

**REPORT FROM: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL
AND REGULATORY SERVICES**

TO: NELSON, BRIERFIELD AND REEDLEY COMMITTEE

DATE: 5TH FEBRUARY 2024

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO NELSON, BRIERFIELD AND REEDLEY COMMITTEE ON 5TH FEBRUARY 2024

Application Ref: 23/0491/HHO

Proposal: Full: Erection of a two storey side extension and a two storey rear extension and a balcony to the front elevation.

At 29 Romney Street, Nelson.

On behalf of: Mr Muzaffar Ali

Date Registered: 20/09/2023

Expiry Date: 15/11/2023

Case Officer: Joanne Naylor

This application was deferred for plans to be submitted, to date no plans have been submitted.

Site Description and Proposal

The application site is a two-storey end terrace on a row of four dwellinghouses, it has a single storey rear extension to the side and rear for entrance hall and ground floor bedroom. The existing extension extends 4.10m from the rear elevation of the kitchen and is set away from the party boundary with No. 27 Romney Street. There is off street parking to the front and a garden to the rear. The application site is within a predominately residential area with houses of a similar design and scale, opposite the application site there is a terrace row of bungalows.

The proposals seeks to erect a two-storey side extension, a two storey rear extension with a single storey extension extending from the proposed two storey rear extension, the proposal would also erect a balcony to the front elevation at first floor level.

Relevant Planning History

22/0619/HHO: Full: Erection of single storey rear and side extension. Refused (28/03/2023).

22/0455/LHE: Permitted Development Notification (Proposed Larger Home Extension): Erection of a single storey extension to the rear. Invalid Application (11/08/2022).

Consultee Response

LCC Highways

LCC Highways raise no objection to the proposed development subject to the following notes and conditions. The proposal would remove some of the hardstanding lost through the proposed development. For a four bed dwelling three parking spaces are required, and these have been shown on the parking plan. However, the footway telecommunications box is within 1m of the vehicle crossing, but this would not prevent three vehicles parking on the hardstanding using the existing dropped crossing, the vehicles would not be able to enter or leave independently.

The development is located within a residential estate and near a childcare facility, the timing of deliveries should be restricted to ensure no conflict with traffic both vehicular and pedestrian, at peak time entering/leaving the estate and on the surrounding network. LCC Highways requested a condition for deliveries to be accepted between 9:30am and 2:30pm in the interest of highway safety.

Environmental Health

Environmental Health are concerned with the nuisance during construction phase and request a condition that limits the hours and days that machinery can be operated in order to protect the amenity of neighbouring properties.

Parish/Town Council

No comment.

Public Response

Letters were sent to nearby properties, no responses received.

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 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 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.

Saved Policy 31 of the Replacement Pendle Local Plan 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 in 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.

Officer Comments

The main considerations are design and materials, residential amenity and highways.

Design and Materials

The proposal seeks to erect a two-storey side extension, a two-storey rear extension with a single storey extension element, and to the front elevation a balcony to be erected at the first-floor level.

The Design Principles advise that for two storey side extensions should avoid an overbearing effect or overshadowing impact on neighbours. In addition, that two storey side extensions should be set back from the front elevation by 1m minimum, or the first floor set back by 2m with a lowered roof line. The first floor of the proposed two storey side extension would be set back from the front elevation by 1.8m which is close to the 2m requirement, however the roofline would not be lowered it would be the same height as the existing main roofline, there is a staggered arrangement of dwellings in the street therefore the proposal would not create a terracing effect. The proposed two storey side extension would have a pitched roof matching the existing roof.

The proposal would seek to erect a balcony to the front elevation at first floor level, it would extend 3m from the front elevation of the proposed side extension and 1.2m from the existing front elevation and would have a glass balustrade.

The Design Principles SPD advise that for two storey rear extensions would only be acceptable where they do not breach the 45-degree guidance. In addition, where the adjoining property has no extension adjacent to the boundary then the first-floor element should be set in from the party boundary by 1m minimum. The proposed rear extension at single storey level would have an overall length of circa 5.9m from the original rear elevation, it would be located on the party boundary with No. 27 which has no rear extension, there are habitable room windows to the rear elevation serving the kitchen. The proposed rear extension would breach the 45-degree guidance to the habitable room windows on the rear elevation of 27 Romney Street.

The Design Principles SPD advise that for two-storey rear extensions any first-floor element of an extension should be set in from the party boundary by a minimum of 1m, the proposed first floor element would not be set in from the party boundary by 1m. The two-storey rear extension at first floor would extend from the rear elevation by circa 4.1m and would be on the party boundary with No. 27 which has a habitable room window at first floor, the proposed two storey rear extension would breach the 45-degree guidance. The proposal would not conform to the limits identified in the Design Principles SPD in terms of rear extensions and therefore would represent poor design.

The proposed development would breach the 45-degree guidance to the adjoining neighbouring property at No. 27 Romney Street due to the design of the two-storey rear extension resulting in poor design, the proposal would not comply with Policy ENV2, the Design Principles SPD and paragraph 134 of the Framework.

Residential Amenity

The Design Principles SPD advises that extensions should protect neighbours enjoyment of home, to not overshadow or have an overbearing effect on neighbouring properties, and that windows should not overlook adjacent property and to avoid side windows overlooking neighbouring property.

To the front elevation, the proposed development would introduce new window openings to the ground and first floor, there is already an existing relationship of habitable room windows facing each other to the dwelling houses opposite, the proposed windows would have a similar impact as that already being experienced.

To the side elevation, the windows would be for non-habitable rooms, the first-floor window would serve a bathroom, No. 31 has a side elevation window at first floor serving a bedroom, a condition

would be placed for the bathroom window to be obscure glazed to provide privacy and to remove any overlooking to No. 31 bedroom window.

For balconies, the Design Principles SPD advises that the installation of balconies to the first floor or above can result in significant loss of privacy for neighbours and for balconies on terraced properties will not be acceptable. It is proposed that a balcony would be erected to the front elevation of the application site which would extend across most of the frontage. Opposite the application site is a terrace row of bungalow dwellinghouses, the proposed balcony would be able to view into the habitable rooms of the occupants, furthermore the Design Principles advise that a distance of 21m should be maintained between habitable rooms facing each other, here it would be a distance of 20m, although the bungalows opposite would not overlook the applicants windows, the balcony provides a wide viewing point towards a number of properties opposite, a balcony can provide a space for sitting and observing over longer periods of time, which would result in an unacceptable impact to the occupants on that terrace row of bungalows. The adjoining neighbour is set back from the front elevation of the application site, and the balcony would be set away from the party boundary, however, the applicant would be able to view towards the bedroom window of No.27. The proposed balcony would cause an overlooking and loss of privacy issue to the occupants of the dwellinghouses of the bungalow properties opposite which would result in an unacceptable impact on their residential amenity.

The proposed two storey rear extension would have an eaves height of circa 5m and extend circa 4m from the rear elevation, the single storey element would have an eaves height of 2.4m and extend a further circa 1.85m resulting in an overall length of 5.9m at single storey. The proposal would be located on the party boundary with No. 27. The proposed two storey rear extension would breach the 45-degree guidance of the kitchen windows of No. 27, furthermore, the first storey element would also breach the 45-degree guidance to the rear bedroom window of No. 27. The proposed two storey extension would result in an overbearing impact to the adjoining dwelling house due to the height and length of the proposal and being located on the party boundary. The combination of breaching the 45 degree guidance to habitable room windows would result in obstruction of outlook and overshadowing, and the overbearing impact of the proposal would result in an unacceptable impact on the residential amenity of the occupants at 27 Romney Street, Nelson.

The proposed development would appear as overbearing due to the height and length of the proposal and its proximity to the side boundary. The proposal would result in overshadowing and obstructing the outlook of the adjoining dwelling house, the height and length of the proposed development would result in an overbearing impact to the occupants at 27 Romney Street, Nelson, this impact would have a detrimental impact on the occupants residential amenity. The proposed development would not conform with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy and the Design Principles Supplementary Planning Document.

The proposed balcony would result in overlooking and loss of privacy to the occupants of the bungalows opposite the application site on Romney Street, Nelson, the proposed balcony would have a detrimental impact on the occupants residential amenity. The proposed development would not conform with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy and the Design Principles Supplementary Planning Document.

Highways

The proposal would increase the number of bedrooms from three to four bedrooms which would require three parking spaces for a four-bedroom property. The proposal seeks to extend the crossing however there is a footway telecommunications box within 1m of the crossing would prevent the extension of the crossing. However, three parking spaces can be accommodated to the front garden but the vehicle would not be able to enter or leave independently. LCC Highways

have requested a condition for the restriction timings of delivery due to ensure no conflict with traffic/pedestrians at peak times of entering and leaving the estate due to the proximity of a childcare facility. A suitable condition to restrict the timings of deliveries to be outwith 9:30 am and 2:30 pm was requested, however as the proposal is a householder development it would be unreasonable to limit times of deliveries. LCC Highways raise no objection to the proposal on highways matters, the proposal would comply with Saved Policy 31 of the Replacement Pendle Local Plan.

Environmental Health

Environmental Health are concerned with the nuisance during construction phase and requested a condition to limit the hours and days that machinery can be operated. The proposal is for a householder extension, it would be unreasonable to limit the times of operating machinery in this instance.

RECOMMENDATION: Refuse

1. The proposed rear extension would appear as overbearing due to the height and length of the proposal and its proximity to the party boundary and would result in overshadowing and obstructing the outlook of the adjoining dwelling house at No. 27 Romney Street, Nelson, the height and length of the proposed development would have a detrimental impact on the occupants residential amenity. The proposed development would not conform with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy and the Design Principles Supplementary Planning Document.
2. The proposed balcony on the front elevation would view towards the habitable room windows of the bungalows opposite and to the front bedroom window of No. 27 Romney Street, this would result in overlooking and loss of privacy to the occupants of 27, 86, 88, 90 and 92 Romney Street, Nelson and would have a detrimental impact on the occupants residential amenity. The development would therefore be poor design and fail to accord with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy, the adopted Design Principles Supplementary Planning Document and Paragraph 134 of the National Planning Policy Framework.

Application Ref: 23/0491/HHO

Proposal: Full: Erection of a two storey side extension and a two storey rear extension and a balcony to the front elevation.

At 29 Romney Street, Nelson.

On behalf of: Mr Muzaffar Ali

REPORT TO NELSON, BRIERFIELD AND REEDLEY COMMITTEE ON 5TH FEBRUARY 2024

Application Ref: 23/0781/FUL

Proposal: Full: Change of use of former ramp to the multistorey car park to car sales and the erection of a portacabin.

At: Car Park Adjacent to the Ramp Leading to The Former Multi Storey Car Park, Netherfield Road, Nelson

On behalf of: Mr M. Iqbal

Date Registered: 04/12/2023

Expiry Date: 29/01/2024

Case Officer: Laura Barnes

This application has been called in by a Councillor.

Site Description and Proposal

The application site relates to a piece of land which is directly adjacent to the ramp leading to the former multi-storey car park. It is within the settlement boundary and adjacent to the Town Centre boundary.

The proposal is to change of part of the former ramp into the multi storey car park to a car sales lot, which is to have a small flat roof building as an office on site. The proposal also involves placing a lockable barrier across the site frontage for security.

Relevant Planning History

21/0275/FUL: Full: Erection of porta-cabin and change of use for use as sandwich kiosk (Use Class E) and taxi booking office (SG).
Refused

23/0040/FUL: Full: Change of use of part of the car park to car sales pitch.
Approved with conditions

Consultee Response

LCC Highways

The barrier proposed across the access would obstruct the access to the approved car sales pitch, which should remain unobstructed. The two proposed visitor parking spaces would also obstruct access to the car sales area approved under 23/0040/FUL.

In addition, the size of the barrier across the access isn't consistent across the drawings and it's unclear how this would impact on access to adjacent sales pitches when in the open position, if at all.

Environmental Health

Comments awaited

Public Response

Nearest neighbours have been notified by letter, one letter of objection has been received, raising the following issues:

- This is on a busy road which will result in highway safety issues
- Cars will spill out onto the highway
- Increased crime due to car break-ins

Officer Comments

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.

Principle of Development

The application site is located within the settlement boundary of Nelson. The proposed development seeks to change of use of the land which was last used as a ramp to the multi-storey car park (the multi-storey car park has since been demolished), to a car sales area. The proposed use would be retail in that cars would be arranged on a forecourt for sale, so that customers could view the vehicle before purchasing it. The application also seeks permission for the erection of a building with a footprint of 2.4m x 6.3m and measuring 2.4m in height with a flat roof to be positioned adjacent to the existing taxi booking office which falls outside the red edge for this application site. The principle of development in this location is acceptable, subject to compliance with policies relating to design and neighbouring amenity.

Design / Layout

The application is accompanied by a plan which indicates two visitor parking spaces and two staff parking spaces. However, it does not set out how the 16 cars which are to be for sale would be laid out. It is not clear whether there is sufficient space within the site to fit the cars on this land. Indeed, if a car were to be required which was right at the back of the site this may result in all the other cars having to be moved off the site in order to clear a way through. This would have knock on implications for highway safety which will be discussed later in the report. However, the lack of a layout does not provide the Planning Authority with sufficient information to determine the application.

No detail has been given as to the proposed materials for the building which is to be located on the land. However, should the application be approved, this is something which could be controlled by condition.

Highways

The application includes plans which note a “relocated barrier”. However, the details for this barrier are inconsistent and this would restrict access to Pendle Council, who have a right of access across this land, to the taxi booking office operator and to the existing car sales pitch which is located behind the proposed site. It is acknowledged that this is a private matter between the landowners and not a material planning consideration in this case.

In terms of the proposed layout, it is not clear from the plans how the cars would be arranged or if there is sufficient space for 16 vehicles to be parked here for sale. Neither is there any indication of whether there would be a turning area so that vehicles could be easily accessed, should this be required. If this were not the case, the other 15 vehicles may have to be removed from the site in order to get to one vehicles right at the back. This would result in an unacceptable impact upon highway safety. Especially considering the lack of off-street parking in the surrounding area and the mini round-a-bout at the access on Netherfield Road.

Without further information, there is insufficient detail upon which to determine the application.

Other Matters

A member of the public has raised concerns about anti-social behaviour and criminal activity at the site. This is a police matter and is not material to the determination of the planning application.

RECOMMENDATION: Refuse

For the following reason:

The applicant has failed to demonstrate the layout of the site would not result in an unacceptable risk to highways safety, this is contrary to Policy ENV2 of the Local Plan: Part 1 Core Strategy and paragraph 115 of the National Planning Policy Framework.

Application Ref: 23/0781/FUL

Proposal: Full: Change of use of former ramp to the multistorey car park to car sales and the erection of a portacabin.

At: Car Park Adjacent to the Ramp Leading to The Former Multi Storey Car Park, Netherfield Road, Nelson

On behalf of: Mr M. Iqbal

REPORT TO NELSON, BRIERFIELD AND REEDLEY AREA COMMITTEE ON 5TH FEBRUARY 2024

Application Ref: 23/0809/FUL

Proposal: Full (Major): Erection of building and associated infrastructure, including parking, landscaping and a new vehicular access to create a wedding venue.

At: Rockwood, Halifax Road, Nelson

On behalf of: Amor Asset Management Ltd

Date Registered: 04/12/2023

Expiry Date: 04/03/2024

Case Officer: Alex Cameron

This application is brought before Committee as it is a major development.

Site Description and Proposal

The application site is land to the southeast of Rockwood. The land is within the open countryside approximately 170m from the settlement boundary and is designated as Open Space. To the west is Nelson Golf Club, to the south is an access to the golf club and open land with recent planning permission for a detached dwelling and to the east is Halifax Road. The land slopes steeply down from the main dwelling to Halifax Road, a fall of approximately 10m.

This application is to erect a wedding venue which would comprise a glazed building to the north west side of the site, with parking for 159 vehicles and new access to Halifax Road.

Relevant Planning History

None.

Consultee Response

LCC Highways – Object on the following grounds:

- The site is poorly located to support sustainable travel modes
- Visibility splays of 2.4m x 120m are necessary based on vehicle speed data recorded on Halifax Road for recent applications. The proposed visibility splay to the northwest side of the access of 65m is not adequate.
- A new pedestrian refuge is proposed on Halifax Road, however, its location would result in highway safety concerns in relation to the existing driveways.
- The proposed level of car parking is inadequate, a minimum of 183 car parking spaces are necessary.
- The development will have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site

Coal Authority - Withdraws its objection, the submitted Coal Mining Risk assessment is sufficient to demonstrate that the application is, or can be made safe and stable for the proposed

development subject to further consideration of ground conditions and foundation design at the building regulations stage.

PBC Environmental Health – Concerns raised in relation to impacts of noise from the development on residential properties.

Lead Local Flood Authority – Objects on the basis of the lack of an acceptable surface water drainage strategy.

United Utilities – Comments encouraging the use of a sustainable drainage system and that the applicant consider their drainage plans in accordance with the drainage hierarchy set out in the National Planning Policy Framework.

Brierfield Town Council – No response

Briercliffe Parish Council – Object on the following grounds:

- The site is unsuitable for a large commercial development due to its semi-rural nature and proximity to sites earmarked for residential development
- The scale of the building is too large for the site
- The building and materials will be out of character for this location
- Overdevelopment of the site
- Supports LCC objection on highway safety grounds
- Highway safety risk due to restricted visibility on Nelson Road
- Risk from former coal mining works
- Nuisance to local residents from noise and light pollution
- Environmental impacts

Burnley Borough Council – Responded with the following comments:

- The loss of open space should be considered
- Advises considerations of whether restricting the sequential test assessment to the area of the Borough of Pendle demonstrates sufficient flexibility given that the proposal would likely serve a subregional catchment.
- Concerns regarding the design of the proposal in this location, which would be visible from several locations within the Borough of Burnley, including from the surrounding network of public footpaths.
- Concerns about adverse impacts of the proposal with particular regard to light, noise and general disturbance, including the impact on livestock in adjacent fields.

Public Response

Press and site notices posted and nearest neighbours notified. A significant number of responses have been received both in objection and support.

Summary of responses in objection. The following are the headline objections and precise the main areas of concern:

- Impact on the landscape
- Overdevelopment of the site

- Loss of green space
- Impact of noise from the development and fireworks on residential amenity, farm animals, wildlife and pets.
- Anti-social behaviour
- Impact on wildlife habitats
- Light pollution
- Increase in traffic, inadequate capacity on surrounding roads to accommodate the increase
- parking and resulting highway safety impacts
- Lack of public transport links
- Access during adverse weather conditions
- No need for the development
- There are existing buildings within the Borough that could be used instead
- The building would not conform to building regulations
- The use is inappropriate in a residential area
- Impact on the adjacent golf club
- No economic benefit to the local community
- Inadequate drainage and increase in flood risk

Summary of responses in support:

- Financial benefits for the area
- It would promote tourism in the area
- Only a small proportion of the site would be developed
- The proposal is of high quality
- There is a huge need for a venue of this quality in Pendle
- The site would have beautiful views of the countryside and should not be moved

A number of other matters have been raised which are not relevant to the determination of this application and therefore are not included in the summaries above.

Officer Comments

Policy

Local Plan Part 1:Core Strategy

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

Policy SDP2 (Settlement Roles) sets out the roles each settlement category will play in future growth. Brierfield along with Nelson is defined as a one of the Key Service Centres which will provide the focus for future growth in the borough and accommodate the majority of new development.

Proposals for new development should be located within a settlement boundary. Proposals outside of a settlement boundary will only be permitted for those exceptions identified in the Framework or policies of Pendle's Development Plan.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) of the Replacement Pendle Local Plan 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. Developments should, wherever possible, aim to safeguard or enhance the landscape character of the area. The policy is supported by the guidance of the Development in the Open Countryside SPG.

In circumstances where a development proposal would result in the loss of open space or sports and recreational buildings and land, the applicant must comply with the criteria and requirements of paragraph 74 (now 103) of the Framework.

Policy ENV2 (Achieving Quality in Design and Conservation) states that all new development should seek to deliver the highest possible standards of design, in form and sustainability. Good design should be informed by, and reflect, the history and development of a place.

Policy ENV4 (Promoting Sustainable Travel) requires new development to have regard to potential impacts that may be caused on the highway network. Where residual cumulative impacts cannot be mitigated, permission should be refused.

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

Policy ENV7 (Water Management) does not allow development where it would be at risk of flooding and appropriate flood alleviation measures will be provided and/or would increase the risk of flooding elsewhere.

Policy WRK4 (Retailing and Town Centres) states that applications for retail and main town centre uses, should identify sites or premises that are suitable, available and viable by following the sequential approach, which requires them to be located in order of priority:

1. Town and local shopping centres, where the development is appropriate in relation to the role and function of the centre.
2. Edge-of-centre locations, which are well connected to the existing centre and where the development is appropriate to the role and function of the centre.
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

Policy 31 (Parking) which is a saved Policy within the Replacement Pendle Local Plan requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP.

National Planning Policy Framework

Paragraph 91 requires that. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan.

Paragraph 103 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports

and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Paragraph 114 states that it should be ensured that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 116 states that applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards and allow for the efficient delivery of goods, and access by service and emergency vehicles.

Officer Comments

The applicant has resulted in a significant amount of comments both in support and against the application. There have been comments that are related to the material planning merits of the case and to issues which are not relevant to it. This report focuses on the material planning merits of the development.

Comments have also been made about the nature of the publicity and whether that was lawful and adequate. The application was publicised by informing immediate neighbours, by publicity in the paper and by a notice on site. This fully fulfils the lawful requirements for publicity.

Principle of the Development

Policy SDP2 of the adopted Pendle Local Plan sets out the principle of development in Pendle. It sets out that there will be a presumption in favour of development but within settlement boundaries. It states that proposals for new development should be located within settlement boundaries. Unlike for housing, where under LIV 1 there is an allowance for sustainable housing sites to come forward outside of a settlement, there is no similar exemption for a development of this nature which lies outside of the settlement boundary. As such to allow the development there would need to be a specific reason to allow it contrary to policy SDP2.

The proposed development is a main town centre use for the purposes of the Framework and Policy WRK4.

Policy WRK4 requires that applications for main town centre uses should identify sites or premises that are suitable, available and viable by following the sequential approach, which requires them to be located in order of priority:

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

The sequential assessment adequately demonstrates that the sites identified and considered with the assessment area of Nelson and Brierfield are not suitable.

However, Policy WRK4 requires that sites are well served by a choice of means of transport and have a higher likelihood of forming links with a nearby centre. In this case, whilst the No.69 bus

route does stop approximately 230m from the proposed site access, this is a daytime only service with the last bus running to Nelson at 18:21. Wedding receptions will predominantly run to the evening and as such guests will be reliant on private motor vehicles to at least leave the venue.

The proposed venue is not associated with any existing hotel use and there is no such accommodation within close proximity of the site. This would further increase the number and distance of private motor vehicle trips.

Taking these factors into account the site is an unsustainable location for the proposed use.

Furthermore, the site is located beyond the settlement within the open countryside. Policy SDP2 states that proposals outside of a settlement boundary will only be permitted for those exceptions identified in the Framework or policies of Pendle's Development Plan. The proposed development does not meet any such exception.

A large wedding venue has recently been granted permission in a more sustainable location with the settlement of Nelson. There is no evidence of a need for a wedding venue such as this in Pendle or the wider area which may be weighed into the planning balance. The location is not a suitable, sustainable site for such a venue. The proposed development is contrary to policies SDP2, WRK4, and ENV4 of the Core Strategy.

Open Space and Recreation

The land is designated as open space, included within the same designation as the Nelson Golf Club. A recent appeal decision on adjacent land accepted that the open space was surplus to requirement in the area and as such considered that there were no grounds to dismiss the appeal. The loss of open space and the circumstances that can be allowed is set out in the policy section above. As there is a surplus of this type of open space in the area and as the land does not form part of the golf club it is not in active use. The loss of this open space would not result in material planning harm in terms of open space provision and there are not sufficient planning grounds to refuse the application on this ground. However, the land does act as a buffer and there is the potential for golf balls to cross into the site resulting in the risk of harm to property and users of the site.

Risk Assessment on Impact of the Golf Course

A risk assessment has been submitted with the application which assesses the risk from golf balls to people and buildings using the first hole at the adjacent golf course. The report concludes that due to the distance of the tee from the development is sufficient to ensure that there would be no risk of injury to individuals or damage to property. The report however misses a fundamental issue.

The report does not consider the risk from shots played from the fairway. The building is adjacent to the green 1st hole. There are no set mandatory standards for distances from a golf course. The R&A published data indicates that 64m should be the distance to a building and 53 m to the edge of a property. The site is close to the green for the first hole and within the distances advised by the R&A. This has not been acceptably addressed in the golf impact assessment. The development is therefore contrary policy ENV1 of the Local Plan Part 1: Core Strategy and paragraph 103 of the National Planning Policy Framework.

Visual Amenity and Landscape Impact

The proposed building is a large, glazed structure and the remainder of the site would predominantly cover with car parking and access roads. The proposed development is significantly different in nature, scale and impact to the existing and approved adjacent residential

development. The development would appear incongruous in this semi-rural setting and would have a fundamentally harmful impact upon any viewpoint from which it is visible. The visual impact assessment accompanying the application did not adequately address the impacts as it did not address the underlying landscape quality and degree of change as would be required in a landscape impact assessment.

The building would sit towards the top of the site, which is on a hill overlooking a wide valley. Due to its siting, the building would be prominent in views from the east.

Both the building and car parking areas are likely to be very highly prominent from the footway along Nelson Road to the south east of the site and the public rights that run from Nelson Road, and the public rights of way that run adjacent to the south and west boundaries of the site.

Furthermore, lighting from the development would make it prominent when the site is operated in the hours of darkness. Whilst it is proposed that blackout blinds are used to minimise the impact lighting of the glazed building, the details submitted suggest there would be some light bleed which would make the building visible in darkness, furthermore, lighting of the parking and terrace would be a highly prominent and incongruous in this semi-rural setting in the viewpoints in which it is visible.

The prominence of the development together with its design and nature would result in a significant adverse landscape and visual impacts.

Due to the difference in height between the south and east boundaries of the floor level of the building, approximately 10m higher, the visual and landscape impact of the development could not be addressed by landscaping. The building is designed and sited to take advantage of the views across the landscape, however, by definition, this will make the building highly prominent.

Whilst it is understandable that the applicant would wish to take advantage of the vista offered by the site, that would have no weight against the impact the development would have on the landscape and visual amenity of the area.

The applicant has submitted a Landscape and Visual Impact Assessment with the application which concludes that the development would not unacceptably impact on the landscape in of the area. I do not agree with that assessment. It does not adequately assess the impact of views from Nelson Road and the adjacent public rights of way, stating that it is a localised impact, the site is clearly and prominently visible, including from elevated positions, along a 380m stretch of Nelson Road from Haggate Cemetery to where it becomes Halifax Road, and from the numerous public rights of way leading from that section. The building would also clearly be visible in longer distance views, such as Photo 6 from FP1306058, Photo 7 from FP130651, in which the site can currently be seen, and would be likely to breach the skyline in those viewpoints.

In addition, the provision of acceptable highway visibility splays (if achievable) will require removal of a number of mature highway trees, due to the site having an existing line of mature trees along the east boundary there is limited opportunity to mitigate the loss of the amenity value of those highway trees would not be fully mitigated, resulting in additional harm to the visual amenity of the area.

Whilst detailed topographical information has been submitted for the existing site, only 3D visualisations have been submitted to show the proposed levels of the site. No proposed spot levels or sections have been submitted. Whilst it is stated that those visualisations have been informed by topographical information, there is no way for the Council to verify that they are accurate as they cannot be measured.

Furthermore, the existing topographical information that has been submitted shows a fall of 14m across the site. The layout plans and visualisations appear to show the floor level of the building as approximately equivalent to the level of the existing parking area, which is shown at an existing level of 267.91m. The existing spot level at the south east corner of the proposed building and terrace is 262.09m, approximately 8m lower.

The building obviously would need to have a level floor and so there would need to be significant alterations to the levels to achieve that, and other substantial alterations across the site to form suitable access and car parking areas on this steeply sloping site, likely requiring substantial retaining walls etc.

The existing levels along the boundary with the golf course fall from 269.69m to 261.91m, however, on the visualisations the boundary is seemingly shown as completely level with the proposed building.

The submitted visualisations do not appear to be accurate and are not adequate in the absence of detailed, measurable and verifiable proposed spot levels and/or sections. It is not clear that the development could actually be achieved as shown in the visualisations, it would be likely to require significant alterations to levels, retaining structures across the site and the southern end of the building would be likely to be significantly more elevated (by up to 8m) than is indicated by the visualisations.

These factors would further increase the already unacceptable visual and landscape impacts of the proposed development.

Residential Amenity

The proposed development would be a sufficient distance from the nearest non-associated dwelling (the recently approved dwelling to the southeast) and other non-associated dwellings to ensure that it would not result in any overbearing impact, unacceptable loss of light or unacceptable privacy impact.

There is potential for the operation of the wedding venue to result in unacceptable levels of noise. A noise assessment has been submitted with the application. The assessment recommends mitigation in the form of hours of operation, restricted level of amplified music, and controls over use of external areas. Taking into account the proximity of the potential level of impact that could result I do not agree that there is an adequate prospect of the impacts being acceptably controlled.

The noise impacts of the use of external areas would potentially be significant, it is unlikely to be viable to restrict numbers using the external area to the 36 guests proposed in the report. Furthermore, the use of external areas of the site appears unlikely to be restricted solely to those areas identified.

The entire south and east sides of the building are designed with bifold doors to be openable, and a terrace area is proposal to run along the eastern side of the building in addition to the terrace to the north and south identified in the noise assessment.

The venue would have a capacity of 550 guests and taking into account the design and layout of the site it is likely that the external areas would be used by a significant number of the guests, it would be unlikely to be feasible to restrict those numbers. Furthermore, with the bifold doors open internal noise would contribute to impacts.

The use of the external areas is likely to result in noise level beyond acceptable levels. Furthermore, the noise impacts of up to 550 guests leaving the premises at the end of the night

would be likely to be substantial. The strategies for dispersal of guests and vehicle comings and goings would not be likely to be sufficient to ensure the development does not unacceptable impact upon residential amenity.

Concerns regarding use of fireworks have been raised, this could be controlled by condition.

The noise and disturbance from the development would result in unacceptable impacts upon the residential amenity of at least the approved dwelling to the south of Rockwood and potentially to other noise sensitive receptors contrary to policy ENV5.

Ecology

Concerns have been raised regarding impacts on the ecology. An ecology survey has been submitted with the application. The ecology survey included surveys of surrounding trees for potential bats roosts and of the site for evidence of use by badgers. The trees were found to have low potential for use by bats and no evidence of use by badgers was found. The report concludes that impacts on ecology can be acceptably mitigated with timing of vegetation clearance / pruning to avoid bird nesting season, provision of bird and bat boxes, suitable native species landscaping, reasonable avoidance method statements for hedgehogs and amphibians and pre-development checks. These measures could be ensured by condition, which such a condition in place the proposed development would acceptably preserve or enhance the ecology of the site.

Highways

As detailed in above the site is poorly located to support sustainable travel modes, it is an unsustainable location for the proposed use which would be excessively reliant on private motor vehicles for access to the site and access to and from overnight accommodation for travelling guests.

The proposed access would not provide adequate visibility. Visibility splays of 2.4m x 120m are necessary based on vehicle speed data recorded on Halifax Road for recent applications. The proposed access would provide a splay of 2.4m x 65m to the nearside edge of the carriageway on the northwest side of the access. This is significantly substandard and would be a significant highway safety risk.

In addition, the proposed pedestrian refuge would not be acceptable due to its proximity to the existing driveway.

The proposed level of car parking is inadequate, LCC Highways have advised that a minimum of 183 car parking spaces are necessary, and I agree with their assessment. An additional 24 car parking spaces are required. However, as detailed above there are likely to need to be significant alterations to the levels of the site, which will likely require retaining structures across the site to provide appropriate gradients for access and parking. No measurable, verifiable details have been provided of how this would be achieved and to show that the access, manoeuvring and car parking areas would be at acceptable gradients, or it would be possible to lay the site out as detailed at all. I have some doubt about this given the substantial difference in levels across the site. Therefore, it is not clear from the details provided that even the current inadequate level of car parking provision could actually be achieved.

The inadequate level of car parking would be likely to lead to parking on surrounding roads which would lead to unacceptable highway safety risks. Furthermore, there are significant existing concerns in relation to on-street car parking in the vicinity of the site and this would exacerbate those existing issues.

The development will have a significant impact on highway safety and capacity in the vicinity of the site contrary to policy ENV4.

Amended details, a response to LCC's comments and new speed survey information have been submitted and are being assessed by LCC Highways. Concerns have been raised that parked cars on both sides of the road during the speed survey could potentially have made the data unreliable. LCC have speed survey data from previous applications and if the data collected is not consistent with those recent survey it can be discounted. LCC will consider that as part of their assessment. An update report will be made to Committee with their comments on the details and speed survey

Drainage

The Lead Local Flood Authority (LLFA) have objected on the basis that no acceptable sustainable surface water drainage strategy had been submitted to demonstrate that the site can be acceptably sustainably drained without increasing the risk of off-site flooding. Further details have now been submitted and are being assessed by the LLFA. The committee will be updated on their response.

Coal Mining Risk

The Coal Authority originally objected to the development as part of the site lies within an area at risk from former coal mining works. A risk assessment has been submitted and the Coal Authority have withdrawn their objection.

Other Issues

Concerns have also been raised regarding the impact on the adjacent dairy farm in relation to livestock and potential impacts on milk production and therefore the continued viability of the farm. This is not a material planning consideration, only impacts of noise on residential amenity and protected species can be considered.

The Planning Balance

A statement has been submitted setting out the economic and social benefits of the proposed development. The potential economic and social benefits of the development weigh in its favour. However, the unacceptable harms detailed in the sections above are significant, both individually and collectively, and substantially outweigh the potential benefits of the development.

RECOMMENDATION: Refuse

For the following reasons:

1. The development site is located beyond the settlement boundary and is poorly located to support sustainable travel modes, it is an unsustainable location for the proposed use which would result in excessive reliance on private motor vehicles contrary to policies SDP2, WRK4, and ENV4 of the Local Plan Part 1: Core Strategy.
2. The proposed development would result in unacceptable landscape and visual impacts to the detriment of the landscape character and visual amenity of the, furthermore, the applicant has failed to provide sufficient details to demonstrate the visual and landscape impacts of the levels changes that are likely to be required within the site. The development is therefore contrary to policies ENV1 and ENV2 of the Local Plan Part 1: Core Strategy and the guidance of the Development in the Open Countryside SPG.

3. The proposed access visibility and car parking provision is substandard and would result in significant adverse impact on highway safety and capacity in the vicinity of the site, furthermore, the applicant has failed to provide sufficient details to demonstrate that acceptable gradients and layout of the access, parking and manoeuvring area could be achieved. The development is therefore contrary to policy ENV4 of the Local Plan Part 1: Core Strategy, policy 31 of the Replacement Pendle Local Plan and paragraphs 114-116 of the National Planning Policy Framework.
4. The applicant has failed to demonstrate that the development is or would be made safe from golf balls from the adjacent golf course and would thus result in risk of harm to individuals and property and restrict the recreational use of the designated Open Space. The development is therefore contrary to policy ENV1 of the Local Plan Part 1: Core Strategy and paragraph 103 of the National Planning Policy Framework.
5. The proposed development would be likely to result in unacceptable impacts from noise and disturbance upon the approved dwelling on Land to the South of Rockwood to the detriment of the residential amenity of future occupants. Furthermore, the applicant has failed to demonstrate that the development would not result in unacceptable impacts upon other noise sensitive receptors. The development is therefore contrary to policy ENV5 of the Local Plan Part 1: Core Strategy.

Application Ref: 23/0809/FUL

Proposal: Full (Major): Erection of building and associated infrastructure, including parking, landscaping and a new vehicular access to create a wedding venue.

At: Rockwood, Halifax Road, Nelson

On behalf of: Amor Asset Management Ltd

REPORT TO NELSON, BRIERFIELD AND REEDLEY AREA COMMITTEE ON 5TH FEBRUARY 2024

Application Ref: 23/0833/FUL

Proposal: Full: Demolition of existing Mosque and the erection of a replacement Mosque building (Use Class F1(f)) including the formation of 12 no. parking spaces and 10 no. cycle spaces with associated landscaping.

At: Jamia Masjid Usman Ghani Mosque Stanley Street Brierfield

On behalf of: MASJID USMAN GHANI

Date Registered: 14/12/2023

Expiry Date: 08/02/2024

Case Officer: Alex Cameron

This application is brought before Committee as the recommendation is contrary to more than three responses received in support of the application.

Site Description and Proposal

The application site located to the rear of the health centre in the central area of Brierfield. The proposal is to erect a large building with three floors and a minuet.

The site is located in a mixed use area which has a variety of property types surrounding it including terraced houses.

Relevant Planning History

20/0429/FUL - Full: Erection of a religious building (Use Class D1) (Floor Area 900 sq.m.); formation of 12 parking spaces (7 Accessed from Stanley Street and 5 in underground car park with access from Arthur Street) and associated landscaping. Refused

Consultee Response

LCC Highways – Raised initial concerns relating to the design of the vehicular and pedestrian access and level of car parking provision. Full response to follow.

Coal Authority - The Coal Authority's Planning & Development Team considers that the content and conclusions of the Coal Mining Risk Assessment report to be sufficient for the purposes of the planning system in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore do not object to the proposed development. However, further more detailed considerations of ground conditions and foundation design may be required as part of any subsequent building regulation application.

PBC Environmental Health – Requests condition to control amplified call to prayer.

United Utilities – No objection subject to drainage conditions.

Brierfield Town Council – No response

Public Response

Press and site notices posted and nearest neighbours notified. Responses received in objection and support:

Summary of response in objection:

- Exacerbation of current parking issues in the vicinity
- The proposed building will block natural light to adjacent houses.

Summary of responses in support:

- Benefits for the local community
- The building will improve the appearance of the area
- The land is currently empty and of no use to anyone

Officer Comments

Policy

Local Plan Part 1:Core Strategy

Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 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 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 in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Visual Amenity

The planning application is to erect a religious building in the central area of Brierfield. The building is a large structure that will have a large presence in the location. Its design and how it fits into the street scene and wider town scale are important elements to consider as part of the application.

A single visualisation from Brierfield town centre has been provided to assess the impact on the townscape, this is insufficient, a full assessment of townscape impact including zones of

theoretical visibility and impact on a variety of viewpoints is necessary to fully assess the impact of the building on the townscape.

Residential Amenity

The scale of the building would be likely to result in an overbearing impact upon habitable room windows of dwellings on Hartington Street and Kay Street and thus harmful to the living environment of occupants. Further assessment of these impacts is required in terms of a full BRE daylight and sunlight assessment.

Noise impacts could be acceptably controlled by conditions to limit hours of use and amplified noise.

Highways

A full response has not been received from LCC Highways at the time of writing this report, however, initial concerns have been raised in relation to the level of car parking provision and proximity of the entrance to the basement car parking and pedestrian access to the footway of Arthur Street, which would result in an unacceptable safety risk to pedestrians. I agree with those concerns, the proposed development would result in unacceptable impacts upon highway safety. Further comments will be reported to Committee.

RECOMMENDATION: Refuse

For the following reasons:

1. The applicant has failed to supply adequate information on the highway impacts of the development which are, as submitted, inadequate and the development would lead to a situation inimical to highway safety and a danger to users of the highway. The development is thus contrary to the development is therefore contrary to policy ENV4 of the Local Plan Part 1: Core Strategy, policy 31 of the Replacement Pendle Local Plan and paragraphs 114-116 of the National Planning Policy Framework.
2. The applicant has failed to supply adequate information for the assessment of the impact of the design of the development on the townscape. The proposal as submitted represents poor design, the design and scale would be harmful to the environment and townscape in which the application site is located. The development is thus contrary to policy ENV2 of the adopted Local Plan and the design policies of the National Planning Policy Framework.

Application Ref: 23/0833/FUL

Proposal: Full: Demolition of existing Mosque and the erection of a replacement Mosque building (Use Class F1(f)) including the formation of 12 no. parking spaces and 10 no. cycle spaces with associated landscaping.

At: Jamia Masjid Usman Ghani Mosque Stanley Street Brierfield

On behalf of: MASJID USMAN GHANI

REPORT TO NELSON, BRIERFIELD AND REEDLEY COMMITTEE ON 5TH FEBRUARY 2024

Application Ref: 23/0835/FUL

Proposal: Full: Change of use of ground floor from office/living accommodation to takeaway (Sui Generis)/living accommodation, erection of two-storey rear extension and the erection of a new shop front.

At: 89 Manchester Road, Nelson

On behalf of: Mr Q Zaman

Date Registered: 19/12/2023

Expiry Date: 13/02/2024

Case Officer: Laura Barnes

This application has been called in by a Councillor.

Site Description and Proposal

The application site relates to an existing office on Manchester Road, within the settlement boundary of Nelson, the Town Centre Boundary and within the Whitefield Conservation Area.

The intention is to convert the office into a Hot Food Takeaway (Sui Generis), with a two storey rear extension and living accommodation to the upper floor.

Relevant Planning History

13/01/0714P: Re-instate shopfront
Approved with conditions

Consultee Response

LCC Highways

Having reviewed the documents submitted Lancashire County Council acting as the highway authority objects to this application on highway safety grounds. It considers that the proposed development would have a detrimental impact on highway safety in the immediate vicinity of the site and would therefore be contrary to paragraph 115 of the NPPF. The following comments should be noted.

Site planning history

No recent planning applications.

Proposal

The proposal is for the change of use of the ground floor from office/living accommodation to a hot food takeaway/living accommodation with the erection of a two storey rear extension and new shop front. Two bed living accommodation would be retained at first floor level.

Collisions

Lancashire County Council's five-year database for Personal Injury Accidents (PIA) was checked on 8 January 2024. The database indicates that on the section of Manchester

Road between the junctions with Maurice and Mosley Streets there have been six collisions which resulted in personal injuries, two of which were serious injuries. This indicates that this section of Manchester Road has a poor highway safety record.

Traffic Regulation Orders

There is a No Waiting At Any Time Traffic Regulation Order (double yellow lines) along the southern side of Manchester Road from its junction with Rigby Street and south-west to its junction with Lomeshaye Road, including outside Nos 89 – 109.

There are also No Waiting 8am – 6pm parking restrictions on the northern side of Manchester Road opposite No 89.

The installation of bollards along the front of the footway outside Nos 97-109 also appears to indicate previous issues with vehicles parking on the footway.

91-93 Manchester Road

There was a planning application in 2018 (ref 18/0754/FUL) for the change of use from financial and professional services office (Use Class A2) to financial and professional service office and Hot Food Takeaway (Use Classes A2 and A5) for which planning permission was granted. However, Lancashire County Council as the highway authority has no record of having been consulted and would have likely objected to this application on highway safety grounds. The fact that planning permission has been granted does not lead the highway authority to consider that a precedent has been set for it not to object to a further takeaway in this location.

Appeal decision

The highway authority also draws attention to two similar applications on Colne Road, Brierfield for the change of use to a hot food takeaway (refs 16/0058 and 19/0028), both of which were refused on highway safety grounds. The subsequent appeal for the latter application was dismissed by the Planning Inspector who stated that 'local restrictions are such that convenient parking and servicing would be extremely difficult to achieve to the extent that indiscriminate parking is highly likely'. The Inspector concluded that the development had 'a high potential to compromise highway safety and interrupt the free flow of traffic on a local strategic route' given the absence of suitable parking provision for both customers, given the short-stop parking generally associated with hot food takeaways, and for delivery vehicles servicing the takeaway.

Conclusion

In conclusion, the highway authority considers that the proposed development would have a detrimental impact on highway safety and recommends refusal.

However, if the local planning authority is minded to approve this application, then there are measures which would partly mitigate the impact of the proposed development on the highway network. These measures include the provision of bollards erected along the front of the footway outside Nos 89 – 95 which will prevent vehicles parking on the footway which would be detrimental to pedestrian safety and would ultimately damage the public highway network. The bollards are also likely to deter parking along the frontage of the site due to the vehicle being parked wholly within the carriageway and causing an obstruction to passing traffic.

The installation of bollards shall be at the applicant's expense and carried out through an appropriate legal agreement with Lancashire County Council acting as the highway agent. This must also be controlled by condition to ensure that these measures are undertaken in an appropriate and timely manner, prior to first trading of the site.

Condition

No part of the development hereby approved shall be opened for trading until all the highway works to erect bollards in the footway outside Nos 89 – 95 Manchester Road have been constructed and completed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. Reason: In the interest of highway safety.

Informative note

The grant of planning permission will require the applicant to enter into an appropriate legal agreement with Lancashire County Council as the Highway Authority prior to the start of any development. For the avoidance of doubt works shall include, but not be exclusive to, the erection of bollards at the front of the footway outside Nos 89 – 95 Manchester Road. The applicant must contact the county council for further information by telephoning the Development Control Section (Area East) on 0300 123 6780 or by email on developeras@lancashire.gov.uk, in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the relevant planning application reference number

Environmental Health

Concerns about the noise nuisance during the construction phase. Would recommend a condition for hours of operation during construction.

Concerns about noise and odour impacts upon existing and future residents. A noise and odour assessment would assist.

Public Response

Nearest neighbours have been notified, a site & press notice have been displayed 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 inside the town centre boundary, Policy 25 of the RPLP allows existing commercial uses. As such, the proposal accords with Policy 25 in this regard.

The site is located approximately 180m from Whitefield Infant School. It is acknowledged that there are other Hot Food Takeaways within closer proximity than this.

Design & Visual Amenity

The proposed development would see an extension to the existing two storey rear extension. This would involve a different roof configuration to the rear but would not see an increase in the height of the ridge of the existing extension. The proposed extension would still appear subordinate to the main building, which is required by the Design Principles SPD. The proposed development would still leave space in the rear yard for bins.

There are to be two new windows to the side elevation which is closest to Manchester Road. There are already two windows one to each floor to this elevation. The proposed first floor window would serve a bedroom and the proposed ground floor window would serve the seating area in the takeaway. The windows are proportioned appropriately and the plans indicate a stone head and cill to each of them. This would be in keeping with the existing building.

The proposed development includes an extraction / ventilation flue on the proposed plans. Detail of which have been submitted. Whilst it would be visible from Manchester Road, it would not be unacceptably prominent and would be acceptable in terms of visual amenity.

To the front elevation the proposed development involves removing the existing timber shopfront and replacing this with a powder coated aluminium one. However, the amended plans indicate that the existing stallriser is to remain at the same height and the timber detailing to either side of the shop front is also to remain.

The application form states that the proposed walls would be stone render. It is not clear whether this refers to stone, render or a stone coloured render. The roof is to be constructed of matching slates. Samples of the proposed materials would be required to be submitted should the application be approved. This could be secured by planning condition.

Subject to conditions, the proposed development is acceptable in terms of design & visual amenity in accordance with Policy ENV2 and the Design Principles SPD.

Amenity

The proposed development includes the erection of an extension to the existing outrigger. There would be no windows in the side elevation which is closest to No. 91-93 and there are no existing windows in the side elevation of the neighbouring dwelling. As such, there would be no unacceptable neighbouring amenity issue.

In terms of noise and odour, these are things which the applicant has not provided detail of. They have provided a specification for the ventilation and extraction system but this does not extend to its noise output. However, the flue is to be located on the wall which is furthest from the adjoining neighbours, on the gable wall. A condition could be placed on any grant of planning permission to ensure that the noise within the habitable rooms of the proposed accommodation to the first floor is no above that which would be classed as acceptable in accordance with the British Standard.

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.

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 are double yellow lines on Manchester Road, where parking is prohibited. Although there is a public car park on Rigby Street, it is unlikely customers will use this and would instead be tempted to park on the double yellow lines immediately outside the proposed takeaway, resulting in a highway safety danger.

The Highway Authority's accident record indicates that there have been six reported collisions in the last 5 years in the area immediately outside the proposed takeaway. This section of Manchester Road has a poor highway safety record. Due to the lack of parking, the proposed development has the potential to encourage short stay parking directly in front of the premises which would interrupt the free flow of traffic on a strategic route through Nelson. This would compromise highway safety, which is a reason set out in the Framework that applications can be refused.

As such, the proposed development is contrary to paragraph 115 of the Framework and Policy ENV4 of the Local Plan: Part 1 Core Strategy.

RECOMMENDATION: Refuse

The proposed development does not have any off-street parking and is located on a road which may encourage dangerous car parking, resulting in a danger to highway safety, contrary to paragraph 115 of the Framework, Policy ENV4 of the Local Plan: Part 1 Core Strategy and Policy 31 of the Pendle Replacement Local Plan.

Application Ref: 23/0835/FUL

Proposal: Full: Change of use of ground floor from office/living accommodation to takeaway (Sui Generis)/living accommodation, erection of two-storey rear extension and the erection of a new shop front.

At: 89 Manchester Road, Nelson

On behalf of: Mr Q Zaman

LIST OF BACKGROUND PAPERS

Planning Applications

NW/MP

Date: 12th January 2024