

Item B. 4 **07/00156/COU** **Permit Full Planning Permission**

Case Officer **Caron Taylor**

Ward **Eccleston And Mawdesley**

Proposal **Change of use to hot food takeaway (Class A5),**

Location **2 Lawrence Lane Eccleston Chorley PR7 5SJ**

Applicant **Mr A Rashid**

Proposal: The application is for a change of use to a hot foot takeaway (Class A5).

Background: The application property is situated at no. 2 Lawrence Lane, Eccleston, towards its junction with The Green. The premises are currently standing empty but were last used as a Co-op Late Shop (Use Class A1: shops). The site is opposite the old Church Hall (now empty) and has a commercial garage to the rear. To the northeast is a furniture shop and to the southwest are the rear gardens of the properties on The Green.

Members will recall an application at this property last year (application reference no. 06/00210/COU) for a change of use to an A3 use (restaurants, snack bars or cafes). This application was refused by Committee following a site visit, against the office recommendation. The applicant appealed this refusal and the Planning Inspectorate allowed the proposal. The A3 use has not been implemented to date.

Planning History: There have been a number of planning applications at the site:
06/00210/COU Change of use from a shop (A1) to a restaurant, snack bar or café (A3). Allowed at appeal.
01/00564/FUL Installation of cash machine to front (Co-Op). Permitted
01/00565/ADV Erection of internally illuminated projecting sign to front (Co-Op). Permitted.
02/00194/FUL Erection of 1.0m diameter satellite antenna on wall mount (retrospective), (Co-Op). Permitted.
95/00521/FUL Erection of 1.2 metre satellite dish to side (Co-Op). Permitted.
87/695/FUL Alterations to shop front (Nevins Supermarket). Permitted
78/1120/FUL Erection of illuminated sign (Nevins supermarket). Permitted
4951 (1965) Change of use from cinema to car showroom (including extensions). Permitted.

Planning Policy: GN3: Development in Eccleston
EP20: Noise
EP21: Air Pollution
SP8: Small Scale Retail Developments
TR4: Highway Development Control Criteria

Consultations: **Lancashire County Council Highways:** State that with the

extant permission for the premises and previous use as a local convenience store (open until late at night), it would be difficult to substantiate any highway objection at appeal. In these circumstances they have no objection to the proposed development.

Environmental Services: State they have no objections to the application in principle subject to a condition requiring details of a suitable ventilation and extraction system to remove steam, odours and fume from all cooking appliances being submitted to the Environmental Health Officers for approval.

Eccleston Parish Council

Whilst the Parish Council has no objections to the proposed change of use, it wishes to express concerns regarding the inadequacy of the parking facilities for such a use. Car parking around existing takeaway establishments in the village causes severe problems at peak times and the Council is anxious to avoid this area becoming problematical.

Representations: Ten letters of representation have been received as a result of neighbour consultation.

Eight letters objecting to the proposals have been received from residents on The Green, Lawrence Lane, The Croft and Draper Avenue. Their reasons for objection can be summarise as:

- Loss of privacy, noise (particularly as a takeaway will do most of its trade later in the evening) including the slamming of car doors, smells and disturbance.
- The back doors of the property overlook neighbouring back gardens and in fine weather the doors will be open making in it impossible to work or sit in their garden;
- The proposals could potentially cause an increase in vermin due to food waste etc. being left outside in unsealed waste containers;
- Extra traffic. There have been a number of accidents in this spot over the past few years. Lawrence Lane is a very busy road and once staff are parked at the premises there won't be much room for customers. It has no proper off road parking facilities and is close to the junction with The Green and Doctors Lane. Vehicles are frequently parked near the junction on many evenings already;
- In this day and age not many people will walk to a takeaway;
- Customers will block access to surrounding properties;
- Eccleston already has a chip shop, Chinese takeaway, two pubs, a wine bar, two bakeries, a supermarket, a late shop and a restaurant producing food during the day or at night, there is no need for any more;
- Takeaway containers are frequently dropped on the ground adding to the litter problem throughout the village and people deposit left over food and containers over their garden walls. Another closer takeaway will add to this problem;
- A takeaway attracts groups of people as well as traffic and they have in the past experienced problems with noise caused by groups loitering outside the property when it was last in use;
- A takeaway encourages an unsavoury element to

congregate late at night. Increased occupation of the area late in the evening could possibly lead to opportunist theft and entry to the surrounding business properties;

- The Government is promoting healthy eating to school children and the general public. This appears to be in stark contrast to encouraging more fast food outlets in a village that already has so many;
- It is a residential area which already has to cope with traffic from other commercial uses in the area;
- Lawrence Lane is very narrow with poor street lighting and a poor quality road surface and pavements;
- A drain at the back door was always running over with dirty water when the property was previously in use;
- The proposals may result in more people using Parr Lane as access, which is a narrow road that already struggles to cope with the existing traffic that uses it.

A further letter states that they generally welcome the application as it will be an asset to the community, will bring life to a vacant building and will bring employment opportunities to the village. Their only concern is regarding the effect on highway safety and parking. As the Lawrence Lane – The Green crossroads is already very busy, any additional traffic will increase the potential risk factor of vehicles turning in and out of this junction. The parking is very limited and this could have a negative impact upon the residents in close proximity to the proposed development.

A letter of support has been received from a neighbour of the applicants existing hot food takeaway in Tarleton. They state that the business is extremely tidy and well presented and unlike a pub or late night shop such as a Spar no one congregates outside the shop and there has never been any problem with litter or leftover food. It is not the kind of business that would attract young people, as they are fairly expensive Indian meals and from their observations it would appear the busiest period is between 5.00pm and 8.00pm. Therefore, there is very little parking outside the premises after 9.30pm and no late night traffic whatsoever. After 9.30pm there is very limited trade to the premises as most people wish to eat prior to 9.00pm.

The applicants business in Tarleton is a credit to him, being clean, tidy, and efficient with excellent relationships with his immediate neighbours and the village as a whole. They recommend the business to Ecclestone and believe it would become a very valuable part of the village and a resource to it.

Assessment:

The property was last used as a convenience store, but has permission to be changed to an A3 use (restaurants and cafes). Small retail developments outside designated shopping areas (which this site is) are covered by Policy SP8 of the Adopted Chorley Borough Local Plan Review. This policy does not seek to protect or prevent existing shops from changes of use so the proposals are not contrary to this policy.

Policy GN3 states a number of criteria that development in Ecclestone will be restricted to. This includes the reuse of existing buildings and therefore the proposals comply with this policy.

Highways

The existing lawful use of the property is as a shop (A1 use) with planning permission for an A3 (restaurants and cafes) use allowed at appeal. This is therefore a material consideration in deciding the current application for a hot food takeaway. The use of the premises for A1 goes back to the 1970s and therefore there are no opening hours restrictions on the premises. Prior to this the property had been used as a cinema and had permission to be used as a car showroom. The A1 (shop) use could be resumed without planning permission being required with unlimited opening hours.

In terms of parking, I agree with many comments made by the local residents. The current property has an area of forecourt parking, which provides for approximately 6 cars. However, in terms of the likely amount of traffic to be generated by the proposal, it is not considered that a takeaway (A5) use would result in a significant increase beyond that which could be expected to result from a resumption of the existing lawful shop (A1) use at the site, which has no hours restriction. In addition, in terms of parking the customers of the proposed takeaway would not stay as long than if they were visiting a café or restaurant (A3 use), which was allowed at appeal. These factors must be a material consideration in determining this application. Therefore, on the basis that there is an extant permission for the premises to be used as a restaurant or cafe (A3) (allowed on appeal) and its previous use as a local convenience store (open until late at night) could be resumed without the need for planning permission, it is considered it would be very difficult to substantiate a refusal on highway grounds at appeal or in terms of policy TR4.

Neighbour Amenity

The same issues surrounding the properties lawful use as a shop (A1) and the extant permission granted at appeal for a (A3) restaurant or café use, also arise in terms of neighbour amenity. The existing shop use has no hour's restriction on it, and the inspector permitted opening hours of 08.0hrs to 23.3hrs for a restaurant or café at appeal. The applicant for the hot food takeaway (A5) now applied for requests opening hours until 10.30pm Sunday to Thursday and until 11.00pm on Fridays and Saturdays. This is less than the premises could currently open lawfully. Therefore, again it is not considered that an A5 use would result in a significant increase in neighbour amenity issues beyond that which could be expected to result from a resumption of the existing lawful A1 use or A3 use at the site. This is particularly the case bearing in mind its use as a convenience store that was open in the evenings and the 11.30pm opening hours permitted by the inspector. Therefore, the impact of the proposals would not be so significantly different in terms of policy EP20: Noise and EP21: Air Pollution to its lawful and permitted uses.

The appeal inspector stated that the area is one of mixed uses, including some potentially noisy commercial uses and none of the nearby houses overlook the front of the application premises. Although the appeal inspector stated that the noise likely to be generated by a restaurant or café (A3) use would in her opinion, be less than if it was used as a hot food takeaway (A5), in considering this application it is not considered that the noise would be worse than if the existing late-use shop (A1) use was to resume.

Circular 11/95: The Use of Conditions in Planning Permission, states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. In this case applying a condition requiring details of an extraction system to be provided and approved in writing before development is commenced would ensure that a satisfactory system was put in place to protect neighbours from unacceptable levels of noise and odours and ensure it is erected on an elevation of the building away from residential properties.

Conclusion:

While I accept the concerns of residents, the lawful use of the property (A1 shop) and the permission granted at appeal for a restaurant of café (A3), allowed to open until 11.30pm, must be given significant weight in determining the application. As stated above, it is not considered that an A5 use would result in a significant increase in parking or neighbour amenity issues beyond that which could be expected to result from a resumption of the existing lawful A1 use at the site, to warrant refusal of the application. In addition the hours of opening (which will be controlled by condition) are more restrictive, which will reduce noise and disturbance in the later hours of the evening. On this basis any refusal would be very difficult to substantial at appeal. The application is therefore recommended for approval subject to the following conditions.

Recommendation: Permit Full Planning Permission Conditions

1. The proposed development must be begun not later than three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. Before development commences, a plan showing the marking out of the forecourt car park shall be submitted to and approved in writing by the local planning authority. The car park shall be marked out in accordance with the approved plan before the premises are first used as a hot food takeaway, and the parking spaces shall be kept permanently available for the parking and manoeuvring of vehicles and for no other purpose.

Reason: To ensure adequate on site provision of car parking in accordance with Policy TR4 of the adopted Chorley Borough Local Plan Review.

3. Before development commences full details of the fume extraction and filtration systems shall be submitted to and approved in writing by the local planning authority. Prior to the commencement of the use hereby permitted, the systems shall be installed in accordance with the approved details, and shall be used and maintained thereafter in accordance with the manufacturers' instructions.

Reason: To safeguard the amenities of local residents and in accordance with Policy Nos. EP20 and EP21 of the adopted Chorley Borough Local Plan Review.

4. The use hereby permitted shall be restricted to the hours between 08.00hrs and 22.30hrs Sunday to Thursday inclusive, and between 08.00hrs and 23.00hrs on Friday and Saturdays.

Reason: To safeguard the amenities of local residents and in accordance with Policy Nos. EM2 of the Adopted Chorley Borough Local Plan Review.
