

**Application Recommended for Approval**  
Brunshaw Ward

**APP/2009/0656**

**Full Planning Application**

Variation of condition 4 on planning approval 2005/0838 to enable the doors on the elevation facing Culshaw Street to remain open from 06:00 to 18:00; and otherwise remain closed when not in use for access to or egress from the building  
LUPTON & PLACE LTD ATHENS VIEW ATHLETIC STREET BURNLEY

**Background:**

Lupton & Place (manufacturing company) have applied to extend the opening hours of the door facing Culshaw Street.

Planning permission was granted for an extension to the factory and a condition attached to prevent noise disturbances to nearby residents. The condition required the doors facing Culshaw Street to remain closed at all times when not in use for access or egress.

Complaints have been received mainly from one resident about the door being left open for long periods during the day and night.

A meeting was held between Council Officers and a representative of Lupton & Place, who explained that the door was sometimes left open during the summer months because of the excessive heat from the furnaces which built up within the building and was a health and safety risk to the employees working in the area.

Several 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

GP1 – Development within the Urban Boundary

**Site History:**

CMP/2007/00066 – Breach of conditions

APP/2005/0838 – Proposed factory extension (c/c)

98/0090 – Construction of storage building (c/c)

97/0628 – Construction of storage building (refused)

94/0622 – Erection of new steel portal framed warehouse extension (c/c)

**Consultation Responses:**

**Environmental Health:**

The premises are a source of complaint from neighbours because of noise, particularly when the doors are left open (as has been the case due to the motorised door malfunctioning). The environmental health team has carried out noise nuisance investigations and found that

closing the door provides a satisfactory sound barrier. No evidence has been provided to the environmental health team of any alternative solutions that the company may have explored to deal with the reported problems of excess heat within the building, eg extraction ducting, heat exchange equipment etc.

There would appear to be no justification to remove this condition which remains necessary to protect nearby residents

**Councillor Linda White:**

Suggests, it may be more appropriate not to open the roller shutter doors before 7am as most residents are up and about and would not be disturbed by the level of noise.

Also in the past noise from radios playing loudly within the building is disturbing residents when the doors are left open. Could the noise be kept to a minimum?

**7 letters of objection received by surrounding residents:**

The following residents oppose this application and have some concerns which have been addressed in writing:-

- A Roller shutter doors facing directly 'our garden'  
Very disruptive, especially during summer
- B As noise is a major nuisance, and as the closing of the doors was one of the conditions designed to reduce this problem, I feel that passing the current application would be another blatant disregard of the needs of the residents of Culshaw Street  
Noise of deep rumbling of the factory's machinery.
- C Suggests, opening times for entering & exiting only 8am-5pm Mon-Fri only. Thus to allow Lupton & Place to continue as a place of work.  
Residents would be able to live in peace & not suffer from noise pollution, causing stress and anxiety.
- D Smell being emitted into the atmosphere from the heating of the metal  
The roller shutter doors are left open more than they are closed at the moment.  
It is discomforting to sit in the garden, have windows open, due to the level of the noise and smell from Lupton & Place.  
If overheating is a problem, more efficient extraction systems need to be installed.
- E Noise levels during the day are considerably high; opening doors at 6am would disturb the sleep of the senior citizens.  
Have no objection to doors being opened between – 8am to 6pm.
- F Strongly against the existing planning conditions being changed, this would increase noise levels, manoeuvrings of forklift trucks with the reverse siren, playing of the loud radio. All this can be heard inside the house and is unbearable, windows & doors need to be shut at all times!  
Revoltng smell and dust/metal fragments in the air have ruined the washing and put the lives of pet fish in the garden at risk  
As it is hot inside the building, Filtered Attenuated Extractors should be installed in order to remove the excess heat.
- G Once doors are open, constant tannoy announcements, noise of the clanging & banging from within the building, noise of constant phone calls, radios being left on loud, noise from vehicles arriving and leaving.

## **Planning and Environmental Considerations:**

### **Policy GP1**

The application site is within the Urban Boundary where development is expected to be located, in line with policy.

### **Does not have a detrimental effect on residential amenity by reason of noise or other nuisance;**

There are clearly existing problems of noise from the factory which cause disturbance to the residents. There is a periodic history of noise / nuisance complaints made to Environmental Health from residents mainly from Culshaw Street, which have been investigated accordingly. Although Environmental Health are not in favour of this application, the applicant has provided justification and reason for the proposal when met on site (17/12/09).

The main reason for opening the doors during the day is, the building gets extremely hot during the summer and becomes a cause for concern for the health and safety of the employees. The applicant has taken the following measures to overcome the problem of heat, noise and to minimise the opening of doors.

- Installed vents across the whole of the roof
- Installed a hood over the furnace to channel the heat towards the roof vents
- Used chillers to reduce heat in summers
- Examined the possibility of installing mechanical extractors, but the cost was considered prohibitive
- Lined the bins that they tip metal into with woodchip to reduce the noise
- Banned radios (although they were allowed to be used again)

After considering the above, the applicant discovered the temperature in the building was far too high and was difficult to work under these conditions especially in summer. During the winter period the doors are mainly kept shut and disruption kept to a minimum. However, during the summer for long periods the doors are kept open allowing natural ventilation and air.

One of the main objections is the opening of the doors at 6am. Some residents would be happy if the doors were opened after 8am and between Monday – Friday. The applicant has compromised and is willing to open the doors only from 8am – 6pm, Monday to Thursday. The factory is closed Saturday - Sunday and is currently closed on Fridays due to the recession. The applicant is also willing to ban any radios/music being played whilst doors are open, in order to keep the noise to a minimum. These measures can be a subject of condition.

There have been other non-material objections (*cars entering & leaving the property, telephone announcements etc*) which are a source of complaint from particular residents only. It must be taken into consideration that this is a factory and some noise nuisance is expected, but to a minimum only which does not cause an unacceptable level of discomfort to the residents. The applicant understands that noise can have a significant effect on the environment and to the quality of life enjoyed by individual and communities, but works hard to mitigate any impact on residents. If matters do get worse, the Council can control noise and pollution under other legislation.

Lupton & Place provides local employment to the people of Burnley and has been operating before some of these residential developments were built nearby. Lupton & Place is considered to be a major employer in Burnley which has very good recognition for its work.

### **Recommendation:**

Although disturbance to residents is an important consideration, this must be balanced against the needs of the company and the health and safety of its employees. Residents living close

to industrial premises must expect a certain degree of noise during the day, but should not have to experience this during evening hours.

It is therefore recommended that the application be approved to allow the door to remain open during daytime hours with an additional condition that loud music is not played whilst the doors are open.

**Conditions:**

1. The roller shutter door facing Culshaw Street shall only open between the hours of 08:00 -18:00 Monday to Friday and remain closed at all other times when not in use for access or egress from the building.
2. There shall be no 'amplified music' during the period the roller shutter doors are kept open.

**Reasons:**

1. In order to protect the amenities of nearby residents, in accordance with Policy GP1 of the Burnley Local Plan, Second Review.
2. To protect nearby residents from possible noise disturbance, in accordance with Policy GP1 of the Burnley Local Plan, Second Review

AA  
21/12/09