

Agenda Item A13	Committee Date 4 February 2019	Application Number 18/00604/FUL
Application Site 71 North Road Lancaster Lancashire LA1 1LU		Proposal Change of use of retail unit (A1) to takeaway (A5) and installation of a flue to the rear elevation
Name of Applicant Mrs Ranjit Kaur Uppal		Name of Agent Mr Chris Gladding
Decision Target Date 14 August 2018		Reason For Delay Further Information Requested
Case Officer		Mrs Kim Ireland
Departure		No
Summary of Recommendation		Refusal

(i) Procedural Matters

This form of development would normally be dealt with under the Scheme of Delegation. However, the Planning Manager Mark Cassidy has requested the application is to be determined by the Planning and Highways Regulatory Committee.

1.0 The Site and its Surroundings

- 1.1 The property which forms the subject of this application relates to a three storey mid terrace property, which is located on North Road in Lancaster City Centre. North Road is characterised with commercial properties to the ground floor and a mixture of commercial and residential accommodation to the first and second floors. The property is situated within Lancaster Conservation Area and dates from the early 19th century. It is noted in the Conservation Area as a positive building, and is therefore classified as a non-designated heritage asset. The building is constructed of natural stone, under a slate roof, with timber windows to the first and second floors and a timber shop front to the ground floor.
- 1.2 The building is currently used as a newsagent to the ground floor, a store room to the first floor and a staff room to the second floor.

2.0 The Proposal

- 2.1 The application seeks consent for the change of use of a retail unit to a takeaway and installation of a flue to the rear elevation. The hot food takeaway would be accommodated on the c50sq.m ground floor is 51.3 sq.m whilst the first and second floors would retain their uses as storage and staff room respectively. The proposed flue is to be installed to the rear elevation above the ground floor that projects further than the above floors. It will be 2.5m high with addition of the chimney cap on top.

3.0 Site History

- 3.1 There are three planning applications which relate to the change of use of the property, which are listed below:

Application Number	Proposal	Decision
94/01282/FUL	Installation of security shutters	Permitted
91/01245	Demolition of chimney stack to roof height and tile roof over	Permitted
87/00640	Erection of new shop front	Permitted

4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
County Highways	No objections
Conservation Team	No objections
Lancashire Constabulary	No objections
Environmental Health Officer	Insufficient information was originally submitted. Further information has now been submitted and a consultee response is awaited

5.0 Neighbour Representations

5.1 Seven piece of correspondence objecting to the application have been received. The reasons for opposition include the following:

- The use would create a noise and odour nuisance for the residential properties that are located to the first and second floors.
- There would be more than 20% of non A1 uses (shops) along the secondary retail frontage and is compounded by City Council licensed street traders.
- There are already three hot food takeaways along this length of North Road
- This area already experiences anti-social behaviour.
- The use will have an associated delivery service; this area is already congested in the evening and this further service will add to the public nuisance and issues of safety already experienced.
- Litter problems are already experienced; the use would add to the problem.

5.2 One piece of correspondence from Lancaster BID objecting to the application has been received. The reasons for opposition include the following:

- The use has the potential for further significant strain to a very congested area of Lancaster City Centre, in which there are already three takeaways already trading.
- The associated footfall, vehicular difficulties, noise and antisocial behaviour would be at an even more detrimental level for residents and businesses.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraph 11 – Presumption in Favour of Sustainable Development
Paragraphs 124 and 127 – Requiring Good Design
Paragraphs 7, 8 and 9 – Building a strong, competitive economy
Paragraph 85 – Ensuring the vitality of town centres
Paragraphs 185, 187, 192, 193 and 196 – Conserving and enhancing the historic environment

6.2 Local Planning Policy Overview – Current Position

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

- (i) The Strategic Policies and Land Allocations DPD; and,

(ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were submitted to the Planning Inspectorate on 15 May 2018 for independent Examination, which is scheduled to commence in spring 2019. If the Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council later in 2019.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2017, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Development Management DPD

DM1 – Town Centre Development

DM2 – Retail Frontages

DM5 – The Evening and Night-Time Economy

DM31 – Development Affecting Conservation Areas

DM33 – Development Affecting Non-Designated Heritage Assets and their Setting

DM35 – Key Design Principles

6.4 Lancaster District Core Strategy Policies

SC1 – Sustainable Development

SC5 – Achieving Quality in Design

7.0 Comment and Analysis

7.1 The key considerations arising from the proposal are:

- Principle of the proposed use
- General Design and Impact upon the Conservation Area; and
- Emissions

7.2 Principle of the proposed use

7.2.1 The application site is located towards the edge of the City Centre designation and is surrounded by a mix of uses. Nos. 73 and 75, to the south, are A5 (hot food takeaway) uses and nos. 26/28 Church Street and 56 North Road opposite, are A3/A5 (café/restaurant and hot food takeaway) uses. The adjacent property of 69 North Road has recently received planning permission (17/00198/FUL) to change the use of the property to an A5 use, though this has not been implemented to date.

7.2.2 Policy DM2 of the DM DPD states that the Council will seek to retain an appropriate mix of 'A' Class uses whilst permitting a limited number of non-A1 uses in secondary retail frontages. Proposals which involve the change of use of ground floor premises to non-A1 will not be permitted unless the adjoining building is in a A1 retail use and the proportion of the continuous retail frontage length in non-A1 use would not exceed 20%.

7.2.3 The proposal fails to meet both of the requirements set out within policy DM2 with the extant planning permission on 69 North Road and consequently it is recommended that the principle of the proposal should not be granted in this instance.

7.2.4 Retail units within the areas designated as 'secondary retail frontages' play an important role in supporting the retail centre of Lancaster. Whilst the Council will support some diversification of uses within the A use class, it seeks to prevent a clustering of non-A1 uses to maintain the City Centre's vitality. The proposed hot food takeaway would further reduce the retail character of the secondary frontage and could encourage the consumption of non-healthy food.

7.3 General Design and Impact upon the Conservation Area

7.3.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed building, a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by policy DM31.

7.3.2 The proposed flue is to be installed to the rear elevation in an enclosed yard area to the rear of the property and therefore is not visible from within the street scene. Consequently the proposal is not thought to have an undue impact on the Conservation Area and is considered to have a less than substantial impact on the adjacent heritage assets. The Conservation Officer concurs.

7.4 Emissions

7.4.1 The Environmental Health Officer initially raised an objection to the proposed scheme on the grounds that the extract will terminate below openable windows that belong to student accommodation and no information has been provided as to what system will be used to abate any odorous emissions.

7.4.2 Since the application was originally submitted, further information has been received, but a consultation response from the Environmental Health Officer is still awaited. Therefore the impact of emissions cannot be provided at this time. If the further information is found to be not acceptable, a further reason for refusal will be added to the decision. A verbal update will be provided at the Planning Committee once the consultation response has been received.

8.0 Planning Obligations

8.1 Given the nature of the proposal there are no requirements for a legal obligation.

9.0 Conclusions

9.1 The proposal is located within the City Centre's secondary retail frontage area. The proposal fails to meet the requirements that are set out within Policy DM2, as the adjoining buildings are either already being used as a hot food takeaway or due to an extant planning permission are to be used as a hot food takeaway. In addition the proportion of the continuous retail frontage length of non-A1 use exceeds 20%. Consequently it is recommended that the change of use should not be granted. The proposed flue is acceptable in design and heritage terms, but in the absence of the Environmental Health Officer's comments it is not clear whether it satisfactorily deals with emissions generated by the proposed use. A negative response from this consultee would result in a second reason for refusal.

Recommendation

That Planning Permission **BE REFUSED** for the following reasons:

1. The application site is located in Lancaster City Centre's Secondary Retail Frontage area. The proposed takeaway use would, by virtue of the adjoining non-A1 retail uses and the percentage of non-A1 uses along the continuous retail frontage of which the application site forms a part exceeding 20%, be contrary to Policy DM2 of the Development Management DPD. This would have a detrimental impact on the vitality of this part of the City Centre due to the clustering of non-A1 uses. Although the application states that the use would be open during normal daytime trading hours, it would not seek to maintain or enhance footfall in the area during normal retail opening hours due to the nature of the use being proposed. As such, the proposed change of use is contrary to Policy DM2 of the Development Management DPD, and consequently the provisions of the National Planning Policy Framework, particularly Paragraph 85.

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service, aimed at positively influencing development proposals. Whilst the applicant has taken advantage of this service prior to submission, the resulting proposal is unacceptable for the reasons prescribed in the recommendation. The applicant is encouraged to liaise with the Case Officer in an attempt to resolve the reasons for refusal.

Background Papers

None