

**Application Number:** 11/16/0260

**Full Application:** Change of use of ground floor from shop (A1) to betting shop (sui generis) and alterations to shop front

**Address:** 61-69 Blackburn Road, Accrington

**Determination by:** 31 August 2016

**Applicant:** Done Brothers Ltd

**Agent:** Mr Andrew Windress

### **Application Site**

The application site comprises no's 61-69 Blackburn Road, Accrington. The site located within the Accrington Town Centre Conservation Area and included in the Accrington Townscape Heritage Initiative (THI) area. The building is defined as a secondary frontage within the adopted Accrington Area Action Plan.

### **Proposal**

The application is seeking permission for a change of use of the ground floor of units 61-69 Blackburn Road from a shop (Use Class A1) to betting shop (Sui-Generis) and alterations to the shop front.

The application is before the Committee at the Chief Planning Officers request. A decision on this application is seen to represent a key pivotal point in the THI process. Following a successful planning application the Council fully expect to receive an application for a THI grant for the full building with a phased implementation timetable.

### **Consultations**

**Public consultation:** Site notice displayed and letters to neighbouring properties sent, no comments received.

**LCC Highways:** The application site is within the core town centre area of Accrington. The site fronts onto Blackburn Road which is prohibited to vehicular traffic at all times (except for buses). Significant pedestrian movements occur in the area as is normal given the town centre setting.

It is the County Council's view that the change of use would be unlikely to attract additional vehicular traffic into the area. It is possible the proposal would see a reduction of vehicular traffic visiting the site, given shop deliveries would no longer be required. However the County believes vehicle movement would likely be similar to those under the current usage.

The betting shop proposal is however likely to attract pedestrian traffic in keeping with the town centre setting and it is probable that a significant level of these trips will be linked in nature. The County Council would foresee no issue with increased pedestrian traffic along this section of Blackburn Road.

As a consequence the County Council feels this application is unlikely to have any significant impact upon the highway network or its users. I can therefore confirm that the Council would offer no highway objection to this application.

**HBC Environmental Health:** No objections provided conditions are attached relating to the development and construction phase.

**Conservation Officer:** *There is a proposed THI grant project associated with the application and a decision for 31st August is important for the scheme to proceed. The THI complies the LPAs duty under S.71 of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the formulation and publication of proposals for the preservation and enhancement of the conservation area. The 1990 Act states...*

*71 Formulation and publication of proposals for preservation and enhancement of conservation areas.*

*(1) It shall be the duty of a local planning authority from time to time to formulate and publish proposals for the preservation and enhancement of any parts of their area which are conservation areas.*

*(2) Proposals under this section shall be submitted for consideration to a public meeting in the area to which they relate.*

*(3) The local planning authority shall have regard to any views concerning the proposals expressed by persons attending the meeting.*

*The current historical shop front is an abstract modern design, probably mid-late 1960s and represents the Burton shop front design of this period, in contrast to their earlier art deco styling. The style was used in certain Burtons shops across the country, adapted for individual buildings. The shop front shows how cubic modern movement styling took the shop front design in a new direction at a high point in town centre retailing. It is rare to find such a good quality example and, consequently, the shop front should be seen as a heritage asset which adds to the character and appearance of the conservation area. The other shop front designs on the former Burtons block are also of interest (Nb. only the application premises was a Burtons). There being an art nouveau influenced design (probably an original), an art deco design (formerly Redmans) and two interesting 1950s fronts which blend chrome with hardwood. Consequently, there is an informative chronological flow of C20 shop design in the Burtons block - from art nouveau to abstract modernism.*

*The quality of the materials used in the shop front is good. Materials comprise, striated grey natural stone (fascia), pale grey ornamented mosaic (Dutton Street elevation), ochre vertical tile (Blackburn Road and Dutton Street elevations) and mosaic covered columns (painted over so their colour is not known). The glazed parts of the shop front have been covered with temporary signs to hide the fact that the shop is empty. These should be removed as a*

condition of the planning permission. The THI project seeks to restore the 1960s modern character of the shop front by carefully removing subsequent accretions, mainly paint and dirt. It also aims to repair and enhance the façade above the shop front on Blackburn Road and Dutton Street. The proposed change of use does not significantly affect the character of the conservation area, which is a mixed shopping area made up of town centre uses in a variety of historical commercial building types and sizes.

The proposed internal layout will affect the historical character of the shop front due to the proposed boarding to be sited behind the windows. This can be reduced by setting the proposed panels further into the shop front, away from the glazing, to allow a deeper display area. This should be conditioned and, in particular, the space behind the cubic bay window should be at least equal to the depth of the bay window. The application shows the proposed signs, although is not an advertisement regulations application. As guidance for a future advert application, there should only be one sign to Dutton Street, instead of two, and the size of the signs should be reduced. Nb. the stone fascia on which the signs are located, would be restored by the proposed THI project. I recommend that a condition be applied which requires that a scheme for the repair and restoration of the shop front and façade above be submitted and approved in writing by the LPA prior to the change of use taking place. This would allow the THI project to be implemented without the possibility of it triggering another planning application.

**Principal Planning Officer (Policy):** 61-69 Blackburn Road is also a secondary frontage as defined in the Accrington AAP Proposals Map (Appendix A) and therefore Policy ATC2 of the AAP applies. Policy ATC2 seeks to restrict non-A1 uses to no more than 40% of the length of the frontage. The policy further states that ‘applications will be considered against the policy and will be rigorously applied’.

The key matters:

1. 61-69 Blackburn Road has been vacant for a long time and evidence has been provided by the applicant (from Cottrell Commercial) of active but unsuccessful marketing for retail use (this was not the case under 11/15/0204). Although this is not a policy test in ATC2 it should be a material consideration; and
2. 61-69 Blackburn Road is located within the THI area, and fronts onto the proposed new town square and area of public realm improvements. As such policy considerations of ‘design and appearance of shop frontages and associated signage’ and ‘impact on amenity and environmental quality’ set out in Policy ATC2 will have greater importance. I would suggest informing Annette of this proposal as manager of the THI process to get her comments and context of where the THI scheme is at present.

Additional comments:

“I recognise that this policy may be seen as overly restrictive, particularly in light of the challenges that our high streets are facing in recent years. As such, in my view other

*considerations should be taken into account in interpreting the policy. For example appropriate circumstances whereby a proposal results in greater than 40% of a frontage in non-A1 use, but where the proposal accords with the wider town centre strategy, could be acceptable. Or if there is evidence of long-term vacancy and attempts at marketing for ongoing retail use had been made”.*

### **Relevant Planning History**

14/0309: Display of graphics printed on corex affixed to outside of windows to improve appearance. A/C 6.10.2014.

### **Relevant Policies**

#### Hyndburn Borough Local Plan Saved Policies

Policy E10 - Development criteria

Policy E8 - Development in the Conservation Area

#### Hyndburn Core Strategy Policies

Policy Env6 – High Quality Design

Policy Env7 – Environmental Amenity

Policy A2 – Accrington Town Centre

Policy HC2: Leisure, Health and Culture

#### Accrington Area Action Plan (AAP)

ATC2: (Shopping Frontages and the Use of Floors Above Shops)

ATC6: Provision for arts, culture, tourism, entertainment, leisure, recreation, the community, faith and voluntary sectors and hotel accommodation.

ATC13: (Accrington Town Centre Conservation Area)

AQ9: Cannon Street Quarter

Hyndburn Borough Council Adopted Car Parking and Access Standards

National Planning Policy Framework

National Planning Policy Guidance

### **Observations**

Key issues for consideration in relation to this application are 1) Principle of the development, 2) Design and layout, 3) Residential amenity, 4) Traffic and highways.

Betting shops have previously fallen under Use Class A2 (Financial and Professional Services) of the General Use Classes Order of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015. However, it is noted that a recent amendment, The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015, has now classed betting shops as sui generis (a use that does not fall within any use class).

### ***Principle of development***

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of applications under the Planning Acts should be in accordance with the Development plan unless material considerations indicate otherwise. In this instance the Development Plan comprises the saved policies of the Hyndburn Council Local Plan (1996), the adopted Core Strategy and the Accrington Area Action Plan.

As identified above, the application property is located within a Designated Secondary Shopping Frontage. The most recent use of the site was as Blockbuster Video, which is defined within the Use Classes Order as being A1 (i.e.: Shops) and is a type of use that the Council would normally consider appropriate within any Secondary Shopping Frontage throughout the town centre. Policy ATC2 of the AAAP (Shopping Frontages and the use of floors above shops) states the primary aim of Policy ATC2 is to 'protect and strengthen the retail offer in the town centre' and 'to safeguard and enhance the vitality and viability of the town centre'.

No's 61-69 Blackburn Road are located on a Secondary frontage, for which Policy ATC2 seeks to restrict non-A1 uses to no more than 40% of the length of the frontage. The policy further states that 'applications will be considered against the policy and will be rigorously applied'. Guidance from the Council's Planning Policy Officer has been sought and the following comments received:

*"I recognise that this policy may be seen as overly restrictive, particularly in light of the challenges that our high streets are facing in recent years. As such, in my view other considerations should be taken into account in interpreting the policy. For example appropriate circumstances whereby a proposal results in greater than 40% of a frontage in non-A1 use, but where the proposal accords with the wider town centre strategy, could be acceptable. Or if there is evidence of long-term vacancy and attempts at marketing for ongoing retail use had been made".*

It is noted that there are no other non-A1 uses where the proposal development is to be located. A site survey undertaken by officers found that should the application be approved, 37% of this secondary frontage would be in a non-A1 use. This number suitably accords with the aspirations of Policy ATC2 of the AAAP. It is also noted that the applicant has provided information to demonstrate the premises ceased trading as a Class A1 use in December 2013, attempts have subsequently been made to market the property for Class A1 purposes without success.

Given the above, and that the proposal would not represent more than 40% of non-A1 uses on this secondary frontage is considered to comply with the aims of the Council's Development plan and is therefore acceptable in principle.

### ***Design, scale and layout***

Core Strategy Policy Env6 places emphasis on high quality design and requires an enhancement of the character and quality of both townscape and landscape, and is supported by the provisions of Core Strategy Policy Env 7 and the provisions of the Accrington Area Action Plan. High quality design must take into account urban form, urban grain, landscape, density, mix, scale and appearance. Given the site is within the Accrington Town Centre Conservation Area and the THI area the Councils Conservation Officer has been consulted.

As noted by the Conservation Officer above, the proposed change of use does not significantly affect the character of the conservation area, which is a mixed shopping area made up of town centre uses in a variety of historical commercial building types and sizes. The proposed internal layout will however, affect the historical character of the shop front due to the proposed boarding to be sited behind the windows. This can be reduced by setting the proposed panels further into the shop front, away from the glazing, to allow a deeper display area.

Given the above comments and the taking into consideration the council's efforts in redeveloping this area of the Town Centre, the proposal is considered to suitably accord with the wider town centre regeneration works. It is worthy of note that specific signage details would need to be submitted as part of an application for advert consent. In order to address the Conservation Officers concerns over the window display a condition is attached to require all display and promotional materials to be set back from the windows.

In summary of the above the proposed change of use will re-activate the vacant and deteriorating property so that it will physically and visually contribute towards a more positive townscape. As such it is considered that the proposal complies with the relevant planning policies with regards to design, scale and layout.

### ***Residential amenity***

Policy Env7 of the Core Strategy relates to residential amenity and states that proposals for new development will be permitted only if it is demonstrated that the material impacts arising my reason of traffic, visual impact, noise, dust, emissions, pollution, odour, over-looking or loss of light, or other nuisances will not give rise to unacceptable adverse impacts or loss of local amenity and can be properly controlled in accordance with best practice and recognised standards.

In this case the majority neighbouring units are commercial on the ground floors and the site is within the town centre with similar use types. The applicant has confirmed the opening hours of the business would be 8am – 10pm Monday to Saturday and 9am – 10pm on Sundays and bank/public holidays. As such, the likely impact on amenity is not considered to be detrimental to users or occupiers of nearby businesses or the surrounding area. The application is therefore considered to be acceptable in respect of its impact on residential amenity.

## **Traffic and Highways**

Saved Policy E.10 of the Local Plan states that when considering proposals for development, the Council will have regard to car parking provision and proposed arrangements for servicing and access. In addition, Policy Env7 of the Core Strategy aims to avoid development which has an unacceptable adverse impact by reason of traffic.

In the absence of any objection from the statutory consultee, Officers are satisfied that the proposal meets with the relevant planning policy in terms of traffic and highways safety.

## **Conclusion**

In assessing this application, the policies of the development plan and other relevant local and national policy considerations have been taken into account. Officers consider that the proposal is acceptable, subject to the planning conditions listed below:

### **Conditions:**

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents unless otherwise required by the conditions below:
  - (a) The planning application forms and additional information received on 06 July 2016.
  - (b) Submitted drawing No's. 1151BF-SF Rev 1 and 1151BF-IP received on 06 July 2016.

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policies Env6 & Env7 of the Hyndburn Core Strategy.

3. Prior to the change of use taking place, a schedule of works and methodology for the repair and restoration of the shop front and façade shall be submitted and appropriate method approved in writing by Hyndburn Borough Council. The development shall be implemented in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality and in order to comply with saved Policies E10 and E6 of the Hyndburn Borough Local Plan and Policies Env6 and Env7 of the Hyndburn Core Strategy.

4. All internal advertisements and promotional material shall be set back 400mm from the shop front glazing. At no time shall any advertisements or promotional material be displayed directly onto any windows.

Reason: To protect historical character of building and surrounding area and in the interests of the visual amenities of the locality and in order to comply with saved Policies E10 and E6 of the Hyndburn Borough Local Plan and Policies Env6 and Env7 of the Hyndburn Core Strategy.

5. Construction deliveries to and from the site should be restricted to between 0800 and 1800hrs Monday to Friday and 0800 and 1300hrs on Saturdays. Deliveries should not take place on Sundays and bank holidays.

Works should be restricted to between 0800 and 1800hrs Monday to Friday and 0800 and 1300hrs on Saturdays. Works should not take place on Sundays and public holidays. All works should be undertaken in accordance with BS5228:2009.

Reason: In the interest of residential amenity in accordance with the provisions of Policy Env 7 of the Hyndburn Core Strategy.

6. Measures should be in place to prevent nuisance being caused to residents from noise, dust, fumes and or vibration arising from the building works. There should be no burning off on site of construction waste. A Construction Environmental Management Plan shall be submitted, and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed Environmental Management Plan.

Reason: In the interest of residential amenity in accordance with the provisions of Policy Env 7 of the Hyndburn Core Strategy.

7. The use hereby permitted shall not be open to customers except between the hours of 8am and 10pm on Mondays to Saturdays and 9am and 10pm on Sundays, Bank and Public Holidays, unless otherwise prior approved in writing with the Local Planning Authority.

Reason: In order to protect the residential amenities of the occupiers of the adjacent properties and to comply with Policy Env 7 of the Hyndburn Core Strategy.

### **Informatives**

- 1) Reasons for approval
- 2) Accordance with plans
- 3) Condition Precedent

- 4) Building Regulations Required
- 5) Relevant Policies