

**Application Recommended for Approval**  
Queensgate Ward

**APP/2013/0039**

Full Planning Application

Application for variation of condition 2, The retail sales are restricted to two days per week only (ie Monday and Thursday), of planning application (APP/2001/0031) to allow to open 6 days a week Monday to Saturday.

1 BRIGHT STREET, BURNLEY

**Background:**

Permission was granted in 2001 for retail sales on 2 days per week, there was a subsequent application to increase the number of days for retail sales in 2002 which was not successful; this application is for retail sales on 6 days per week Mon to Sat (9am to 5pm).

An objection has been received.

**Summary of Reason for Decision:**

The development is generally in accordance with the Development Plan, in particular the policies listed below, and there are no other material considerations to indicate that planning permission should not be granted:

**Relevant Policies:**

Burnley Local Plan Second Review

CF11 - District and local centres

E21 - Gateways and throughroutes

EW4 - Expansion and Improvement of existing businesses

GP1 - Development within the Urban Boundary

H12 - Non-residential uses in residential areas

H9 - Regenerating urban areas and neighbourhoods

TM15 - Car parking standards

TM7 - Cycling network

TM8 - Quality bus routes

**Site History:**

*80/0283 – Waterbarn Street building* (edged blue on the submitted plan – owned by the applicant) – retail sales one day per week, together with child welfare clinic one day per week, occasional music rehearsals, occasional jumble sales and occasional private parties – c/c

*90/0160 – Waterbarn Street building* as above - retail sales of coat and dress materials 2 days per week ( but not Saturdays or Sundays) – c/c

*98/0404 – Waterbarn Street building* - variation of condition on 90/0160 to allow retail sales Mon to Sat – refused

*99/0035 – Waterbarn Street building* – variation of condition on 90/0160 to allow retail sales on Wednesdays – refused

*01/0031 – Bright Street building (within the red edge)* – change of use to warehouse and retail sales 2 days a week (Monday and Thursday only) – ( the retail sales at the

adjacent Waterbarn St premises had to cease before the use at these premises began) – c/c

02/0297 – *Bright Street building* – change in operation hours to 9am to 5pm Mon to Sat (variation of cond.2 on 01/0031) - refused

### **Consultation Responses:**

*Highway Authority* – Without knowing the reasoning behind the original condition restricting retail to 2 days per week it is difficult to comment. In my view, the extension of the opening hours will result in a reduction in the intensity of customer visits by spreading their demand over 6 days rather than the current 2. On this basis I would be prepared to raise no objection.

*Neighbouring resident* – objects to the proposals for the following reasons:

- 1) Inadequate car parking;
- 2) Currently vehicles park on the public footpath and yellow lines causing a blockage of roads( customers and loading);
- 3) It's a nuisance that they operate 2 days let alone 6 days a week causing a highway and pedestrian safety risk.

*Residents* - A petition of support has been received with 229 signatures from residents; mainly from the surrounding streets but includes a number of signatures from further afield.

*Cllr Khan* – verbal comments – he supports the application (the applicant has been there for many years and has a good track record).

### **Planning and Environmental Considerations:**

The property is located at the end of a residential terrace at the rear of retail properties on Colne Road. The retail properties on Colne Road are within a 'District Shopping Centre' (policy CF11 of the Local Plan).

The (Bright Street) application property ( within the red edge) together with the attached building on Waterbarn Street (within the blue edge) are part of one business with retail sales currently 2 days a week within the Bright Street part and storage in the Waterbarn Street section.

When the building closed as a Sunday School in 1980 limited use of the Waterbarn Street part ( within the blue edge) of the property had permission granted for the following uses; a child welfare clinic, music rehearsals, occasional private parties, jumble sales and retail sales on 1 day per week. Permission was granted for retail sales (materials) on 2 days per week in 1990 in the Waterbarn Street section but subsequent applications to increase the no. of days for retail sales were refused. Permission was then granted for retail sales on 2 days a week in the Bright Street section of the building (within the red edge) in 2001 subject to the retail element ceasing in the Waterbarn Street part of the building. A subsequent application in 2002 to increase the retail sales to 6 days was refused on the basis that the use did not serve a local need and should be located in the town centre or an established local shopping centre, and that the increase in use would detrimentally affect residential amenity due to noise and disturbance.



No.1 Bright Street frontage



Waterbarn Street building (within the applicant's ownership)      Bright Street building

Although the property is at the end of a residential terrace it is located just to the rear of retail properties which are within the Colne Road District Shopping Centre. *Policy CF11 - District and Local Centres* – District centres are defined as usually containing at least one food supermarket and non-retail uses such as banks and restaurants. Local centres are described as small groups of shops usually comprising a newsagent, grocery store, sub-post office and other local shops. District and local centres perform an important role in providing a range of facilities within walking and cycling distance of where people live and work. It is important for district and local centres to provide a range of shops and quality of environment that will enable them to compete more effectively with large superstores and retail warehouses.

Although the application property is not on the Colne Road frontage (District Centre) it is adjacent to it. The proposal involves the increase of retail sale days from 2 to 6. The applicant states that he does not advertise out of town and relies on local people for custom. It could be said therefore that this retail outlet falls broadly within the aims of this policy.

*Local Plan policy EW4 – Expansion and Improvement of Existing Businesses* - states that development that would lead to the expansion or improvement of existing business premises will be permitted when it does not harm the amenity of nearby occupiers.

The use would be in a use class that would permit general retailing such as a supermarket which could seriously injure the amenity of surrounding dwellings. This possibility could be avoided by condition restricting the use. It is also considered advisable to make it a 'trial period' permission, limited to 1 year in the first instance to assess its impact on traffic and residential amenity. The applicant is content to accept conditions in this respect and will also accept limitation by condition in respect of hours of operation.

The Highway Authority raise no objections to the proposals and are of the opinion that the extension of the opening hours will result in a reduction in the intensity of customer visits spreading their demand over six days rather than the current two.

### **Conclusion**

It is considered that the proposal falls broadly within the aims of the Local Plan policies mentioned above and that a 'trial period' permission for 12 months should be given in the first instance to assess its impact, if any, on traffic and residential amenity. Further conditions can be attached restricting the opening hours and restricting the use to the sale of material (and associated items).

### **Recommendation:**

Grant subject to the following conditions:

### **Conditions:**

1. The development must be begun within three years of the date of this decision.
2. The development shall be carried out in accordance with the drawings listed above.
3. The retail use shall not operate outside the hours of 9am and 5pm and not at all on Sundays and Bank Holidays.
4. The retail use of six days a week shall revert back to 2 days a week ( in accordance with application APP/2001/0031) 12 months after the extended opening ( 6 days a week ) begins unless a further planning permission has been sought and granted. The date the use ( 6 days per week) begins shall be notified in writing to the Local Planning Authority.
5. The retail use shall be limited to the sale of materials (and associated items).

**Reasons:**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and to ensure that the development remains in accordance with the development plan.
3. In order to protect the amenities of neighbouring residents, having regards to policies EW4 and CF11 of the Burnley Local Plan Second Review.
4. To enable the local planning authority to re-consider the extended use, taking into account the impact of the extended opening on the the neighbouring residential properties, in accordance with policies EW4 and CF11 of the Burnley Local Plan Second Review.
5. Other retail uses ( such as a supermarket) could seriously injure the amenity of surrounding dwellings; restricting the type of retail sales can avoid this possibility. In accordance with policies EW4 and CF11 of the Burnley Local Plan Second Review.