

No. 5	APPLICATION NO.	2021/0332/FUL
	LOCATION	The Food Shop 26 Bearncroft Digmoor Skelmersdale Lancashire WN8 9HG
	PROPOSAL	Demolition of existing building and erection of 3 no. retail units and stopping up of part of the highway under section 257 of the Town and Country Planning Act 1990.
	APPLICANT	Mr Tony Singh
	WARD	Digmoor
	PARISH	Unparished - Skelmersdale
	TARGET DATE	26th August 2021

1.0 **REFERRAL**

- 1.1 This application was to be determined under the Council's delegation scheme however Councillor Finch has requested it be referred to Committee to consider concerns regarding loss of amenity; access issues, the impact on parking; the potential for noise and disturbance and the loss of a building with architectural merit which could be an asset for meeting other community/social needs in the future.

2.0 **SUMMARY**

- 2.1 It is considered that the principle of retail development at this site is acceptable and that the development would not adversely impact on local or town centres. I am satisfied that the proposed building would not result in any significant detrimental impacts on the character of the area, amenity of neighbouring properties or highway safety. Subject to conditions the proposed development is considered to be compliant with the NPPF and Policies IF1, IF2, GN1 and GN3 of the West Lancashire Local Plan 2012-2027 DPD and the application is therefore recommended for approval.

3.0 **RECOMMENDATION: APPROVE subject to conditions.**

4.0 **THE SITE**

- 4.1 The site comprises of an irregularly shaped single storey building located within an estate of houses. To the rear (north) of the site is a communal car park and there are pedestrian walkways to all sides of the building. The building is currently vacant; however, its last use was for retail purposes.

5.0 **THE PROPOSAL**

- 5.1 The application proposes the erection of a single storey rectangular building following the demolition of the existing building. The replacement building would comprise three retail units of approx. 75sqm each. Each unit would have a bin storage area to the rear with double doors leading out to the communal car park/road to the rear. The front of each unit would be glazed with a pedestrian entrance.
- 5.2 Part of the adopted highway (i.e., the pedestrian walkway) abuts the existing building on all sides. In order to build a more regular shaped building it would need to be constructed over some parts of the adopted highway. The applicant has therefore included within their proposal the stopping-up of some sections of the highway to enable this construction to take place.

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 2021/0203/LDP - Certificate of Lawfulness - Proposed existing retail unit to be converted to 'Baby Gender Reveal' Clinic - Permitted development
- 6.2 2007/0126 - Installation of ATM cashpoint machine - Granted
- 6.3 2007/0103 - Display of illuminated ATM signage - Advert Consent Granted

7.0 CONSULTEE RESPONSES

- 7.1 United Utilities - Conditions recommended
- 7.2 LCC Highways

The site has previously been used as a retail unit. The applicant has now amended the application to include the stopping up of the adopted highway affected by this application (as indicated in pink on Drawing No 200 Rev H). LCC Highway Development Control has no objection in principle to this application and is of the opinion that the proposed development would not have a severe impact on highway safety and highway capacity within the immediate vicinity of the site. Highway Development Control recommends conditions.

- 7.3 Environmental Health Officer

The proposed development is very close to residential premises which could be adversely affected by noise and odour depending on the type of businesses that subsequently occupy the units.

I therefore feel it would be prudent to restrict the occupation to low impact types of business such as retail services, financial and professional services, or offices.

As it is a predominantly residential area, I am also of the opinion that restrictions on hours of opening should be applied. Conditions recommended.

8.0 OTHER REPRESENTATIONS

- 8.1 Letters of representation and a petition have been received which can be summarised as follows:
- Proposal will cause issues with parking, highways and pedestrian safety due to customers and deliveries using the existing car park.
 - Concerns about adverse impacts on neighbours including noise, anti-social behaviour, pollution, overlooking, loss of privacy, loss of sunlight, vandalism
 - Building will affect views from my property
 - Consider building is too big for the area. Consider the design and layout does not integrate with the architecture and aesthetic of the estate. The scale and height of the building will disrupt landscape and impact on street views.
 - Consider that there is no need for this type of development here as there are empty units in Digmoor Shopping Centre and The Concourse
 - Concerns about the type of businesses that would occupy the units
 - Consider the units would be converted to housing in the future.

9.0 SUPPORTING INFORMATION

- 9.1 The application has been supported by the following documents:
Retail Assessment

10.0 RELEVANT PLANNING POLICIES

10.1 The application site is located within the Regional Town of Skelmersdale with Up Holland as designated in the West Lancashire Local Plan Proposal Map.

10.2 National Planning Policy Framework (NPPF)

West Lancashire Local Plan 2012-2027 DPD

SP1 - A Sustainable Development Framework for West Lancashire

GN1 - Settlement Boundaries

GN3 - Criteria for Sustainable Development

IF1 - Maintaining Vibrant Town and Local Centres

IF2 - Enhancing Sustainable Transport Choice

Supplementary Planning Document, Design Guide (Jan 2008)

11.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY

Principle of development

11.1 The starting point for considering the principle of development for this application is the West Lancashire Local Plan 2012-27 (WLLP) as the adopted development plan for the Borough. In this instance, Local Plan Policy IF1 (Maintaining Vibrant Town and Local Centres) is of primary relevance along with chapter 7 "Ensuring the Vitality of Town Centres" of the NPPF.

11.2 Policy IF1 states that retail and other appropriate town centre development will be encouraged within town and local centres, followed by edge of centre locations and that such uses will only be considered in out of centre locations if a specific local need is proven and there is no suitable site available within a town, village or local centre. The policy also indicates the floorspace thresholds for a retail proposal whereby an impact assessment will be required (500 sqm for comparison retail and 1,000 sqm for supermarkets). Paragraph 87 of the NPPF states that local authorities should apply a sequential test to planning applications for main town centre uses which are not in an existing centre or in accordance with an up-to-date plan. However, chapter 8 of the NPPF (Promoting healthy and safe communities) requires planning decisions to enable and support healthy lifestyles through the provision of infrastructure and community facilities such as local shops.

11.3 The proposed development would not be within a town or local centre however the proposal is for replacement of an existing retail use with a limited, 40 square metre, increase in retail floorspace. I do not consider this to be of sufficient scale to require the applicant to demonstrate local need and / or accordance with the sequential approach. In addition, the increase in floorspace is significantly below the threshold requiring an impact assessment of WLLP Policy IF1. Furthermore, the proposed development would ensure the retention in this location of local shops in accordance with chapter 8 of the NPPF.

11.4 Therefore, whilst the proposal is in an out of centre location, in my view it would not be contrary to national and local policy relating to town centre and retail development.

Design / Layout

11.5 All development should comply with the requirements of policy GN3 which, along with the Council's SPD Design Guide, requires that new development should be of a scale, mass

and built form which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that buildings do not disrupt the visual amenities of the streetscene because of their height, scale, or roofline.

- 11.6 The existing single storey building has an unusual shape and design that is not directly in keeping with the style of the surrounding residential development which comprises of gabled properties with a mixture of two and three storey heights. In my view the proposed building would be more in keeping with the style of the surrounding properties and would be single storey in height. This would ensure it remains a subservient building within the locality. The proposed materials would be brick and concrete tile which is considered to be appropriate in this location. A bin/storage area is proposed to be provided inside the building for each unit which will ensure that the site can be kept tidy.
- 11.7 I am satisfied that the proposed development would be in keeping with the surrounding development and would not have a harmful impact on the street scene. On that basis I consider the proposal complies with the requirements of local plan policy GN3.

Impact on residential amenity

- 11.8 Policy GN3 of the West Lancashire Local Plan (2012-2027) DPD allows development provided it retains or creates reasonable levels of privacy, amenity, and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.
- 11.9 The eastern elevation of the building will be approx. 13m from the properties on that side of the site which is the same distance as the original building however the eaves height will be approx. 400mm lower. The extended wall will be separated from the dwellings by their private gardens and a public walkway as is the case now. I do not consider that the proposal would result in a significant harmful impact on those dwellings as a result of overshadowing or loss of light. The building is single storey and there are no windows in the side elevations therefore there will be no adverse impacts as a result of overlooking.
- 11.10 To the south of the site there is a row of dwellings which lie directly adjacent to the public pathway. The proposed replacement building would be in the same position as the existing building with a separation distance of approx. 12m between the buildings. Whilst the windows in the existing building are set at a slight angle, I do not consider the positioning of the proposed windows and doors would result in a loss of privacy that would be significantly more harmful than the existing situation due to the distance between the buildings.
- 11.11 The existing use of the building is for retail purposes and retaining this use in the new building is considered to be appropriate in this mainly residential location subject to a condition restricting the hours of use and types of use that can occupy the premises. The Environmental Health Officer has raised concerns regarding the potential impact on neighbouring properties of late opening hours. As the type of business model of the future occupants of the premises is unknown at this time, it is considered that a condition restricting the units to a limited set of opening hours would be appropriate. If in the future an occupant wishes to alter those hours, the suitability of such a proposal can be assessed as part of a formal application.
- 11.12 I note that concerns have been raised in regard to anti-social behaviour that may be associated with the future use of the buildings. It cannot be presumed that this will occur as a result of the proposed development and it must be born in mind that the site has previously been used for retail purposes.

11.13 On balance I am satisfied that the proposal for new retail units would not result in undue harm to the amenity of local residents and that the proposed development complies with the requirements of local plan policy GN3 1(iii).

Highways

11.14 Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD states that development should incorporate suitable and safe access and road layout design in line with latest standards. Parking should be provided in accordance with policy IF2.

11.15 I have consulted the Highway Authority who raise no objection to the proposed building and its use for retail purposes and consider the development would not have a severe impact on highway safety in the area. In addition, no objection has been raised to the proposed stopping-up of the highway subject to recommended conditions.

11.16 There is no dedicated car parking provided within the application site, either for the existing or proposed units. An existing communal car park lies to the north of the building which, as in the current situation, would be used if customers arrive by car. It is considered that the additional parking requirement that results from the small increase in floor space can be accommodated within this car park. A separate cycle store has been proposed to the side of the building which can be used by customers. I note that the Highway Officer has requested an electric vehicle charging point be provided as part of the development. As the development does not include the provision of any new car parking spaces in the applicant's control, I do not consider that a condition to require this would be reasonable or enforceable.

11.17 It is my view the development complies with the requirements of policies IF2 and GN3 in relation to highway impacts.

Drainage

11.18 The Council's drainage engineer has reviewed the application with regard to the disposal of foul and surface water, and the flood risk associated with this application. The application form indicates that the foul sewage will discharge to the mains drainage system and surface water would be directed to a soakaway.

11.19 In terms of flood risk the site is located in Flood Zone 1 and outside areas susceptible to surface water flooding so the risk of flooding is considered to be low.

11.20 In principle I have no objection to the proposed development however a condition is recommended requiring full details of a drainage scheme to be submitted for approval.

12.0 CONCLUSION

12.1 The proposed development involves the replacement of a former retail store with new purpose designed retail units. It is considered that the scheme will not have an adverse impact on town or local centres and the design of the units is considered acceptable for their proposed location. I am satisfied that the proposal will not have a significant impact on the amenities of nearby residents or parking provision in the locality and it is therefore recommended that planning permission be granted.

13.0 RECOMMENDATION

13.1 That planning permission be GRANTED subject to the following conditions:

Condition(s)

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:
Site location plan received by the Local Planning Authority on 15th March 2021
Plan reference 201 received on 12th April and
Plan reference 200 revK received on 2nd December 2021.
Reason: For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. No development of the hereby approved scheme shall commence until such time as the area of existing adopted highway (as shown hatched magenta on Drawing No. 200 Rev K) has been stopped up under the appropriate legal process (Section 257 of the Town & Country Planning Act) in consultation with the local planning authority and the highway authority.
Reason: These details are required prior to the commencement of development to safeguard the safety and interests of the users of the highway and to ensure that the development complies with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
4. No development shall take place (including investigation work, demolition, siting of site compound/welfare facilities) until a survey of the condition of the adopted highway has been submitted to and approved in writing by the Local Planning Authority. The extent of the area to be surveyed must be agreed by the Highways Authority prior to the survey being undertaken. The survey must consist of:
 - A plan to a scale of 1:1000 showing the location of all defects identified;
 - A written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey.No building or use hereby permitted shall be occupied or the use commenced until any damage to the adopted highway has been made good to the satisfaction of the Highway Authority.
Reason: These details are required prior to the commencement of development to ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer and to ensure that the development complies with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. Prior to any part of the development hereby permitted taking place a scheme showing the areas for a site compound including the siting of office, storage of plant and materials and measures to prevent the transfer of mud out of the site shall be submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be implemented while any demolition/construction works are in operation.
Reason: These details are required prior to the commencement of development in order to protect the amenity of neighbouring occupiers and to comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
6. No development shall take place until a strategy for the separate foul and surface water drainage of the development is, including any necessary infiltration measures, attenuation

measures, maintenance management proposals, and phasing of delivery if applicable, approved in writing by the Local Planning Authority. The surface water drainage strategy must take account of the relevant provisions of the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement standards. The drainage scheme must be completed in accordance with the approved details and, if applicable, the approved phasing of the scheme. The MicroDrainage mdx file, if available, is required to aid the checking of design calculations.

Reason: These details are required prior to the commencement of development to prevent increased risk of flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to comply with Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

7. No loading/unloading of vehicles and no deliveries shall be taken at or dispatched from the site, outside the hours of 0800 and 1800 Monday to Friday nor at any time on Sundays, Bank or Public Holidays.
Reason: To safeguard the amenities of nearby residents and to comply with Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
8. The units shall not be open outside of the following times: 0800 – 1800 Monday to Friday, 0900 – 1700 Saturdays. The use shall not operate at all on Sundays or Bank or Public Holidays without the prior approval in writing of the Local Planning Authority.
Reason: To safeguard the amenities of nearby residents and to comply with Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
9. No mechanical extraction / ventilation system shall be installed within the site until details of such systems have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard local residents from noise and disturbance, and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
10. No raw materials, finished or unfinished products or parts, crates, materials, waste, refuse or any other item shall be stacked or stored outside any building on the site without the prior approval in writing of the Local Planning Authority.
Reason: In the interests of visual amenity and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
11. Notwithstanding any description of materials in the application, no above ground construction works shall take place until samples and / or full specification of materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials and should be reflective of those within the surrounding area, unless otherwise agreed in writing by the Local Planning Authority.
The development shall be carried out only in accordance with the agreed schedule of materials and method of construction.
Reason: To ensure that the external appearance of the building(s) is satisfactory, and that the development therefore complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), the premises to which this permission relates shall be used for a use that falls within use class E(a), E(c) and E(g)(i) and for no other purpose, including any other use falling within Class E of the Schedule to that Order or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, except with the prior grant of a further planning permission.

Reason: To enable the Local Planning Authority to assess any proposal for a further change of use, whether or not it falls within the same Use Class and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

Note(s)

1. The grant of planning permission will require the developer to obtain the appropriate permits to work on, or immediately adjacent to, the adopted highway network. The applicant should be advised to contact Lancashire County Council's Highways Regulation Team, who would need a minimum of 12 week's notice to arrange the necessary permits. They can be contacted on lhsstreetworks@lancashire.gov.uk or on 01772 533433
2. This consent does not give approval to a connection being made to Lancashire County Council's highway drainage system.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

SP1 - A Sustainable Development Framework for West Lancashire

GN1 - Settlement Boundaries

GN3 - Criteria for Sustainable Development

IF1 - Maintaining Vibrant Town and Local Centres

IF2 - Enhancing Sustainable Transport Choice

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority.