: In order to ensure satisfactory levels of off-street parking are achieved within the site to prevent parking on the highway to the detriment of highway safety.

#### Note

This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980 Section 184 (Vehicle crossings over footways and verges) Lancashire County Council as Highway Authority must specify the works to be carried out. Only the Highway Authority or a contractor approved by the Highway Authority can carry out these works. Therefore, before any works can start, the applicant must complete the online quotation form found on Lancashire County Council's website using the A-Z search facility for vehicular crossings at <http://www.lancashire.gov.uk/roads-parkingand-travel/roads/vehicle-crossings.aspx>

### **Public Response**

Letters were sent to the nearest neighbours to notify them of the application, no comments have been received.

### **Officer Comments**

#### **Policy**

##### Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and 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 siting and design should be in scale and harmony with its surroundings.

##### Replacement Pendle Local Plan

Saved Policy 31 sets out the maximum parking standards for development.

##### National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

## **Design**

The Design Principles SPD advises that extensions to the front elevation of dwellings, including porches, need to be carefully designed. It states that porches usually benefit from having a pitched roof, using the same construction materials as the original dwelling and being not greater than 1.25m in depth (or less than half the distance between the front elevation and the highway boundary). In this regard, the canopy which is proposed would not result in an unacceptable impact either to the overall frontage of the dwelling, or to the balance / symmetry with the adjoining half of the semi-detached dwelling.

However, turning to the proposed extension, which is to accommodate a gym / games room, this projects 4.8m out from the front elevation of the dwelling. The property occupies a corner plot in a prominent position at the corner of St. Paul's Road and Napier Street. The proposed extension would be prominent in the street scene and would cause harm to the character and appearance of the front of the dwelling, as well as the wider visual amenity. Whilst a porch to the front elevation may be acceptable, this is entirely different and would project much further into the space between the front of the dwelling and the highway. The proposed wall of the extension would be 1.1m from the footpath, bringing the built form much further into the street, increasing its prominence, when compared with neighbouring dwellings. The principle of this development is unacceptable and represents poor design, contrary to paragraph 134 of the NPPF, Policy ENV2 and the Design Principles SPD.

## **Residential Amenity**

The Design Principles SPD seeks to ensure that householder developments do not as a result of their design, scale, massing and orientation have an unduly adverse impact on amenity. The proposed extension is to have a single front window and a window facing to the side elevation creating a courtyard area to the front of the existing dwelling, in addition to the door. Given the distance of the neighbouring front windows and the angle at which the extension has been set in relation to the existing dwelling, it would not result in an unacceptable impact to the neighbours at No. 155 Napier Street. In terms of the proposed front window, although this is much closer to the highway than the existing front elevation windows the properties opposite are set a long way back in their plot with long narrow gardens, as such there would not be an unacceptable neighbouring amenity issue with the properties to the opposite side of Napier Street.

In terms of the proposed canopy, this is set to the forth west elevation of the dwelling (front) and would not result in an unacceptable overbearing impact upon the neighbouring dwelling.

Therefore, the proposed development is acceptable in terms of residential amenity in accordance with Policy ENV2 and the Design Principles SPD.

## **Highways**

The proposed development intends to increase the number of car parking spaces to the front of the dwelling to three. The Highways Authority have not objected to the proposed development but have noted that works are required to the kerb in order to widen the driveway properly. Therefore, no objections are raised in relation to Policy 31.

## **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 proposed development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework. 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: Refuse**

For the following reasons:

1. The proposed development represents poor design by virtue of the projection to the front elevation and its prominence in the streetscene. This has a harmful impact upon the character of the front of the existing dwelling and upon the wider visual amenity, contrary to paragraph 134 of the Framework, Policy ENV2 of the Local Plan and the Design Principles SPD.

**Application Ref:** 21/0959/HHO

**Proposal:** Full: Erection of single storey extension to front and side of dwelling, canopy to front, create 3 No. space parking area and widen vehicular access point onto Napier Street.

**At:** 157 Napier Street, Nelson

**On behalf of:** Mr Mohammed Ansar

## REPORT TO NELSON, BRIERFIELD & REEDLEY COMMITTEE 9<sup>TH</sup> MAY 2022

**Application Ref:** 21/0978/FUL

**Proposal:** Full: Retention of use of land for private equine use, dog rehabilitation use and associated rural workers dwelling.

**At:** Pendle Bridge Lodge, Woodend Road, Brierfield

**On behalf of:** K9 Rehab

**Date Registered:** 06/04/2022

**Expiry Date:** 01/06/2022

**Case Officer:** Laura Barnes

### Site Description and Proposal

The application site relates to a site in Green Belt. The application is in part retrospective with the canine use and horses being unlawfully carried out at the site.

The applicants are in occupation of the site in a caravan. This has been the subject of separate enforcement action. The application also seeks permission for a rural workers dwelling.

### Relevant Planning History

The building on site was granted planning permission for an equine use under 18/0098/FUL.

### Consultee Response

#### LCC Highways

Having considered the information submitted, the Highway Development Control Section does not have any objections regarding the proposed development at the above location and are of the opinion that the proposed development will not have a significant impact on highway safety or capacity in the immediate vicinity of the site, subject to the following comments being noted and conditions being applied to any formal planning approval granted. As the proposed dog rehabilitation use is by appointment only, and the site is not open to the general public, traffic levels generated would be limited and at an acceptable level. No Public Rights of Way pass through the development site. Four parking spaces are provided, which is considered an appropriate number for the two bedroom house proposed, together with the dog rehabilitation business. The parking and manoeuvring areas should be kept free from obstructions at all times to ensure that vehicles can enter and leave the site in forward gear. As access to the site is via a single vehicle width track leading from Woodend Road, and which also serves another business at The Orchard, the use of land for private equine purposes should be controlled by condition. This is to ensure that activities at the development site do not generate additional traffic, which may be detrimental to highway safety and capacity on the surrounding highway network. The following conditions should be applied to any formal planning approval granted.

#### Conditions

1. The car parking and manoeuvring areas shown on the approved plan shall be maintained free from obstruction and kept available for car parking and manoeuvring purposes at all times. Reason: To ensure adequate car parking provision in the interest of highway safety.

2. The retention of the use of the land hereby permitted shall be for, or ancillary to, the keeping of horses owned or leased by the occupier of Pendle Bridge Lodge only, and shall not be used for livery, equestrian events or any commercial purpose whatsoever at any time other than shown on the approved plans. Reason: In the interest of highway safety.

### Cadent Gas

Holding objection

### United Utilities

Awaiting response

## **Public Response**

The nearest neighbours were notified by letter. Multiple responses have been received in support of the application, raising the point that the business which is operating from this location is providing a valuable public service.

## **Officer Comments**

### **Policy**

#### Pendle Local Plan Part 1: Core Strategy (LPP1)

ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving our heritage assets.

Policy ENV4 (Promoting Sustainable Travel) states that proposals should follow the settlement hierarchy approach in Policy SDP2 and minimise the need to travel by ensuring they are developed in appropriate locations close to existing or proposed services. Consideration should be given to locating new housing, employment and service developments near to each other to give people the opportunity to live and work within a sustainable distance.

Policy LIV1 (Housing Provision and Delivery) states that until such time that the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development Policies sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those identified in the Strategic Housing Land Availability Assessment (SHLAA) will be supported.

Policy SDP2 (Spatial Development Principles) states that new development should be within settlement boundaries unless it is an exception outlined in the Framework or elsewhere in the LPP1.

#### Replacement Pendle Local Plan

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP. This is addressed in the Highways Issues/Parking section.

#### National Planning Policy Framework 2018 (The Framework)

Paragraph 79 states:

Planning policies and decisions should avoid the development of isolated

homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

Paragraph 148 states:

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 149 of the Framework is set out below:

*"A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

*(a) buildings for agriculture and forestry;*

*(b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*

*(c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*

*(d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*

*(e) limited infilling in villages;*

*(f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*

*(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*

*not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority."*

The Town & Country Planning Act 1990, section 336 sets out a definition for agriculture as follows: "agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;"



## Officer Comments

The use which has been applied for here is a mixed one, of equine and a dog rehabilitation facility. The application has with it a supporting statement which makes the following points:

- The building would be used for the stabling of the applicant's horses in winter months and partly for dog rehabilitation use.
- The rehabilitation is not physical rehabilitation but rather wellbeing and training which consists of standard obedience and agility training.
- The training takes place 7 days a week and in 40 minute to hour sessions. The facility gives residential training.
- About 40 dogs per week are trained.
- Residential training will take up to 4 dogs at once.

The applicant accepts that the development does not fall in line with any of the exceptions that would indicate this development is not inappropriate development. The statement indicates that development that is inappropriate can only be allowed where there are very special planning circumstances shown. As the development is inappropriate development it should only be approved if there are very special planning circumstances.

The applicant has applied for a dwelling on the land which does not accord with the Framework in this regard. Paragraph 138 describes the purposes of the Green Belt, building a house would not preserve any of these five purposes:

Paragraph 138, Framework

*Green Belt serves 5 purposes:*

*(a) to check the unrestricted sprawl of large built-up areas;*

*(b) to prevent neighbouring towns merging into one another;*

*(c) to assist in safeguarding the countryside from encroachment;*

*(d) to preserve the setting and special character of historic towns; and*

*(e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

As such, the principle of development in this case is unacceptable within the Green Belt.

The proposed development is within the Open Countryside, Policy SDP2 of the Local Plan Part 1 Core Strategy sets out that development should be located within Town Centre boundaries, although Policy LIV1 makes provision for some residential development to come forward prior to the Part 2 Local Plan being adopted, this requires sites to be located close to the settlement boundary. The proposed dwelling is 800m from the settlement boundary on Greenhead Lane. The occupants would be required to walk down an unlit route to access any form of public transport. Whilst there are other dwellings in terms of a cluster of cottages to the north of the application site, this does not make the proposed dwelling a sustainable one, in terms of paragraph 79 of the Framework with an isolated dwelling.

The application is based on the stabling of horses as well as canine activities. The equine use of the building, as with most other stables, does not require a 24 hour a day presence on site. The scale of the equine/canine building is modest. There would be no requirement to be on site to tend to the horses and the use proposed is for the horses to be on site for parts of the year and then up to 4 dogs in the building for other parts of the year.

The requirement is that it must be essential for a rural worker to be on site in order to justify a dwelling. The majority of the dog training takes place with day visits with dogs and their owners. The majority of the canine use therefore does not require a presence overnight. Taking care of 4 dogs overnight is not adequate justification to justify erecting a permanent dwelling on the land.

In addition there needs to be very special circumstances shown for allowing a dwelling in green belt. Effectively with there being no justification for being on site to look after horses overnight the very special circumstances to allow the dwelling comes down to housing up to 4 dogs for part of the year. This falls substantially short of being very special circumstances and the development of the dwelling would thus result in inappropriate development harmful to the greenbelt.

## **Design**

### Stables

The stables measure 3.3m to ridge with a pitched roof. They are to be constructed of timber with a composite sheet roof. The footprint is 7.3m x 21.9m. The building is to comprise 5 no. stable / kennels, one dog kennel and a tack room. The roof plan indicates 10no. roof lights.

### Dwelling

The proposed building is to be positioned in line with the stables, as opposed to the existing arrangement of the static caravan, which is positioned perpendicular to the stables. The proposed dwelling is modest in size, being a two bedroom bungalow. It is to be timber clad with a composite sheet roof and aluminium powder coated windows.

The materials of the proposed building could be subject to a condition in future, should planning permission be approved in this location. As such, the proposed development accords with Policy ENV2 of the Local Plan Part 1 Core Strategy in this regard.

## **Residential Amenity**

The proposed dwelling is positioned so that habitable room windows are in excess of 21m from the nearest neighbouring properties. There would be no unacceptable impact upon the neighbours in this regard. In terms of the stable, whilst this is 26m from the rear elevation of the cottages, with a south west prevailing wind, this close proximity would not give rise to an unacceptable impact in terms of the proximity of the stables and livestock to the neighbouring residents. Further, a manure store could be the subject of a condition should this be necessary. The proposed site is set at a greater height than the cottages with a slope down, where the dog training ground area is, as such when viewed from the rear gardens at the cottages, the stables would take an elevated position. However, this would not lead to an unacceptable overbearing effect.

The proposed dwelling would raise no unacceptable residential amenity issues in relation to Policy ENV2 of the Local Plan Part 1 Core Strategy.

## **Highways**

Although the proposed development is accessed up a private track, given the nature of the business by appointment only, there would be no highway safety danger with an intensification of the route. Conditions are put forward, should the application be approved.

## **Ecology**

The application is accompanied by an ecological assessment which details the potential for the site to support habitats for bats and birds amongst other things. The report recommends that bat

boxes are erected, if this was necessary it could be secured by planning condition. The report also sets out the type of land which the application site contains, including modified grassland.

Overall, there is no necessary further surveying required for ecological purposes. The proposed development accords with policy in this regard.

### Trees

The application is accompanied by an arboriculture impact assessment. There are four individual groups of trees within the site boundary. No trees are required to be removed as a result of the proposed development.

The site plan indicates a proposed landscaping scheme including around the side and rear of the stables closest to the neighbouring cottages. Should a landscaping scheme be necessary, this could be the subject of a condition. In this case it is the principle of development which is unacceptable.

### **Other Matters**

The Council have received concerns that if this business were to close there is nothing in the surrounding area which would assist potentially dangerous dogs, from harm to the public. This does not form part of the planning case as the business could be set up elsewhere in a field, not within the Green Belt which would provide a suitable alternative to this particular location. As such, the principle is not with the operation of a dog rehabilitation facility, but rather the need for a dwelling here, which the report has set out is not necessary.

### **RECOMMENDATION: Refuse**

For the following reasons:

1. The proposed building in an isolated position, away from a settlement and would result in an isolated dwelling in an unsustainable location with insufficient justification to warrant approving such a development in the open countryside. In addition the development is inappropriate development in the green belt. There are no very special circumstances that would justify allowing such inappropriate development which would be harmful to the openness of the green belt. The proposal is contrary to paragraphs 79 and 143 of the Framework, Policies ENV2, LIV 1 and SUP2 of the Local Plan: Part 1 Core Strategy.

**Application Ref:** 21/0978/FUL

**Proposal:** Full: Retention of use of land for private equine use, dog rehabilitation use and associated rural workers dwelling.

**At:** Pendle Bridge Lodge, Woodend Road, Brierfield

**On behalf of:** K9 Rehab

# REPORT TO NELSON, BRIERFIELD & REEDLEY COMMITTEE 9<sup>TH</sup> MAY 2022

**Application Ref:** 22/0095/HHO

**Proposal:** Full: Insertion of dormer windows to front and rear roofslopes and removal of chimney.

**At:** 9 Eagle Street, Nelson

**On behalf of:** Mr Abid Ali

**Date Registered:** 14/02/2022

**Expiry Date:** 11/04/2022

**Case Officer:** Laura Barnes

This application has been called in by a Councillor

## Site Description and Proposal

The application site relates to a mid-terrace dwelling, sited amongst dwellings of a similar scale and design. The property is located within the defined settlement boundary of Nelson.

The proposal is for the removal of the chimney and the insertion of a flat roof dormer to the front and rear roof slopes.

## Relevant Planning History

None relevant

## Consultee Response

### LCC Highways

There is no objection in principle to this proposed development, however, the Highway Development Control Section is concerned about the cumulative effect of the increasing numbers of terraced homes being extended to increase bedroom space without providing any additional parking facilities. This could potentially result in an addition loss of amenity and conflict for existing residents.

## Public Response

Nearest neighbours notified, without response

## Officer Comments

### Policy

#### Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and 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 siting and design should be in scale and harmony with its surroundings.

### Replacement Pendle Local Plan

Saved Policy 31 sets out the maximum parking standards for development.

### National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

### **Design**

The Design Principles SPD advises care should be exercised to ensure that their design is in keeping with the dwelling and that they do not overlook neighbouring property. Dormers should not be so large as to dominate the roof slope resulting in a property which appears unbalanced.

The proposal is for a flat roof dormer to the front elevation, which dominates the entire front roof slope of the dwelling and has a harmful effect upon the character and appearance of the original dwelling. This also has a wider effect on the street scene in a terrace which has a simple and uninterrupted ridge line. The proposed front dormer is to be clad with a vertical hanging tile, with a firestone rubber roof. To the rear, the proposed dormer is to have a flat roof and be clad in hanging tiles. The dormer to the rear totally dominates the roof.

However, in relation to the rear dormer it must be noted that there is a fall-back position in this particular case. A dormer to the rear may be constructed under Permitted Development, provided that it is of matching materials and does not exceed a volume of 40 cubic metres. In this case the proposed rear dormer has a volume of approximately 20 cubic metres, so is well within the volume permitted. However, at present the roof of the building is covered in slate. As such, in order to be a Permitted Development fall-back position the proposed cheeks of the dormer would need to be covered in slate to match the existing roof.

The design and materials of this development are unacceptable in this location and as such conflict with Policies ENV2 and the Design Principles SPD.

### **Residential Amenity**

The proposed rear dormer is to have one small window to the rear elevation and one small window to the front elevation. There are no windows to the side elevations. The proposed dormers are directly opposite dwellings on the other side of Eagle Street and Poplar Street (to the rear). However, the windows in the proposed dormers would be no closer to neighbouring dwellings than the existing windows to either the front or rear elevations. As such, it would not result in any unacceptable neighbouring amenity issues.

Therefore, the proposed development is acceptable in terms of residential amenity in accordance with Policy ENV2 and the Design Principles SPD.

## Highways

The proposed development would increase the number of bedrooms to the dwelling which would increase the number of parking spaces required. However, the Highways Authority have not raised any objection in relation to highway safety concerns. It is unlikely that a reason for refusal on highway grounds would be sustained. As such, no objection is raised in relation to Policy 31 of the Replacement Pendle Local Plan.

### **RECOMMENDATION: Refuse**

1. By virtue of its position to the front elevation of the dwelling, the proposed dormer to the front roof slope would have an unacceptable impact upon the design of the original dwelling and in turn cause harm to the wider character and appearance of the street scene, in conflict with Policy ENV2 of the Local Plan: Part 1 Core Strategy and the Design Principles SPD.

**Application Ref:** 22/0095/HHO

**Proposal:** Full: Insertion of dormer windows to front and rear roofslopes and removal of chimney.

**At:** 9 Eagle Street, Nelson

**On behalf of:** Mr Abid Ali

## NELSON, BRIERFIELD & REEDLEY COMMITTEE REPORT 9<sup>th</sup> MAY 2022

**Application Ref:** 22/0118/FUL

**Proposal:** Full: Major: Change of Use of council offices to multi-use community hub including use class E(b) Sale of food and drink for consumption (mostly) on the premises E(d) Indoor sport, recreation or fitness, E(e) Provision of medical or health services, E(f) Creche, day nursery or day centre, E(g)(i) Offices to carry out any operational or administrative functions, F1(a) Provision of education, F1(f) Public worship or religious instruction, F2(b) Halls or meeting places for the principal use of the local community; external alterations including external flue to rear, formation of cafe frontage, insert three windows to the south west elevation and formation of entrance lobby to north west elevation.

**At:** The Bestlight Community Hub, Market Square, Nelson

**On behalf of:** LightBeam Academy

**Date Registered:** 04/03/2022

**Expiry Date:** 03/06/2022

**Case Officer:** Laura Barnes

### **Site Description and Proposal**

The site is a former Council office located adjacent to the Town Hall on Market Square in Nelson. It is directly opposite the Boy Scout War Memorial (Grade II Listed) and is located within the Town Centre Boundary.

This scheme seeks to change the use from a former office building to a mixed use facility. The external alterations include inserting an external flue to the rear of the building, forming of cafe frontage, insert three windows to the south west elevation and forming a entrance lobby to north west elevation.

### **Relevant Planning History**

None relevant

### **Consultee Response**

#### Lead Local Flood Authority

No comments

#### LCC Highways

Additional information is requested to determine the impact upon parking on the surrounding highways and public car parks in the vicinity.

The building was formally Council Offices with a floor area over three floors of approximately 1500sqm. The Pendle parking standards would require a ratio of 1 space per 48sqm for a B1 in a highly accessible site. This equates to 31 spaces.

It is proposed the ground floor will accommodate the café (30 people) spiritual space (100 people), multi-purpose community space and kitchen. The first floor will accommodate the sports hall,

sauna and steam rooms and associated shower and changing facilities (30 people). As well as this a portion of the Education Academy accommodation will also be situated on this floor. The second floor will accommodate the Education Academy classrooms (12 classrooms – 105 people maximum occupancy) and management offices.

The Pendle parking standards for Café and places of worship are 1:12 and 1:15 respectively. Leisure is 1:33, consulting rooms require 4 spaces each and education uses require 1 space per classroom. For a day nursery 1.5 space per 2 staff and 1 space per 10 children for drop off.

I have estimated the proposed use based upon floor area to generate 50-60 spaces, which is an intensification from the previous use.

Additional information is requested to be submitted by the applicant to demonstrate sufficient capacity of the nearby public car parks is available. Once this has been determined satisfactory, a parking management document is required to set out the parking provision to customers to allow them to park safely without detriment to highway users.

The surrounding highway network is covered by traffic regulation orders which restrict parking to disabled blue badge users immediately in front of the building and restricted to 1 hour Mon-Sat immediately to the north and south. Additional information is requested to be submitted to show how long customers stay on site and the likely demand for short stay car parking on street. There is an opportunity to review the on-street car parking traffic regulation orders in the immediate area to ensure that they meet the demands of the customers. We would first need to understand the existing and future use. The existing use should be demonstrated by parking occupancy surveys during peak times.

It is noted that the education use is likely to generate an intensive short period of parents dropping off children in vehicles. This needs to be managed to ensure that the impact on other highway users is minimised. A travel plan to encourage car sharing, walking and cycling is requested to be submitted.

I note that there are doors opening over the adopted highway on the back street of Market Street which we do not support. We do not support any intensification of use of the back street.

The bike store is considered necessary.

#### Refuse

A designated enclosure for waste and recycling already exists as part of the previous use of the site as offices. This is located on the north-west side of the building and there is a dropped kerb and 'Keep Clear' marking on Market Street to assist the refuse vehicle to load. I anticipate that the frequency of service vehicles will increase as a result of this proposal and consideration to providing a designated loading bay on Market Street should be considered.

#### Conclusion

Additional information is requested to determine the car parking impact and in anticipation of changes required to the traffic regulation orders on Market Street and Croft Street. The cost of a traffic regulation order review will be approximately £3,000.

Car parking and Travel Plan documents should be prepared to manage the demand for parking and to encourage sustainable modes of travel to minimise the impact on the surrounding highway network.

#### Lancashire Constabulary

Recommended that Secure by Design principles are followed



## **Public Response**

Nearest neighbours have been notified, a site & press notice displayed. Consultation expires on 20<sup>th</sup> May 2022, subject to satisfactory consultation, delegated powers to grant consent is sought.

One letter of objection has been received raising the issue of highway safety and parking conflicting with the library use nearby:

The objection we would have at the library is stopping people who are attending The Bestlight Community Hub from using the library parking facilities, which are only for staff and library users, at present there are times when staff and deliver drivers haven't be able to park at all. When staff are going home at night it is dangerous as parents park on double yellow lines and on any both sides of the road in order to drop of their children, cars have pull out in front of our vehicles which are using the road.

## **Officer Comments**

### **Policy**

#### **Pendle Local Plan Part 1: Core Strategy**

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and 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 siting and design should be in scale and harmony with its surroundings.

Policy SUP2 (Health and Wellbeing) this policy seeks to support the provision of new or improved facilities for health, leisure and social care.

Policy SUP4 (Designing Better Public Places) sets out that proposals for buildings which have a multi-use will be encouraged. It also supports development which conserve or enhance the historic environment, particularly those which re-use historic buildings or make a positive contribution to the character and distinctiveness of an area.

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

#### **Replacement Pendle Local Plan**

Saved 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.

Saved Policy 26 sets out that proposals within the secondary shopping frontage will be supported proposal would result in the total proportion of non-shopping uses (including unimplemented valid planning permissions) exceeding 25% of a defined primary frontage or 50% of a defined secondary or local frontage (in terms of frontage length). Hours of operation and car parking will be key for these types of proposed development.

Saved Policy 31 sets out the maximum parking standards for development.

### National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Paragraph 202 of the Framework sets out that where development proposals would lead to less than substantial harm to the significance of a designated heritage asset, this harm must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

### **Principle of the Development**

The site is located at the centre of Nelson, within 100m of the Grade II Listed War Memorial. It is within a mixed use area with some other community uses, retail and residential located nearby. The principle of this type of health / leisure / worship / cafe development is acceptable in accordance with Policy SUP2, subject to accordance with heritage, design and amenity policies.

### **Design & Heritage**

Local Planning Authorities have a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve and enhance the character and appearance of heritage assets. Policy ENV1 states that the historical significance of heritage assets must not be detrimentally affected by development.

The minor alterations proposed, include the following:

- Insertion of one roof light and replacing a window for a door to the North East Elevation (front)
- Insertion of three windows (two to the second floor and one to the ground floor) and a roof light to the South West Elevation (rear). Insertion of ventilation flue to extend from height of doors to ground floor up to above eaves height
- Insertion of a door to replace an existing window, two roof lights and the ventilation flue which would be visible from the back street of Carr Road / Market Square to the North West Elevation

The development would involve a change of use and minor external alterations to the exterior, in terms of fenestration and an extraction flue to the rear. The materials proposed are white aluminium and white UPVC. The existing building has white UPVC windows and a set of sliding metal automatic doors to the main entrance, with timber white doors to the rear onto the back street. The site lies immediately adjacent to the Grade II Listed Heritage Asset, the impact upon this would be less than substantial and the public benefits of the proposed development weigh

heavily in favour, when weighed in the planning balance set out in paragraph 202 of the Framework.

The front elevation plans do not indicate signage. It was noted at the time of the site visit that there is some signage to the front elevation. However, this would need to be the subject of a separate application under the Advertisement Regulations.

The proposed development is acceptable in terms of visual amenity and heritage in accordance with policies ENV1 and ENV2.

### **Amenity / Operational Effects**

In terms of amenity, the proposed fenestration changes would not result upon residential amenity in an unacceptable way. The windows to the rear would be directly behind Idara Minhaj-UI-Quran on the corner of Cross Street and Carr Road. The side elevation (North West) the proposed door would be adjacent to a terraced row, the closest uses to this are commercial and there would be no unacceptable impact as a result of the proposed entrance door.

Regarding the ventilation flue, the proposal is for this to be to the rear, which is one of the elevations least available to public views. Details of the extraction system can be secured by condition, in order that it does not result in unacceptable odour or noise impacts.

It should be noted that the application is for a café use, not a hot food takeaway use. The details submitted indicate that the food will mostly be consumed on the premises. The application for a hot food take away at any point in future would require an additional planning application due to it being Sui Generis.

The Opening hours proposed are as follows:

- Use Class E(b) sale of food and drink mostly on the premises Monday to Friday 08:00 to 22:00. Saturday, Sunday and Bank Holiday, 08:00 to 23:00
- Use Class E(d) Indoor sport, recreation / fitness Monday to 09:00 to 22:00 Monday to Friday, Saturday, Sunday and Bank Holidays
- Use Class E(e) Medical facilities 09:00 to 20:00 Monday to Friday, Saturday and Bank Holidays
- Use Class E(f) crèche, day nursery or day centre 08:00 to 18:00 Monday to Friday, Saturday, Sunday and Bank Holidays
- Use Class E9g)(i) Offices 08:00 to 20:00 Monday to Friday, 08:00 to 18:00 Saturday, Sunday and Bank Holidays
- Use Class F1(a) Education 08:00 to 20:00 Monday to Friday, 08:00 to 18:00 Saturday, Sunday and Bank Holidays
- Use Class F1(f) Public worship 09:00 to 22:00 Monday to Friday, Saturday, Sunday and Bank Holidays
- Use Class F2(b) Halls or meeting places for use by the local community 09:00 to 23:00 Monday to Friday, Saturday, Sunday and Bank Holiday

These proposed operating hours would not result in an unacceptable impact, given the Town Centre location. A condition can be added to secure this aspect.

The waste disposal area is to the rear of the building, accessed down a space along the side of the building and waste containers brought onto Market Square for emptying. There is an existing area to the rear which is utilised for bin storage, this area must continue to be used and waste or containers not left on the surrounding public highways. Again, this can be secured by planning condition, in the interests of amenity, security and environmental health.

The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV2.

## Highways

The proposed development is in a town centre location, situated in an area where there is already a mix of uses including offices, residential and community (such as the library). There will be a different demand for parking / dropping off given the different uses and their customers / operating hours. However, due to the Town Centre location and the availability of public car parking within the vicinity this would not result in an unacceptable impact. The Highways Authority have requested further information on the users of the building in relation to car parking and a potential Traffic Regulation Order for changing the waiting times of the parking on Market Square. This is not something which can be requested by condition as it would not meet the five tests set out in the Framework in this regard. As such, the proposed development is acceptable in relation to highways.

### **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 proposed development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework. 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: Approval**

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:

Location Plan – 1978-1.1

Site Plan – 1978-1.2

Proposed Ground Floor Plan – 1978-3.4A

Proposed First Floor Plan – 1978-3.5

Proposed Second Floor Plan – 1978-3.6

Proposed Elevation Plans - 1978-3.7

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

3. Notwithstanding any indication on the approved plans and application form, prior to any external works commencing, samples of the external materials for the stone to match the existing stone and details of the proposed windows, doors and roof lights shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter times be carried out in strict accordance with the approved materials.

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

4. Notwithstanding any indication on the plans hereby approved, no consent is given for the display of advertisements.

**Reason:** This is controlled under separate legislation and an application should be made for this.

5. Within 3 months of the date of this permission, notwithstanding the plans hereby approved, details of the cycle storage boxes or stands shall be submitted and approved in writing by the Local Planning Authority.

**Reason:** To comply with Policy 31 of the Pendle Replacement Local Plan (Adopted 2006)

6. Prior to commencement of the proposed development, the waste storage area shall be laid out in accordance with the site plan and when wheeled waste disposal containers shall be kept behind locked gates, except on collection by the waste disposal provider. This arrangement shall remain in place unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To prevent any rubbish being left within the public highway.

7. No customers shall remain on the premises outside of the following hours. The premises shall fully close 30 minutes after the last customer is served on the premises Use Class E(b) sale of food and drink mostly on the premises Monday to Friday 08:00 to 22:00. Saturday, Sunday and Bank Holiday, 08:00 to 23:00
- Use Class E(d) Indoor sport, recreation / fitness Monday to 09:00 to 22:00 Monday to Friday, Saturday, Sunday and Bank Holidays
  - Use Class E(e) Medical facilities 09:00 to 20:00 Monday to Friday, Saturday and Bank Holidays
  - Use Class E(f) crèche, day nursery or day centre 08:00 to 18:00 Monday to Friday, Saturday, Sunday and Bank Holidays
  - Use Class E9g)(i) Offices 08:00 to 20:00 Monday to Friday, 08:00 to 18:00 Saturday, Sunday and Bank Holidays
  - Use Class F1(a) Education 08:00 to 20:00 Monday to Friday, 08:00 to 18:00 Saturday, Sunday and Bank Holidays
  - Use Class F1(f) Public worship 09:00 to 22:00 Monday to Friday, Saturday, Sunday and Bank Holidays
  - Use Class F2(b) Halls or meeting places for use by the local community 09:00 to 23:00 Monday to Friday, Saturday, Sunday and Bank Holiday

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

8. Notwithstanding any indication on the approved plans or application form, no permission is granted for the use of the building as a hot food takeaway (Sui Generis).

**Reason:** In order to allow the Local Authority to control this aspect of the mixed use development.

**Application Ref:** 22/0118/FUL

**Proposal:** Full: Major: Change of Use of council offices to multi-use community hub including use class E(b) Sale of food and drink for consumption (mostly) on the premises E(d) Indoor sport, recreation or fitness, E(e) Provision of medical or health services, E(f) Creche, day nursery or day centre, E(g)(i) Offices to carry out any operational or administrative functions, F1(a) Provision of education, F1(f) Public worship or religious instruction, F2(b) Halls or meeting places for the principal use of the local community; external alterations including external flue to rear, formation of cafe frontage, insert three windows to the south west elevation and formation of entrance lobby to north west elevation.

**At:** The Bestlight Community Hub, Market Square, Nelson

**On behalf of:** LightBeam Academy

## NELSON, BRIERFIELD & REEDLEY COMMITTEE REPORT 9<sup>th</sup> MAY 2022

**Application Ref:** 21/0055/CEA

**Proposal:** Lawful Development Certificate (Proposed Use): Use of premises for retail (Class E).

**At** Springbank Buildings 226 - 248 Every Street Nelson

**On behalf of:** Mr A Khan

**Date Registered:** 02.03.2021

**Expiry Date:** 4/27/2021

**Case Officer:** NW

### **Site Description and Proposal**

The application is to establish if an A1 use is lawful in the building.

The application was deferred from the meeting in February to consider enforcement action at the premises. Committee is advised that the issue of this application and enforcement are not linked and that it would be unreasonable to defer consideration of this application to resolve a non-related matter.

### **Relevant Planning History**

No relevant planning history.

### **Consultee Response**

Highways

Parish/Town Council

United Utilities

Environment Agency

Environment & Conservation

### **Public Response**

Comments' received commenting on:

- A1 is not suitable for the building
- Refer to a previous application where there was an in-depth analysis of why this should be refused.
- There was a strong objection to the previous application from LCC.
- We will not rehearse what has previously been said as this is on record.
- The business has been operating as an A1 business for some time without pp and this proposes a further 334sqm.

- This would introduce a mixed B1 and A1 shop and cash and carry.
- Inadequate car parking
- Concerns about who the business is providing parking for.
- The building is being used for B1 and B8 uses.
- The application does not fit in with permitted development. The previous occupants were selling products online whereas this will be on site sales. This means traffic was at a minimum.
- The applicant indicates that the business will contribute to the sustainable development of mixed-use communities – what does this mean?
- Astonished that the Council is now trying to allow this application through a LDC.

### **Officer Comments**

This application is to determine whether the use of the building outlined on the application form would be lawful for retail purposes. Comments have been made regarding the merits of using the building for retail purposes. The merits of using it or not for retail are not at issue here. This application seeks to lawfully clarify whether a retail use of the building can or cannot happen in the building as a matter of law. This has to be assessed based on the balance of probability and the onus is on the applicant to provide information as to the basis of the application.

The basis for applying for a certificate of lawful development for an alternative use can be put forward on two grounds. The first is that the current use is allowed to be changed to another use through the provisions of the Town & Country Planning (General Permitted development) Order 2015 (“the GDPO”). The GDPO grants permission for development to occur automatically. The issue is whether the GDPO would grant permission for the change of the current use of this site to a retail use.

The second element is whether development occurs at all. The Town & Country Planning Use Classes Order 1987 (“the UCO”) sets out categories of uses for different forms of use. For example before being recently amended it contained a use class A1. This use class contained uses such as hairdressers, travel agents, retail shops etc. into a single use class. Under section 55 of the Town & Country Planning Act 1990 development occurs only if a change of use of a building or land occurs. Therefore if several uses of a building are contained in the same use class then they can interchange without constituting a change of use.

The UCO has been much amended in the last few years with the legislators intending to free up the use of many buildings by creating different use classes with an extended range of uses within them. Class E was created and this incorporated uses previously contained in other use classes such as A1 retail, D2 assemble and leisure and for the carrying out of any industrial process (that can be carried out in a residential area without causing a nuisance) which was formerly in use class B1.

The full class E is reproduced below:

#### ***Class E. Commercial, Business and Service***

*Use, or part use, for all or any of the following purposes—*

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*
- (c) for the provision of the following kinds of services principally to visiting members of the public—*
  - (i) financial services,*



- (ii) professional services (other than health or medical services), or*
- (iii) any other services which it is appropriate to provide in a commercial, business or service locality,*
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms or use as a swimming pool or skating rink, principally to visiting members of the public,*
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,*
- (f) for a crèche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
- (g) for—*
  - (i) an office to carry out any operational or administrative functions,*
  - (ii) the research and development of products or processes, or*
  - (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

Regulation 4 of the Order states:

*“(4) Where land on a single site or on adjacent sites used as parts of a single undertaking is used for purposes consisting of or including purposes falling within—*

*(a) in relation to Wales, Classes B1 and B2 in Schedule 1, or*

*(b) in relation to England, the use described in Schedule 2, Class E, sub-paragraph (g) and Class B2 in Schedule 1 as modified by paragraph (1C)(b),*

*those classes may be treated as a single class in considering the use of that land for the purposes of this Order, so long as the area used for a purpose falling within Class B2, or Class B2 as modified, is not substantially increased as a result.”*

This means that if a building has within it uses falling within Class E as well as Class B2 (which is still in place) the premises shall be treated as a single class.

The premises has been used as storage, for manufacturing, as a gym and office space. There is no increase in any B2 use so it is not relevant whether the manufacturing was B1 or B2 as regulation 4 allows for it to be treated as a single unit.

There are internal alterations shown on the submitted plans. Internal works are excluded from being development under section 55 of the Act.

On balance the evidence is that the existing and proposed uses fall within Class E of the UCO and therefore it is recommended that the Certificate of lawful Development be issued.

**RECOMMENDATION: Issue the certificate of lawful development.**

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NW/MP**

**Date: 27th April 2022**