

Application Recommended for Approval
Queensgate Ward

APP/2009/0645

Full Planning Application

Variation of condition 3 on planning permission 12/85/0650 to allow a change in opening hours of the hot-food take-away to 1200 hours to 2300 hours Monday to Sunday
326 COLNE ROAD BURNLEY

Background:

The property is located in the middle of a terrace of shop properties. It has been vacant since 2005 but was formerly in use as a sandwich shop, café and hot food take-away, with opening hours of 8 a.m. to 5 p.m.

The application relates to a change in hours only as the hot food shop can operate under the existing planning permission granted in 1985. The applicant wishes to change the opening hours to 12 noon to 11 p.m. The cooking equipment and flue are already in place from the previous use and no external changes are proposed to the building.

Objections have been received



Summary of Reason for Recommendation:

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

CF13 - Restaurants, cafes, public houses and hot food take-aways

GP1 - Development within the Urban Boundary

Site History:

12/95/0650 – Change of use from shop to sandwich bar with seating and take-away facilities, including the sale of hot food (opening hours 8.00 a.m. to 5.00 p.m.) and construction of new shop front – permission granted

Consultation Responses:

1. Lancashire County Council (Highways) – raise no objections to the proposal on highway grounds
2. Environmental Health – the fume extraction system shall be designed so that there is no odour or noise nuisance to local premises.
3. A ward councillor objects to the late night take-away. There are already 4 take-aways within a 50 metre stretch of Colne Road. The take-aways generate behaviour that residents consider anti-social, including late night noise and litter and they do not wish to see the problem made worse. Parking is difficult in this location and the increase in demand will affect neighbouring businesses and residential amenity.
4. Burnley Lane Residents Action Group – object to the application on the following grounds:
 - Too many take-aways
 - Litter and waste cause vermin problems
 - Anti-social behaviour with noise and disturbance to residents

Planning and Environmental Considerations:

The application will not lead to a new hot food shop being introduced in the area as the use has already been in operation for several years before it became vacant in 2005 and the shop could re-open as a take-away without the need for planning permission.

The main issue for consideration is whether the proposed extension of opening hours into the evening will have a different impact on the highway network or residential amenity than the currently permitted day time opening.

Highway issues

As with the rest of the terrace, there is no off-street parking available for the property. There is some on-street parking available in front of the shops for use by customers. In the evening hours, there is likely to be less pressure on these spaces when many of the other businesses are closed. The additional use by customers of the take-away in the evening is unlikely to lead to parking or highway problems. The Highway Authority are satisfied with the parking arrangements.

Residential Amenity

The property is within an established shopping centre on a busy main road. Activity at the front of the shop is unlikely to have a significant impact on the amenity of residents over and above activity from other uses in the area. Any residents living above shops in a busy centre would expect a degree of disturbance from businesses and traffic.



The late opening hours are in line with the similar uses nearby. Residents at the rear on Waterbarn Street may experience a degree of disturbance from the kitchen activity at the rear of the shop, but recent appeal decisions have supported 11 p.m. as being a reasonable closing time, when activity in the area starts to quieten down.

Other Issues

Litter: This is controlled under other more relevant legislation and it is not reasonable to refuse the extension of opening hours on the basis that it may contribute to a litter problem in the area.

Vitality of the centre: An evening only opening use could have an impact on the vitality and viability of the centre during the day. Property is often shuttered up in the daytime and presents a dead unattractive frontage in the streetscene. A condition requiring that the evening operation remains an ancillary part of the business would help to prevent this and ensure that the premises are also open during the day.

The proposal is acceptable and is in line with policy CF13 of the Local Plan which sets out the appropriate criteria for assessing applications relating to hot food take-away uses.

Recommendation: That the application be approved with the following conditions:

1. The development must be begun within three years of the date of this decision.
2. The premises shall not open for business outside the hours of 0800 hours to 2300 hours at any time. The evening use operating after 1800 hours shall remain ancillary to the main daytime use of the premises and shall not operate independently

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. To ensure that the property makes a contribution to the vitality and viability of the district centre during the day, having regard to the aims of Policy CF13 of the Burnley Local Plan Second Review.