

Application Number:	2012/324	Application Type:	Full Application
Proposal:	Variation of Condition 6 of Permission 2011/453 to extend the opening hours of the permitted tea rooms with ancillary shop	Location:	Bridge End House, Bacup Road, Waterfoot
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	28 August 2012
Applicant:	Ms T Harrison	Determination Expiry Date:	15 September 2012
Agent:	Hartley Planning & Development Associates		

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REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input type="checkbox"/>
Member Call-In Name of Member: Reason for Call-In:	<input type="checkbox"/>
3 or more objections received	<input type="checkbox"/>
Other (please state):	Council owned land

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.

1. RECOMMENDATION

That the application be approved subject to the condition set out in Section 10.

2. APPLICATION SITE

The application relates to a large detached stone-built property, with extensive grounds, which is situated just to the east of the Primary Shopping Area of Waterfoot, as identified in the Council's Core Strategy. Owned by the Council, and previously used for offices and a library, it has been converted to a tea room and associated shop following the grant of Planning Permission 2011/453.

The building faces towards Bacup Road, but is set well back from the main road, behind a row of mature cherry trees. To the east side of the building is a car park accessed via Millar Barn Lane, a narrow road serving a number of properties.

To the west side of the application site is a public car park, with mature beech trees on the boundary. To the east side is a residential property and, to the opposite side of Millar Barn Lane, other residential properties and a public car park. To the rear are largely commercial premises.

The site is within the Urban Boundary as designated within Policy 1 of the adopted Core Strategy DPD (2011).

3. RELEVANT PLANNING HISTORY

2011/453 Change of use from Library and Council Offices to tea rooms and associated shop and installation of external grilles

Permission granted by Committee in November 2011 subject to conditions.

RBC (Environmental Health) raised no objection to the proposal. However, it advised that the ventilation system proposed for the kitchens was considered appropriate to a day-time use but had not been demonstrated to be adequate to avoid noise disturbance for nearby residents at other times. Accordingly, it recommended a condition to restrict the operating hours of the premises.

Rather than demonstrate the adequacy of the ventilation system proposed, or amend it to address this concern about noise, the Agent requested that the hours condition permit use of the premises between 07:00-19:30, to which the Environmental Health Section had no objection.

Accordingly, Condition 6 of the Permission reads as follows :

The premises shall not be used for the use hereby permitted except between the hours of 07:00 am and 07:30 pm Monday to Sunday.

Reason : To safeguard the amenities residential neighbours could reasonably expect to enjoy, in accordance with Policies 1 & 24 of the RBC Core Strategy.

4. THE PROPOSAL

The applicant now seeks to vary Condition 6 to extend the opening hours to between 07.00 and 23.30 Monday to Saturday and on Bank Holidays and 07.00 to 18.00 on Sundays.

5. POLICY CONTEXT

National

National Planning Policy Framework (2012)

Section 1 Building a strong, competitive economy

Section 2 Ensuring the vitality of town centres

Section 4 Promoting Sustainable Transport

Section 8 Promoting Healthy Communities

Development Plan

Regional Spatial Strategy for the North West of England (2008)

DP1-9	Spatial Principles
RDF1	Spatial Priorities
RT2	Managing Travel Demand
RT4	Management of the Highway Network
EM1	Environmental Assets

RBC Adopted Core Strategy DPD (2011)

AVP3	Waterfoot, Lumb, Cowpe and Water
Policy 1	General Development Locations and Principals
Policy 8	Transport
Policy 9	Accessibility
Policy 10	Provision for Employment
Policy 13	Protecting Key Local Retail
Policy 24	Planning Application Requirements

Other Material Considerations

RBC Hot Food Takeaway Policy (2011)

6. CONSULTATION RESPONSES

RBC (Environmental Health)

It has not received any noise complaints and has no objection in principle to the proposed extension of opening hours. It remains the case that the applicant has not demonstrated that the ventilation system serving the kitchen will avoid noise disturbance for nearby residents if operated outside its presently authorised hours. However, it has no doubt that if the existing system is not adequate in this respect, this matter could be remedied.

Accordingly, has no objection to the extension of hours sought, but recommends a condition to ensure that the Applicant first demonstrate that the existing ventilation system serving the kitchen will avoid noise disturbance for nearby residents if operating at the extended hours or is first made so.

7. REPRESENTATIONS

To accord with the General Development Procedure Order one site notice was posted on 18/07/2012, and 28 neighbours were consulted by letter on the 12/07/12 without response.

8. ASSESSMENT

The main considerations of the application are : 1) Principle; 2) Neighbour Amenity; & 3) Access/Parking.

Principle

The application relates to an existing use of premises immediately adjacent to the Primary Shopping Area of Waterfoot and fronting a main road. Accordingly, the scheme is considered acceptable in principle.

Visual Amenity

As this application is for a variation of an hours condition, there will be no material external alterations as a result of the proposal.

Neighbour Amenity

The Councils' SPD on Hot Food Takeaways is relevant in this case as it recognises that similar issues are raised for cafe and restaurant uses. In that regard Policy HFTA7 states :

“the hours of opening a hot food takeaway within 30 metres of a residential property will normally be restricted to the hours of 08.00 – 22.00 Monday to Saturday with one hour at the start of the day to prepare food and one hour at the end of the day to pack up and tidy away. Opening on Sunday and Bank Holidays will not normally be permitted.

When alternative hours of opening are sought, or where the hot food takeaway would not be situated within 30m of a residential property, regard will be had to the following when considering what hours of opening are appropriate:

- *The existence of an established late night economy in the area*
- *The character and function of the immediate area and*
- *The potential benefits of the proposal for the wider community*
- *Residential amenity of occupiers of adjoining property”*

I concur with the view of the Environmental Health Section that an increase in footfall/visitor numbers to the site within the hours now being sought would not give rise to adverse neighbour amenity as the building is located at the edge of Waterfoot town centre, with its various businesses and opening hours, and the adjacent road results in additional noise and disturbance.

The Council's Environmental Health Section objected to later opening hours previously as the Applicant had not demonstrated that the ventilation system serving the kitchen will avoid noise disturbance for nearby residents if operated outside its presently authorised hours. due to flue not being adequate for night time use. As this remains the case, it recommends a condition to ensure that before operating outside its presently authorised hours the Applicant first demonstrate that the existing ventilation system serving the kitchen will avoid noise disturbance for nearby residents or is first made adequate.

Access/Parking

There are two nearby public car parks and accessibility of Waterfoot town centre is good. The scheme is considered acceptable in terms of access/parking.

9. SUMMARY OF REASONS FOR APPROVAL

Subject to the conditions, the extension of opening hours proposed for the tea rooms and associated shop will not detract to an unacceptable extent from neighbour amenity or highway safety. The scheme is therefore considered to accord with Policies 1,8,9,10,13 24 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

That Condition 6 of Planning Permission 2011/453 be varied to reads as follows :

- a) The premises shall not be used for the use hereby permitted except between the hours of 07.00 and 23.30, Monday to Saturday and on Bank Holidays and 07.00 to 18.00 on Sundays.”
- b) Prior to first use of the premises in accordance with the extended hours hereby permitted a scheme detailing the proposed extractor fans/ducting, cowl, filters, anti-

vibration mountings, acoustic levels serving the kitchen shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to operation of the premises outside of the hours permitted by planning permission 2011/453 and the system thereafter retained in good working order.

Reason: To safeguard the amenities of neighbours, in accordance with Policy 24 of the Core Strategy DPD 2011.