

Agenda Item	Committee Date	Application Number
A6	22 July 2019	19/00496/FUL
Application Site 71 North Road Lancaster Lancashire LA1 1LU	Proposal Retrospective 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 Weetman	
Decision Target Date 27 June 2019	Reason For Delay Further Information Requested and Awaiting Consultation Response	
Case Officer	Mrs Kim Ireland	
Departure	No	
Summary of Recommendation	Approval	

(i) Procedural Matters

This form of development would normally be dealt with under the Scheme of Delegation. However, the Planning Manager, Mark Cassidy, requested the previous application (18/00604/FUL) to be determined by the Planning and Highways Regulatory Committee, so this related planning application is also being referred to the Planning 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, a secondary retail frontage. 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, dates from the early 19th century, 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 was used as a newsagents to the ground floor, until April 2019 when the unit was materially changed into a hot food takeaway with a store room and WC to the first floor.

2.0 The Proposal

2.1 The application seeks retrospective 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 37sq.m ground floor whilst the first floor would retain its use as a store room with a WC.

2.2 The flue has been installed through one of the windows to the ground floor of the rear elevation to a height of 3.8m.

2.3 There are no external alterations to the existing traditional shopfront. However, it has recently been painted a vivid red colour.

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
18/00604/FUL	Retrospective change of use of retail unit (A1) to takeaway (A5) and installation of a flue to the rear elevation	Refused

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 Officer	No comments received
Lancashire Constabulary	No comments received
Environmental Health Officer	No comments receive

5.0 Neighbour Representations

5.1 Three pieces 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;
- This area already experiences anti-social behaviour;
- The use will have an associated delivery service – it 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 and the use would add to the problem; and
- The proposal is contrary to planning policies.

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

On 15 May 2018, and in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), Lancaster City Council submitted the following documents to the Secretary of State (Planning Inspectorate) for examination:

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

(ii) (A Review of) The Development Management DPD

The Examination Hearing Sessions commenced on 9 April 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.

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.

Given the current stage of both DPDs, it is considered that significant weight can be attributed to the policies contained therein subject to the extent to which there are unresolved objections to the relevant policies and their consistency with the National Planning Policy Framework.

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

6.5 Emerging Local Plan

Emerging policy **DM7** – Retail Frontages

7.0 Comment and Analysis

7.1 The key considerations arising from the proposal are:

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

7.2 Principal 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, is A3 (café/restaurant) use.

7.2.2 For secondary retail frontages, Policy DM2 requires proposals for non-A1 uses only to be permitted if the following criteria have been satisfied:

1. An adjoining building is in an A1 use;
2. The proportion of any continuous retail frontage length in non-A1 use would not exceed 20%;
3. The proposed use would provide a service to shoppers;
4. The proposed ground floor use would provide an active frontage; and
5. The proposal does not have a significant adverse affect on the character of the street or locality or the amenity of neighbouring residents/businesses.

7.2.3 Emerging policy DM7 is subtly different to the adopted policy position. It states that the adjoining building should be an A1 retail use or includes a use that generates an active street frontage during normal daytime trading and removes the 20% continuous frontage criteria. This allocation offers

greater flexibility in terms of the type of town centre uses that could be considered acceptable in this location and therefore is material to the consideration of this application.

- 7.2.4 The adjoining property of 69 North Road is a shop (A1 use class) and 73 North Road is a hot food takeaway (A5 use class). This meets the first test set out at DM2. The second test limits the proportion of non-A1 uses to no more than 20% of a continuous retail frontage. This test is not satisfied.
- 7.2.5 The third test states that that the use would provide a service to shoppers. The hot food takeaway will be open between 08.00 and 24.00 Monday to Friday and Sundays/Bank Holidays, and between 08.00 and 02.00 on Saturdays. Therefore the hot food takeaway will be open during daytime trading and is considered to provide a service to shoppers.
- 7.2.6 The fourth test states that the ground floor use would provide an active frontage. There are no proposals to alter the existing timber shopfront and given the opening hours, the proposal is considered to provide an active frontage.
- 7.2.7 The fifth test considers if a proposal has a significant adverse effect on the character of the street or locality or the amenity of the neighbouring residents/businesses. The property is surrounded by commercial properties to the ground floor – a mix of A1 (shops), A3 (café/restaurant) and A5 (hot food takeaway) uses. Therefore the proposed use is considered to not have an adverse character of the street or locality. There is a mixture of commercial and residential accommodation to the first and second floors, but as other commercial properties within the vicinity of the area are open similar hours to the proposed hot food takeaway, the proposal is considered to not have an adverse effect on the amenity of the neighbouring residents/businesses.
- 7.2.8 Whilst the second test is not satisfied, on balance and having regard to emerging policy (which provides for greater flexibility in accordance with the Framework), the use of 71 North Road as a hot food takeaway is considered acceptable, given that the other four tests within DM2 can be passed. It would not adversely affect the vitality and viability of the town centre or compromise the retail function of the city.

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 flue has been installed through one of the windows to the ground floor of the rear elevation and is visible from a vantage point on Rosemary Lane. The existing flue is shiny and silver in appearance. It is considered to mitigate the impact upon the Conservation Area the flue shall be painted in a slate grey matt finish and this shall be maintained at all times thereafter. This requirement will need to be conditioned.
- 7.3.3 The shopfront has recently been painted a vivid red colour, which is considered to not be in keeping with the Lancaster Conservation Area, especially when viewed from within North Road. It is considered that to mitigate the impact upon the Conservation Area the shopfront shall need to be painted in a heritage red colour. This requirement will need to be conditioned.

7.4 Waste

- 7.4.1 There is no external bin storage available to the front or rear of the property. Therefore waste will be stored in the food preparation area to the first floor. Waste will be collected from the property on a daily basis.

7.5 Emissions

- 7.5.1 Further information has been sought regarding the abatement plant and ozone treatment of the retrospective flue, so to assess the impact of emissions. Therefore a consultation response from Environmental Health Officer to date. Therefore the emissions cannot be provided at this time. 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 tests that are set out within DM2 cannot be wholly satisfied by the proposal. However, on balance and having consideration to the emerging policy DM7 (which offers greater flexibility in terms of the type of town centre uses) the proposed hot food takeaway is considered acceptable in this location. The proposed flue is acceptable in design and heritage terms with the colour and finish to be conditioned. In the absence of the Environmental Health Officer's comments it is not clear whether the flue satisfactorily deals with emissions generated by the proposed use. However, further information is to be provided which will generate a consultee response that will be provided as a verbal update at the Planning Committee.

Recommendation

That, subject to no objection being raised by the Environmental Health consultee, Planning Permission **BE GRANTED** subject to the following conditions:

1. Development to accord to approved plans
2. The existing flue shall be painted in a slate grey matt finish and this shall be maintained at all times thereafter.
3. The existing shopfront shall be painted in a heritage Victorian DH red colour.

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 has made the decision in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The decision has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None