

**Application Number:** 11/16/0302

**Full Application:** Change of use of ground floor a1 shops (off licence) to a5 hot food takeaway

**Address:** 145 Manchester Road, Accrington

**Determination by:** 28 September 2016

**Applicant:** Mr A Chirstodoulon

**Agent:** Mr J Dickinson

### **Application Site**

The application site is a commercial property located Manchester Road within the urban boundary in Accrington. The building is a mid-terrace situated between 143 and 147 and is stone built with a slate roof. The building is currently occupied by a retail premises with separate living accommodation at first floor level.

### **Proposal**

Planning permission is sought for a change of use of the ground floor of 145 Manchester Road from retail (Use class A1) to a hot food take-away (Use Class A5). Proposed physical works include minor alterations to the front elevation. Proposed opening hours are 4.00pm-10.30pm Monday to Thursday, 4.00pm-12:00am Friday & Saturday and 4.00pm-10.30pm on Sunday and Bank or Public holidays.

This application is before the planning committee at a councillor's request.

### **Consultations**

Site notice: 1 affixed

Neighbours: Letter sent to 143 and 147 Manchester Road. Eleven letters of objection received on the following grounds:

- Traffic/parking
- Highway Safety
- Litter
- Gathering of youths
- Odour
- Noise
- Vermin e.g. rats
- Unsuitable location
- Light pollution

### LCC Highways:

The application proposes to change approximately 68m<sup>2</sup> of A1 shop usage to A5 hot food takeaway. Under Hyndburn Borough Councils adopted car parking and access standards the A1 usage should provide 5 car parking spaces (at a ratio of 1:14), whilst the A5 hot food takeaway should provide approximately 5.5 parking spaces (at a ratio of 1:12). This is a negligible difference. No off street parking is proposed, however unlimited on street parking is available on both sides of the road and within nearby surrounding streets.

The lack of specific parking associated with the site is not ideal and residential demand for parking in the area is obviously high. However my evening observations indicated a reasonable level of on street parking within the vicinity of the site remained available. I witnessed vacant parking directly to the site frontage, within the sheltered parking bay, and also on the opposite side of the road, albeit with vehicles parking partially on the footway to ensure two way carriageway flow remained unaffected.

I have examined the accident data for the area and have noted that 4 collisions have occurred within the vicinity of the site over the last 5 years. These have resulted in 6 slight casualties. None of the collisions directly related to parking or involved pedestrians.

The level of parking I witnessed did not interfere with vehicular flows and pedestrian access along the footways was maintained, albeit at a reduced width on the even numbers side of the road. Consequently it appears parking along the A680 Burnley Road within the vicinity of the site already takes place and is operating successfully.

Given the nominal difference in parking requirements between the existing and proposed use I believe it would be unreasonable to consider a lack of on-site parking to be a barrier to this application. I would not envisage the level of parking requirement generated by the change of use to significantly differ from the existing usage.

Consequently the impact on the highway network and its users is unlikely to be significant. I can therefore confirm that the County Council would offer no highway objection to this proposal.

### Environmental Health:

Development/Construction phase

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

Reason- to ensure that site working only takes place during normal working hours in order to restrict the times during which any disturbance and nuisance may arise.

#### Development/construction phase

Effect of Noise/dust /fumes on neighbouring premises during the building works.

Measures should be in place to prevent nuisance being caused to residents /occupants from noise, dust and or fumes arising from the building works.

There should not be any burning of construction waste on site, appropriate provisions should be made for its disposal.

Reason- to protect the amenities of existing occupiers at nearby premises from nuisance sources associated with the building site.

#### Odour and noise

A scheme for the control of cooking odours and fan noise from the premises shall be submitted in writing to and agreed in writing by the Local Planning Authority.

Before the use hereby approved is commenced, the agreed scheme shall be implemented and thereafter retained.

Reason- to prevent dis- amenity to occupiers of neighbouring premises from cooking odours and/or extraction system noise.

#### Land fill gas precautions

The proposed development is within the 250m consultation zone of a landfill site. Therefore a well-constructed ground slab and a gas proof membrane of 1200g thickness must be incorporated into the foundations, which should provide adequate protection against the ingress of any landfill gas. The membrane should be:

1. laid carefully so as to avoid tears or perforations
2. well capped and taped at the joints, and
3. continuous across the whole area of the new development.

#### **Relevant Planning History**

04/0611: Installation of security shutters to shop front (resubmission). a/c 13.10.04

04/0394: Installation of security shutters to shop front - refused 4.8.04

01/0525: Display of externally illuminated fascia sign. a/c 17.12.01

94/0154: Erection of rear dormer bedroom. u/a 9.5.1994.

91/0209: Installation of shop front. u/a 27.6.1991.

88/0205: Display of illuminated projecting box sign. c/a 5.5.1988.

#### **Relevant Policies**

## Development Plan

### *Hyndburn Borough Local Plan Saved Policies*

- Policy E.10                      Development Criteria
- Policy R.6                        Hot food Take-away

### *Hyndburn Core Strategy*

- Policy Env4                      Sustainable Development and Climate Change
- Policy Env6                      High Quality Design
- Policy Env7                      Environmental Amenity

## National Planning Policy Framework

- Paragraph 17                    Core planning principles
- Section 7                         Requiring good design

## Other material considerations

- Planning Practice Guidance (PPG)
- Development Management DPD (Preferred Options) November 2012

## **Observations**

The key issues for consideration in this application are the principle of the change of use, its impact on residential amenity, design and highways matters.

### **Principle of development**

Saved Local Plan Policy E.10 relates to new development and advises that the Council will have regard, amongst other things, to the nature of the developments and its relationship with the existing area. Additionally, Saved Policy R.6 of the Hyndburn Borough Local Plan states that “when considering proposals for development of or the change of use to premises for the sale of hot food solely for consumption off the premises, the Council will take into account, amongst other matters, the effect on the amenity of local residents and on the character of the area through noise, disturbance, traffic and parking, smell and litter, and the effect on the vitality and viability of local retailing”. As such, the principle of a change of use is considered to be acceptable subject to no detrimental harm to the amenity of the area and highways matters, both of which are detailed below.

### **Impact on amenity**

Policy Env7 of the Hyndburn Core Strategy states that proposals for new development will only be permitted if it does not result in unacceptable adverse impacts through (amongst other things), noise, odour, traffic or other nuisances. Additionally, Saved policy R6 of the Local Plan requires applications for hot food takeaways to be determined taking into consideration effects on amenity of local residents and on the character of the area through noise, disturbance, traffic and parking, smell and litter

The proposal is for use of the ground floor to a hot food take-away and as there are residential premises above and also in adjacent buildings the Environmental Health team have been consulted. The Environmental Health Officer raises no objection to the application subject to conditions on times of construction/demolition and the submission of a scheme for the control of odour and noise being submitted to and agreed in writing by local planning authority prior to the commencement of the development.

However, Planning Officers are concerned that given the business would operate, up till midnight on Fridays and Saturdays, this would lead to an unacceptable increase in traffic and comings and goings in the immediate area late at night. This constant flow of people and vehicles until midnight would likely generate unacceptable levels of noise to the detriment of surrounding residential properties. It is also worthy of note, noise and movements from the premises are likely to continue until staff has cleaned the premises and are leaving the building in the early hours of the morning.

Policy Env 7 of the Hyndburn Core Strategy states development which cannot demonstrate it will not give rise to unacceptable adverse impacts of loss of local amenity should not be approved. The applicant has put forward no evidence to this affect and as such, the application is considered contrary to Policies E10 and R.6 of the Hyndburn Borough Local Plan, Policy Env 7 of the Hyndburn Core Strategy and the NPPF

## **Design**

Policy Env6 of the Hyndburn Core Strategy seeks to ensure that the character and quality of Hyndburn's urban and rural environments will be conserved and enhanced through high quality design. Saved Policy E.10 of the Hyndburn Local Plan has similar aims

Proposed physical works to front elevation are minor in nature, the current appearance of the ground floor frontage offers little to the character and appearance and in this instance, officers are satisfied that the alterations are appropriate in terms of their design and materials and will be in keeping with the character of the building and the area. A separate application for advertisement consent would be required for signage and illumination.

No details have been submitted in relation to extraction and flue equipment, given the site is located within a conservation area, these details would need to be conditioned as part of any approval. Subject to recommended conditions, the application is considered to acceptable in terms of design and would therefore comply with the council's development plan.

## **Highways**

Lancashire County Council Highways has been consulted and offer no objection to the application. The engineer noted the following:

The application proposes to change approximately 68m<sup>2</sup> of A1 shop usage to A5 hot food takeaway. Under Hyndburn Borough Councils adopted car parking and access standards the A1 usage should provide 5 car parking spaces (at a ratio of 1:14), whilst the A5 hot food takeaway should provide approximately 5.5 parking spaces (at a ratio of 1:12). This is a negligible difference. No off street parking is proposed, however unlimited on street parking is available on both sides of the road and within nearby surrounding streets.

The lack of specific parking associated with the site is not ideal and residential demand for parking in the area is obviously high. However my evening observations indicated a reasonable level of on street parking within the vicinity of the site remained available. I witnessed vacant parking directly to the site frontage, within the sheltered parking bay, and also on the opposite side of the road, albeit with vehicles parking partially on the footway to ensure two way carriageway flow remained unaffected.

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Given the nominal difference in parking requirements between the existing and proposed use I believe it would be unreasonable to consider a lack of on-site parking to be a barrier to this application. I would not envisage the level of parking requirement generated by the change of use to significantly differ from the existing usage.

Consequently the impact on the highway network and its users is unlikely to be significant. I can therefore confirm that the County Council would offer no highway objection to this proposal.

Given the above, the application is considered to be acceptable in terms of its impact on the adopted highways.

### **Conclusion**

The proposed change of use is not considered to be acceptable in principle as it would have a detrimental impact on nearby residential properties through traffic and noise late at night.

### **Recommendation**

That planning permission is refused for the following reason:

1. The establishment of a late-night hot food take-away in this location would result in a loss of residential amenity by virtue of noise, disturbance and an increase in traffic.

For these reasons the proposed development would not accord with Policy Env 7 of the Hyndburn Core Strategy and saved policy E10 of the Hyndburn Core Strategy.

**Informatives**

- 1) Plans/documents
- 2) NPPF