

Application No: 2009/439

Application Type: Condition Variation

Proposal: Variation of Condition 4 of
Planning Permission 2008/779
relating to hours of business

Location: The Fudge Factory,
Spring Place, Whitworth

Report of: Planning Unit Manager

Status: For Publication

Report to: Development Control
Committee

Date: 14 December 2009

Applicant: Mr L Edwards

Determination Expiry Date:
7 January 2010

Agent:

REASON FOR REPORTING

Tick Box

**Outside Officer Scheme of Delegation
Member Call-In**

More than 3 objections received

Major Application

X

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

BACKGROUND

At its meeting on 20 January 2009 Committee considered Application 2008/779, which sought retrospective permission for use of industrial premises formerly occupied by

Coates Engineering as The Fudge Factory; a copy of the Officer Report is appended. The application was recommended by Officers for approval and was approved by Committee subject to a number of Conditions. Condition 4 was amended by Committee to read as follows :

The premises shall not be open other than between the hours of 0800 to 1800 hours on weekdays and Saturdays and 1000 to 1700 hours on Sundays and Bank Holidays.

Reason :

To accord with the submitted details and to protect the amenities of neighbours, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

Proposal

Permission is now sought to vary Condition 4 in a manner that would enable the premises to operate 7 days per week between the hours of 9 am and midnight. The submitted Application Form indicates that this would bring the Planning Permission in-line with their Premises Licence.

Comments Received

LCC (Highways)

Awaited

Whitworth Town Council

Support

Neighbours

The occupier of commercial premises nearby has written in support, indicating that *".....the longer hours will give the business better flexibility on the retail side. And it can only benefit Whitworth as a whole by creating extra jobs and bringing visitors and money into the Town"*.

ASSESSMENT

The current application does not seek to vary the range of uses that may take place within the premises permitted by Planning Permission 2008/779, nor the space available to the different uses set out in Condition 3.

In dealing with that application Officers/Committee had concerns about how the proposal would impact upon the amenities of residential neighbours if hours of operation were not limited, most particularly if evening use generated a need for parking that could not be accommodated within the site. The Highway Authority also had concerns about the consequences for highway safety/free-flow of traffic on the highway if the use generated a need for parking that could not be accommodated within the site.

Previous use of the building for manufacturing was not subject to a restriction on hours of working. Nor is fudge manufacture itself likely to generate a need for parking that cannot be accommodated on the site. Being mindful also that there are no residential

properties immediately adjacent to the premises I do not consider there is reason to refuse permission for the variation of hours sought in respect of manufacturing, nor to reps for companies that may wish to place wholesale orders having access to the premises to see production taking place.

However, I continue to have concerns about how the extended hours will impact upon the amenities of neighbours if the site cannot adequately accommodate the vehicles it attracts and there is parking in residential streets in the late evening. I would not wish to constrain development of the business unnecessarily if this is not going to be a problem. Accordingly, I recommend that permission be granted for a trial period for use of the premises by visiting members of the public to midnight on a limited number of days of the week.

Recommendation

That Condition 4 of Planning Permission be varied to read as follows :

The premises may open for the full range of uses permitted by Planning Permission 2008/779 between the hours of 0800 and 1800 hours on any day.

Additionally the premises may be open up 2400 hours on any day for the purposes of manufacturing, this not to preclude reps for companies that may wish to place wholesale orders having access to the premises to see production taking place.

Additionally the premises may be open up 2400 hours on any Thursday/Friday/Saturday/Sunday/Bank Holiday for the full range of uses permitted by Planning Permission 2008/779 until 4 January 2011. A written record shall be maintained at the site on any day when this provision is exercised, a record to be taken of the nature of the event, the number of staff and visitors on the premises at the busiest time and the time the last visitor departed. A copy of this record shall be forwarded to the Council on a quarterly basis.

Reason :

To enable the Council to monitor the site and to protect the amenities of neighbours, in accordance with the Policy DC1 of the Rossendale District Local Plan.

Contact Officer	
Name	Neil Birtles
Position	Principal Planning Officer
Service / Team	Development Control
Telephone	01706-238645
Email address	planning@rossendalebc.gov.uk