

Change of Use from Taxi Office to Hot Food Takeaway

42 Walmersley Road, Bury BL9 6DP

PLANNING, DESIGN AND ACCESS STATEMENT

Introduction

The planning application is for “change of use of ground floor from taxi booking office to hot food takeaway (sui generis) with installation of extraction flue and external staircase at rear”. It is a resubmission of application number 69786 which was refused on 18 September 2023 for 3 reasons. A similar application (number 66359) had been refused for the same reasons on 17 March 2021

I was approached with a view to appealing against the refusal but, having discussed the matter with the applicant and the intended operator of the business, it has been decided that a third planning application should be submitted addressing the reasons for refusal. The second application failed to do this.

The Site and Its Situation

42 Walmersley Road is a brick built mid terraced property fronting a main road. It must originally have been a shop but was used as a hot food takeaway until 2008 when planning permission (number 49354) was granted for the current permitted use, a taxi booking office. It has been empty for approximately 3 years following the licence holder's illness and Covid issues.

At the front there is a 24 hour parking restriction with double yellow lines. A continuous metal railing prevents direct access to the carriageway from the footway. At the rear is a back yard with a right of access to a gate onto the one way Badger Street.

The submitted plan shows the use of other properties on this section of Walmersley Road. There is a public car park on Fox Street, directly opposite the property. Car parking is also possible on surrounding streets, including Badger Street and Peter Street.

Planning Policy

The Officer's Report on the previous application lists relevant Unitary Development Plan policies. The UDP is a historic document adopted in 1997 and its Policies are increasingly irrelevant. However, it is still Bury's Development Plan.

The property is within a designated Local Shopping Centre (Policy S1/4) where "the Council will seek to maintain and enhance local shopping centres and will encourage the provision of a range of shopping facilities required to serve purely local needs". Whether this has been achieved will be challenged below.

UDP Policy S2/6 lists factors to be considered for proposals for hot food takeaways and other food and drink uses.

The National Planning Policy Framework encourages local planning authorities to be positive in their decision making and to use conditions to make proposals acceptable.

Shopping habits have changed in the last quarter of a century since the UDP was adopted and this has been acknowledged by the Government in various initiatives. The Use Classes Order was amended in September 2020. Retail shops were previously a distinct use (Class A1). Retailing is no longer a protected use and the new Class E includes shops and a whole range of other uses. Changes of use can occur as permitted development without the need for a planning application.

Planning permission is still needed for sui generis uses including "a taxi business or business for the hire of motor vehicles" and for "a hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises".

Justification

The proposal needs to be assessed in relation to the issues raised in the Officer's Report on the previous application. Positive aspects include:-

- "Refusing the proposal on the basis of unhealthy food is not sustainable in this case."
- "Views of the proposed flue would be limited and as such would not detrimentally impact on the character of the street scene".
- "The new shopfront would not be out of keeping with the other properties within the centre".
- "The addition of one other premises with evening opening hours is considered not to have a significant effect on amenity in the area".
- There are no adverse comments about the proposed external staircase.
- The Environmental Health Officer has no objection subject to a condition requiring details of the extract system to be submitted.

The previous application was refused for three reasons which will be considered in turn.

Reason 1:-

The application, if approved, would lead to an over-concentration of food and drink uses and reduction in retail uses to the detriment of the function and character of the Walmersley Road/Moorgate Local Centre, contrary to UDP Policies S1/4 Local Shopping Centres, S2/6 Food and Drink, EN1/2 Townscape and Built Design and EN1/7 Throughroutes and Gateways.

Shopping habits have changed since the adoption of the UDP with increased reliance on supermarkets for day to day needs and online shopping for all items. This has been recognised by the Government. The new Use Classes Order no longer prioritises retail uses in Local Shopping Centres, or anywhere else for that matter.

Not counting Link House there are 26 units in the Local Centre. 5 units are trading as hot food takeaways. 7 units are currently vacant, indicating a low level of demand by potential occupiers. 8 units would be within the old A1 Use Class but it is questionable how many can be said to serve purely local needs, probably only the food shop at number 41

The retail “function and character” of the Centre is already lost. It is better to accept that times have changed and to grant planning permission so that the building can be renovated and modernised. This is surely preferable to the building remaining empty and increasingly derelict.

Planning permissions for takeaways have been consistently granted in recent years without fear of “over-concentration”. The most recent application (number 65225) for a takeaway, at number 30-32 (subsequently allowed on appeal) was only refused on highway grounds, not “over-concentration” Why introduce this now as a reason for refusal?

I doubt that the LPA would designate the area as a Local Shopping centre in 2023. Apart from the issues set out above, the focus of the Town Centre has moved closer to Walmersley Road with The Rock Development. There is a full range of shops serving local and other needs less than 5 minutes walk away.

Reason 2:-

The proposed car parking and servicing arrangements for the premises are inadequate and would lead to vehicles parking and carrying out manoeuvres on the adjacent classified road (A56 Walmersley Road) to the detriment of the free flow of traffic and road safety. The proposal is therefore unacceptable and contrary to the NPPF and UDP Policies S2/6, HT2/4 Car Parking and New Development and HT6/2 Vehicular/Pedestrian Conflict.

The reason for refusal is understandable because the previous application did not show the access to the rear yard for service deliveries. It appeared to that any servicing of the unit would have to be from the front. Vehicles can pull up on Badger Street, which is one way, without “detriment to the free flow of traffic”. There will therefore be no need to park or “carry out manoeuvres” on Walmersley Road.

Any use of the property is likely to attract visitors arriving by car. The drivers of taxis/private hire vehicles must have visited regularly to pick up fares, drop off money, take breaks and use the toilet, often late at night. The proposed use as a takeaway is likely to have less of an impact. Parking for customers who arrive by car is available on the public car park and surrounding streets. It is unlikely that anyone would risk a fine for parking on double yellow lines in such a difficult spot. The railings prevent direct access to the shop door. The location of the railings on the edge of the footway prevents the door of any vehicle parked next to the kerb being opened.

These days less and less people actually visit a takeaway and now commonly use home delivery services. Delivery drivers would park on Badger Street and pick up orders from the rear of the unit, not the front.

Reason 3:-

The application and submitted plans contain insufficient information to ensure that adequate accessible refuse facilities will be provided within the curtilage of the site for the additional hot food takeaway use proposed and to accommodate the highly likely increase in waste that will be generated. The proposal is therefore contrary to UDP Policy S2/6 Food and Drink.

Again, the reason for refusal is understandable given the lack of information provided by the applicant's agent. Based on the submitted plans it appeared that bins would have to be brought through the building for collection at the front.

There is a brick built bin store in the rear yard which was used by the previous takeaway. Any refuse would be sorted with rubbish separated from recyclable items i.e. compostable material, clean paper and cardboard, plastic and glass. Coloured bins would be used to be collected by the local authority or a private contractor. There is an area outside the gate where bins can be located on collection day. Waste cooking oil would be taken away by a specialist contractor.

Conclusion

- The proposal is to re-establish a hot food takeaway which was functioning as recently as 2008
- The Planning Officer's Report on the previous application is positive in many respects but recommends three Reasons for Refusal.
- Sufficient information has now been provided to overcome Reason 3 with bin storage in the rear yard and access to a collection point on Badger Street.
- Similarly, the unit will be serviced from the rear.
- Any use of the property will generate traffic. This would definitely be true if the permitted use as a taxi office recommences. Why park on double yellow lines on a main road when there are better alternatives.
- There would not be an over concentration of hot food takeaways to the detriment of the Local Centre's retail function and character because the retail function and character no longer exist.
- There are more vacant units than takeaways. The granting of planning permission would bring one of these vacant properties back into use.