

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 AND PROPOSAL

1.1 This application relates to part of the New Hall Hey site in Rawtenstall and is located to the south of the A682 Rawtenstall Bypass. It is an irregular shape and occupies a prominent position on the approach into Rawtenstall. The site is mainly vacant although construction work is currently underway with the implementation of application 2007/030 for Homebase, Argos and Pets at Home. The surrounding uses comprise office provision and a public house. New Hall Hey Road comprises a mix of uses including a number of residential properties.

1.2 Vehicular access to the site is currently provided from New Hall Hey Road. Vehicles can also exit directly onto the bypass in a westerly direction. However, the new roundabout (part of the previous approvals) has now been completed although due to construction access into the site remains from New Hall Hey Road. There are a number of public footpaths which cross the site enabling pedestrian access from the north. The East Lancashire Railway terminus is located to the eastern end of the site.

1.3 Relevant Planning History

The relevant planning history is outlined in paragraph 2.1-2.11 of the Committee report attached and considered by Committee on the 11th March 2008.

2. Committee decision on the 11th March 2008 - 2007/630

2.1 Members approved application 2007/630 on the 11th March 2008 the application was a hybrid application in that it obtained **full consent** for part of the scheme and **outline consent** for a drive thru restaurant and restaurant.

2.2 The detailed aspect of application 2007/630 relates to the 'B' units which would be located parallel to the neighbouring East Lancashire Railway. It is part of the ground floor of this element which is proposal for **Aldi** and the part to which the land use swap relates.

- 2.3 The outline element of the scheme received consent for the principle of a drive thru and restaurant in a similar position to what has already been approved by application 2005/617.
- 2.4 The applicant indicated that the ground floor of unit B1 would be occupied by Aldi and that discussions are currently underway to secure **KFC** and **Frankie and Benny's** in units C1 and C2.
- 2.5 I have provided a breakdown of the approved units below approved by Committee on the 11th March 2008:
- **Unit B1:** A 3,312 sqm unit, comprising 1,656 sqm of food retail at ground floor and 1,656 sqm of leisure at first floor level. The ground floor is to be occupied by Aldi.
 - **Unit B3a:** A 1,018 sqm unit at ground floor level for leisure use (bowling alley or bingo club).
 - **Unit B3c:** A1,034 sqm unit at first floor level for leisure use.
 - **Unit B3d:** A 913 sqm unit, comprising 311 sqm restaurant use at ground floor level and 602 sqm at first floor level for restaurant use.
 - **Unit B4a & B4b:** A 317 sqm unit comprising a 147 sqm and 170 sqm restaurant at ground floor level.
 - **Units C1 and C2:** No details are sought at this stage for these units other than the use as a drive thru restaurant and restaurant

3. Recently submitted amendments to the scheme

- 3.1 The Council has recently received an amended plan to the approved scheme 2007/630. This Plan is attached at Appendix 1 .

Unit **B1** – remains the same

Unit **B3a** : same use but with a 118.12sqm reduction in floor area

Unit **B3c:** same use but with a 118.12sqm reduction in floor area

Unit **B3d:** same use but ground floor reduction of 39.43 sqm/first floor reduction of 101.88sq.m in floor area

Unit **B4a** : same use but with a 31.04sq.m reduction in floor area

Unit **B4b** :same use but with a 31.41sq.m reduction in floor area

- 3.2 The proposed amendments are to incorporate required amendments to the approved scheme to allow the marketing of the units to be as effective as possible and to allow for front door car parking to be provided outside the B units .

- 3.3 **Units C1 and C2:** Outline approval was obtained for the use as a drive thru restaurant and restaurant under 2007/630 .
- 3.4 Full planning applications have now been received for these units **(Applications 2008/0032 and 2008/0118)**. Both would normally be dealt with for decision by the Executive Director of Regulatory Services (no objections have been received and they are not major applications). However there are slight changes to the car parking layout and it was felt appropriate that members of the Committee approve the submitted plans which will form the basis of a s106 legal agreement. The decision relating to the merits of both schemes will be dealt with by way of delegation to the Executive Director of Regulatory Services.
- 3.5 The applicant has recently submitted amended plans for the proposals to include a substantial element of natural stone. Something the Committee and officers have been requesting on the site. This amendment will be the subject of a further consultation and is supported by officers.
- 3.6 These plans are attached at Appendix 2

4. **SECTION 106 AGREEMENTS ON THE SITE**

Application 2007/030 has now been implemented and the Section 106 requirements apply to the site these are:-

- **One month** prior to occupation of the first unit to pay the County Council £100,000 (then a further £75,000 on the first, second and third anniversaries of that date) with a £50,000 contribution payable on the fourth anniversary.
 - **Six months** prior to occupation of the first unit to pay £50,000 to upgrade pedestrian and cycle routes. The Council has received notification that the Homebase store will be occupied by August this sum is therefore now payable.
 - **Prior to occupation** of each unit to agree a Travel Plan in relation to each unit/with implementation dates and review dates.
 - **Prior to occupation of any unit** to layout/include the marking out the Public car park area. The Plan which was agreed in two section 106s for this area is attached at Appendix 3. The owner is then to make the area available at all times as free public car parking for members of the public for up to 3 hours (to encourage linked trips between the site and the town centre).
 - **Four months prior** to the let of the first units to agree a Car Park Management Plan.
- 4.1 The legal agreement for 2005/617 was identical but for the sums of the contribution required.

Application 2007/630

In approving 2007/630 Committee approved the decision subject to a further s106 agreement to deal with the exchanging (or swapping) of land uses from one site to another. In order to effectively 'swap' the uses it was necessary for a legal agreement to be entered into to discontinue the lawful retail permission at the former Kwik Save building (given that the leisure use approved by application 2007/629 has not been implemented to date) to avoid a position where two permissions exist for food retailing out of the town centre.

Members did not agree any further amendments to the original S106s for the site as they related to car parking (only to reflect approved layout). This had been requested by the applicant.

The terms of the s106 agreement for 2007/630 were delegated to the Executive Director of Regulatory Services.

The proposed plan to show the Public Car Park Area will be as attached at Appendix 4 to reflect the amended car park layouts.

5. RECOMMENDATION

- 5.1 That Committee agree that the minor amendment is acceptable this plan to supersede previous plans relating to 2007/630 and delegate the entering into of the Section 106 agreement as outlined above to the Executive Director of Regulatory Services. (The plan to be the subject of a 14 day reconsultation exercise).
- 5.2 That the Committee agree the materials relating to application 2008/0032 and 2008/0118 and delegate the determination of both schemes to the Director of Regulatory Services and the entering into of the Section 106 agreement as outlined above to the Executive Director of Regulatory Services. (The plan for 2008/0032 to be the subject of a 14 day reconsultation exercise).

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*LOCATION PLAN TO BE PROVIDED
ATTACH ALL APPENDICES AND LIST AS NECESSARY, FOR EXAMPLE*

Document Details	Appendix Number
Committee Report dated 1 st January 2007	Appendix A

Etc	
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