

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 23/02/2022	Ref: 67893/FUL
Registration: 09/12/2021	LDfC: 11/01/2022	Expiry Date: 03/02/2022
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Variation of condition 5 following approval of planning application 66208- Amend existing opening hours (08:00-00:00 Monday to Sunday) to 11:00-01:00 daily

Location: 41 Blackburn Street, Radcliffe, Manchester, M26 1NR

Description

The application relates to a shop which is located in Radcliffe town Centre and within a designated shopping area. The shop is located on the end of a row of other shops and businesses which are in a mix of different uses. Above the shops are either storage, office or potentially residential flats.

Access is at the frontage on the corner of Blackburn Street and Railway Street via a ramp which was installed by previous occupiers/owners. At the rear is a car park and servicing area.

Planning permission was granted in February 2021 for the change of use to a hot food takeaway with a condition for opening hours of 8am to midnight daily.

This application seeks consent to vary the opening hours from 11am to 1am daily.

Relevant Planning History

55546 - 2 No. internally illuminated fascia signs; 2 No. internally illuminated projecting signs
- Approve with Conditions 11/09/2012
66208 - Change of use from financial services (Class E) to hot food takeaway (Sui Generis)
- Approve with Conditions 11/02/2021

Publicity

Letters sent on 20/12/21 to 28 properties on Blackburn Street, Railway Street, Green Street, West Street
No responses received.

Statutory/Non-Statutory Consultations

Environmental Health - Pollution Control - No comments to make

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
S1/2	Shopping in Other Town Centres
S2/3	Secondary Shopping Areas and Frontages
S2/6	Food and Drink
H5/1	Area Improvement

Area Blackburn Street/Dale Street/Church Street West
RD1

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Considerations

The proposed use has been accepted in principle by grant of consent reference 66208. The main issue is the impact on the amenity of adjacent occupiers as a result of the proposed increase in hours.

Impact on the surrounding area - The premises is located within a town centre and the

end of a row of shops within a main shopping street. The extension to the opening hours could generate more activity later at night. However, it would be expected that some shops/business/commercial premises within a shopping centre would be open at later times of the day to offer a variety of services or facilities for those living or visiting the centre at night.

Given the town centre position and character and setting of the commercial street, and that the increase in daily hours would only be for 1 additional hour, it is considered that hours of 11am to 1am would be acceptable in this particular location.

It is therefore considered that given the commercial character of the area the proposed use is considered acceptable and would comply with EC4/1 and S2/6.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 This decision relates to drawings - This decision relates to drawings Site - location and block plan GSS20075 dwg no. 001 rev 1; existing and proposed plans GSS20075 dwg 002 rev 2 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 2 The bin storage facilities indicated on previously approved plan reference GSS20075 001 shall subsequently be maintained available for use at all times.
Reason. To ensure adequate off-highway bin storage facilities are provided within the curtilage of the site, in the interests of road safety pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and Built Design and S2/6 - Food and Drink.
- 3 The communal car parking area indicated on approved plan reference GSS20075 001 rev 1 shall be maintained at all times.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 4 The use hereby permitted shall not be open to customers outside the following times: 11.00am to 1am daily.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S2/3 – Secondary Shopping Areas and Frontages and S2/6 – Food and Drink of the Bury Unitary Development Plan.

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<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT 23/2/22			