

Application No: 2008/779

Application Type: Full

Proposal: Use of former mill and retail establishment as fudge factory, with space for craft-based businesses and associated retail / café / visitor attraction space (Retrospective)

Location: The Fudge Factory, Spring Place, Whitworth

Report of: Planning Unit Manager

Status: For Publication

Report to: Development Control Committee

Date: 20 January 2009

Applicant: The Fudge Factory Ltd

Determination Expiry Date:
27 February 2009

Agent: Hartley Planning & Development Assoc Ltd

REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation

Member Call-In

X

Name of Member:
Reason for Call-In:

Cllr Neal
For Members to hear all the facts of this case

More than 3 objections received

Major Application

X

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

APPLICATION DETAILS

1. SITE

The application relates to an existing building that is already being used by the applicant company for manufacturing, retailing and a café. The building is part two storey and part three storey, although the upper floor is only used for storage purposes.

The building faces Market Street with a car park in front. The access from Millfold close to its junction with Market Street is shared with Coates Engineering who have premises to the rear.

2. RELEVANT PLANNING HISTORY

The previous uses of the building include manufacturing on the ground floor, with retailing and a cafe on the first floor, by James Brown Leathermarket and then by Lexterton. Subsequently the building was purchased by Coates Engineering and the authorised use became manufacturing.

The applicant company took over the building and commenced renovation and alteration in the belief that planning permission was not required for what they intended.

Planning Application 2008/79 to legitimise their use was submitted in February 2008. It was refused on 16 May 2008, after the use had commenced, for the following reasons:-

- 1. There is insufficient car parking to comply with the Council's parking standards in respect of the proposed development. It is likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety. The proposed development conflicts with the criteria of saved Policy DC1 – Development Control of the adopted Rossendale District Local Plan and Lancashire County Council's adopted Supplementary Planning Guidance – Parking Standards.*
- 2. The application and submitted plans contain insufficient information to enable them to be properly assessed in respect of the quality of the Transport Assessment and details of provision for coaches.*

Application 2008/417, for a Certificate of Lawfulness that their use was authorised, was submitted in June 2008 and refused on 11 August for the following reason:-

The applicant has failed to submit the evidence to substantiate their claim that that, on the balance of probability, the previous mixed use of the building for manufacturing and retailing purposes has not been abandoned.

3. THE PROPOSAL

The current application is essentially a re-submission of Planning Application 2008/79, with additional information. The accompanying a Design and Access Statement and a Transport Assessment explain the proposal, summarise planning policies and seek to justify the proposal. It is said that :

- The Fudge Factory and associated café previously operated from Pippin Bank in Bacup with 5 car parking spaces. The current location has allowed the business to expand, entailing fudge manufacture on the ground floor with a public viewing area, a sales area, a café, and an area for craft based individuals and companies. 70% of the business activity is to be manufacturing. The earlier application originally proposed conference/function space; the current application does not.
- They believe that their operations are lawful but hope to resolve matters without the need for the Council to take enforcement action. They claim that relevant Policies encourage manufacturing, tourism and regeneration. Reference is made to PPG4 – Industrial and Commercial Development and Small Firms, Structure Plan Policies (although theses are superseded by the Regional Spatial Strategy), Rossendale Local Plan Policies (although not all have been saved), the Council’s Draft Core Strategy and the Council’s Employment Study.
- Floor areas for the various uses are specified/identified, totalling of 1597 square metres. Hours of business are 8am to 6 pm Monday to Saturday and 10am to 6pm on Sunday. There are 15 staff, the majority of whom live locally and either walk, travel by bus or car share. There are 2 or 3 deliveries a week to the rear of the building and a similar number of loads go out. There is a maximum of one coach visit per week. Coaches usually drop visitors off and return at a prearranged time or space can be made available in the car park. It is pointed out that there is a quality bus route along Market Street and bus stops fronting their premises.
- There are 17 car parking spaces, with disabled parking and parking for cycles and motor cycles. This is adequate to meet the requirements of the business; photographic evidence from the last 6 months is submitted to support this claim. Based on the number of visitors it estimates that 7 car parking spaces are needed for customers, plus 5 for staff. The applicant understand that there have been no complaints about parking issues. They say that there are always parking spaces available. They would accept a condition requiring the completion of, and compliance with, a detailed Green Travel Plan.

4. POLICY CONTEXT

National

PPS1 – Delivering Sustainable Development

PPG4 – Industrial, Commercial Development and Small Firms

PPG13 – Transport

Development Plan

Regional Spatial Strategy for the NW of England Plan (2008)

DP1-9	Spatial Principles
W1	Strengthening the Regional Economy
W6	Tourism and the Visitor Economy
RT4	Management of the Highway Network
EM1	Environmental Assets

Rossendale District Local Plan (1995)

DS1	– Urban Boundary
DC1	– Development Criteria

5. CONSULTATIONS

RBC (Economic Regeneration)

Subject to compliance with planning requirements, adequate car parking and public safety, the development is supported on the basis that a redundant building is brought back into use, adding to the local economy in terms of visitor attraction and local employment.

LCC (Highways)

The application and additional information submitted by the applicant's agent have been assessed. It has been concluded that the parking situation is acceptable, subject to conditions.

6. REPRESENTATIONS

A press notice was published on 12 December 2008. Two site notices were posted on 10 December 2008 as shown on the site plan. Neighbours were notified by letter on 8 December 2008 to accord with the General Development Procedure Order.

No representations from neighbours have been received. An email from Janet Anderson MP confirms her support for the development which she describes as a wonderful attraction for the Valley. She does not consider that there is a parking problem and requests that the resubmission is given very sympathetic consideration.

7. ASSESSMENT

The business has been trading for over six months, albeit without planning permission. The new planning application has been submitted after it was pointed out to the applicant that the Council was considering enforcement action to resolve the matter.

The report on the previous planning application assessed the proposal and concluded that, in principle, it was acceptable. However, the Highway Authority expressed concerns about the adequacy of parking spaces relative to the intended uses/floorspace of the building, the lack of a detailed transport assessment and insufficient information about provision for coaches. These concerns led to the refusal of the Planning Application 2008/79 for two reasons. The main issue now is whether these reasons for refusal have been adequately addressed or are no longer appropriate.

The present use is similar to that carried out by James Brown Leathermarket but the building has subsequently been used by the adjoining engineering company and planning permission is clearly needed for the current mixed-use incorporating manufacturing, retail, a café and a visitor attraction. It provides employment opportunities and contributes to the economic well being of Whitworth.

In connection with the previous application the County Council requested a financial contribution from the applicant towards public transport improvements but this requirement was withdrawn on the basis that improvements to the bus route through Whitworth had already been funded.

When the previous application was assessed LCC(Highways) concluded that a minimum of 50 car parking spaces were needed. Discussions took place between the Council and the applicant about the possibility of leasing additional car parking spaces at Whitworth Civic Hall but the applicant was not prepared to enter into a commitment because of the cost and his belief that additional spaces are not needed.

The applicant's agent has provided a more detailed analysis of car parking standards and floor space using the criteria for *maximum* numbers of car parking spaces in the recently published Regional Spatial Strategy. The agent's conclusion is that a maximum number of 17.7 car parking spaces is required. A revised plan shows motor cycle and cycle parking and two disabled parking spaces. LCC(Highways) has considered the additional information and has concluded that the parking arrangements are acceptable, subject to conditions. Accordingly, it advises that the first reason for refusal in respect of Application 2008/79 is no longer appropriate.

LCC(Highways) has also concluded that the resubmitted application now contains sufficient information in respect of the quality of the Transport Assessment and details of provision for coaches. Accordingly, it considers that the second reason for refusal Application 2008/79 is no longer appropriate.

Conditions are recommended to control the opening hours, the uses/floorspace of the building, the parking/servicing facilities, and submission/implementation of a Green Travel Plan. Action will also need to be taken over the large number of unauthorised advertisements at the premises.

8. SUMMARY REASON FOR APPROVAL

The property is within the Urban Boundary and the mix of uses for which permission is sought are appropriate for the premises and will not unduly harm the character of the area, the amenities of neighbours or highway safety. The development is in accordance with PPS1 / PPG4 / PPG13, Policies DP1-9 / W6 / RT4 / EM1 of the Regional Spatial Strategy and saved Policy DS1 and the criteria of saved Policy DC1 of the Rossendale District Local Plan.

9. RECOMMENDATION

That permission be granted.

10. CONDITIONS

1. The car, motor cycle and cycle parking shall be laid out in accordance with the plan received on 7 January 2009. The parking spaces, access road and junctions shall be delineated and the work carried out within three months of the date of granting of planning permission.

Reason : In the interests of highway safety and to manage travel demand, reduce the need to travel and increase accessibility in accordance with Policy DP5 / RT4 of the Regional Spatial Strategy for the NW of England and the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

2. A Green Travel Plan (for both employees and visitors) shall be submitted to the Local Planning Authority within three months of the date of this permission and agreed in writing. The Plan, including any provisions for remedying potential parking problems, shall be implemented in accordance with the agreed programme.

Reason : In the interests of highway safety and to manage travel demand, reduce the need to travel and increase accessibility in accordance with Policy DP5 / RT4 of the Regional Spatial Strategy for the NW of England and the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

3. The floorspace for the individual uses for the building (i.e. production area, workshop/retail, storage/distribution and offices on the ground floor and café/restaurant and public leisure area on first floor plus kitchen and toilets) shall be maintained in accordance with submitted details including the report received from the applicant's agent on 16 December 2008, unless otherwise first agreed in writing by the Local Planning Authority.

Reason : To ensure that parking requirements are adequate for the development in accordance with PPG13, Appendix RT of the Regional Spatial Strategy for the North West of England and the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

4. The premises shall not be open to the public other than between the hours of 0800 to 1800 hours on weekdays and Saturdays and 1000 to 1700 hours on Sundays and Bank Holidays.

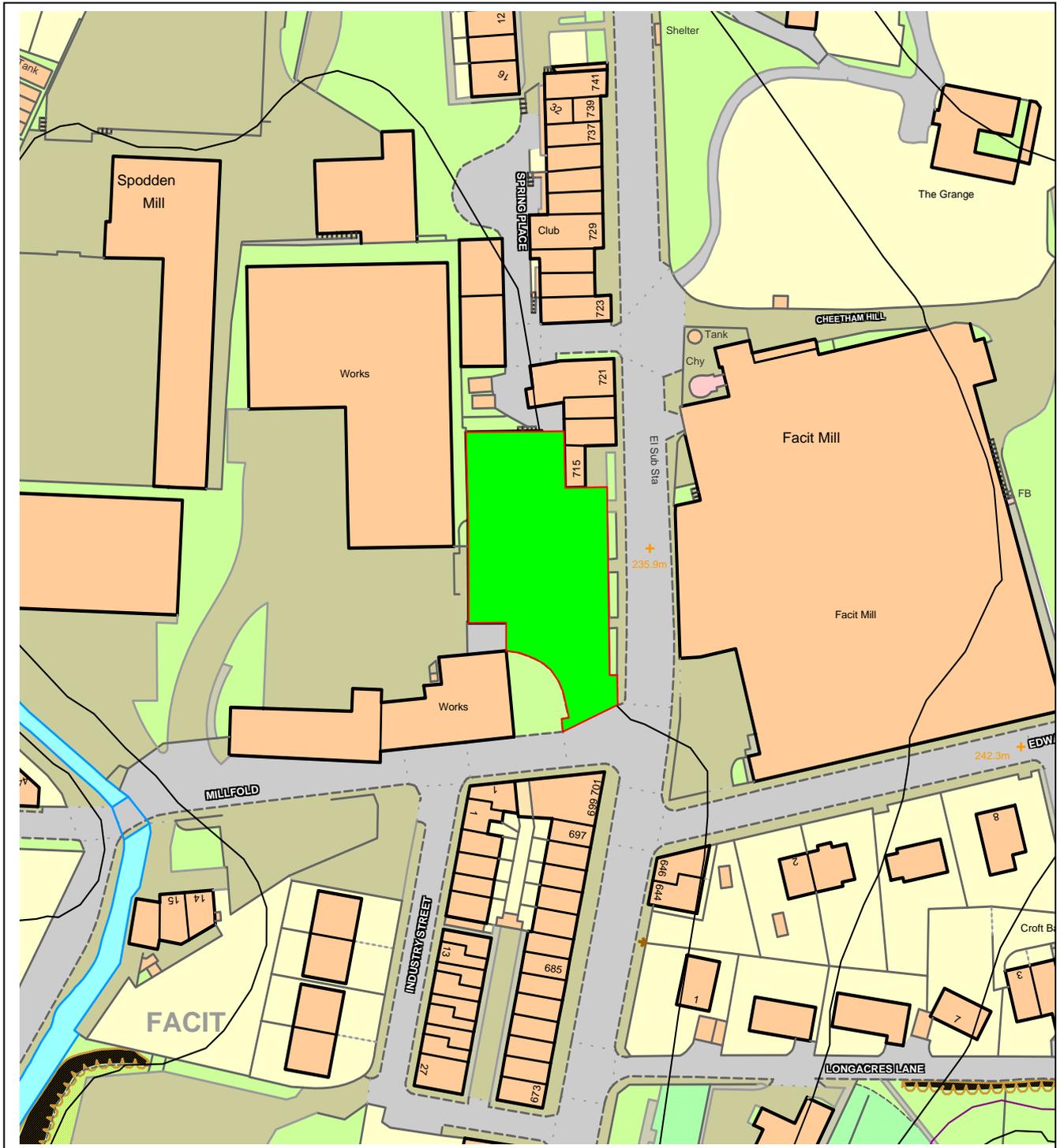
Reason : To accord with the submitted details and to protect the amenities of neighbours, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

5. The building shall be serviced from the rear, including collection, deliveries and refuse collection with no use of the customer entrance.

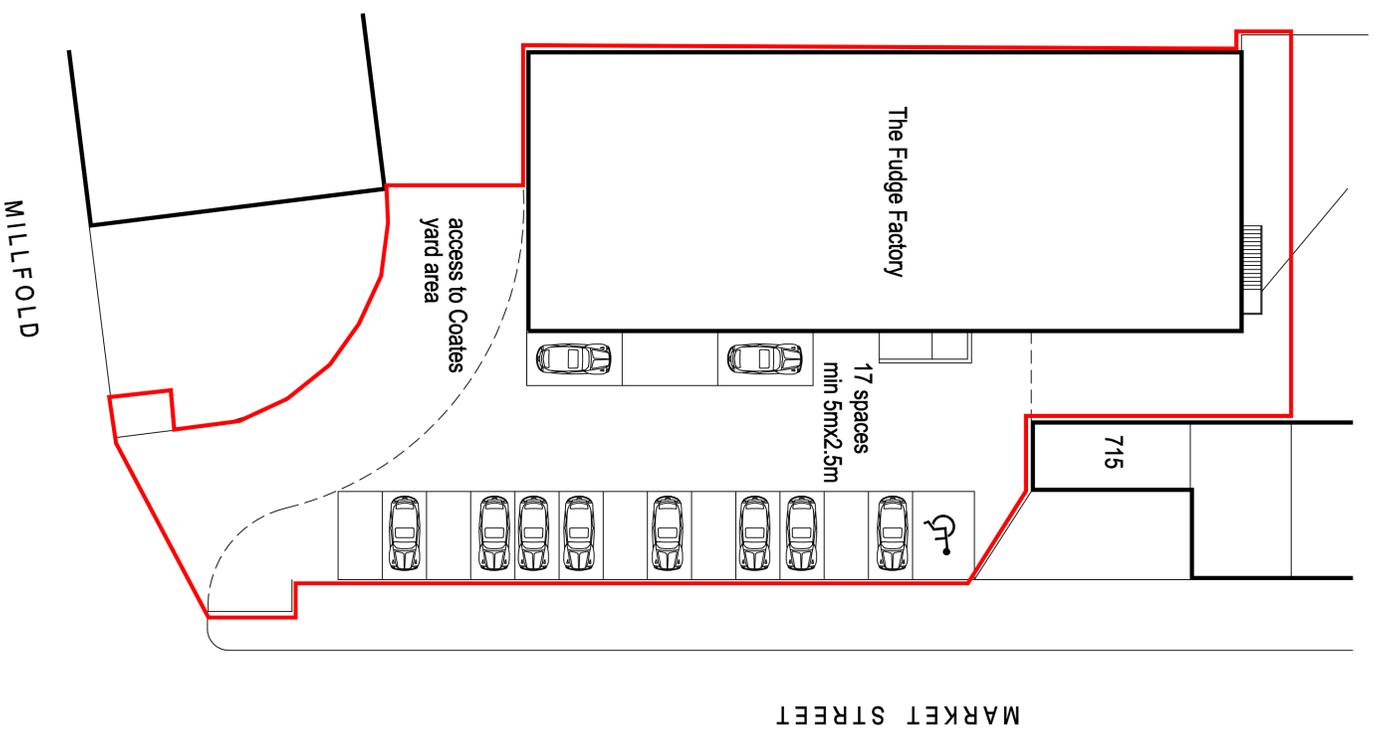
Reason : To allow effective use of the car park, in the interests of highway safety, in accordance with Policy DP5 / RT4 of the Regional Spatial Strategy for the NW of England and the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

Contact Officer	
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Location Plan 2008/0779



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proposed site plan

proposed conversion of redundant mill to form visitor attraction incorporating fudge production area, restaurant and function room at

Spring Place
Millfold
Whitworth

scale 1:200 @ A1
 0m 5m 10m
 1:200 inset scale