

Application Number: 11/16/0333

Full Application: Change of use from A3 (Restaurant) to A3 and A5 (Hot Food Take-Away).

Address: Units 23-25 Arndale Centre, Union Street, Accrington.

Determination by: 17 October 2016

Applicant: CPL Food Ltd

Agent: Mr A Britsch

Application Site

The application site comprises units 23-25 Cornhill Arcade, located within the primary retail area of Accrington Town Centre. The site area is approximately 1,000 square metres and the existing food court has the capacity for approximately 120 covers.

Proposal

Planning permission is sought for a change of use of the site from A3 (Restaurant) to A3 (Restaurant) and A5 (Hot Food Take-Away). No external works are proposed as part of this application. A separate application has been received in relation to advertisement consent.

This application is before the Planning Committee as it would represent a significant departure from the Council's Development Plan.

Consultations

Site notice: 2 affixed.

Neighbours: Letter sent to unit 21, no comments received

LCC Highways:

There is an existing use for the preparation and sale of food at the above location. It is also a town centre location with a number of parking sites and good links to the public transport network within the vicinity. The proposal raises no highway concerns and I would therefore raise no objection to the proposal on highway safety grounds.

Environmental Health:

Development/Construction phase

Deliveries to and from the site should be restricted to between 0800 and 1800hrs Monday to Friday and 1300hrs on Saturdays. Deliveries should not take place on Sundays and bank holidays. Works should be restricted to between 0800 and 1800hrs Monday to Friday and 1300 on Saturdays. Works should not take place on Sundays and bank holidays. All works should be undertaken in accordance with BS5228:2009.

Reason- to ensure that site working only takes place during normal working hours in order to restrict the times during which any disturbance and nuisance may arise.

Development/construction phase

Effect of Noise/dust /fumes on neighbouring premises during the building works.

Measures should be in place to prevent nuisance being caused to residents /occupants from noise, dust and or fumes arising from the building works.

There should not be any burning of construction waste on site, appropriate provisions should be made for its disposal.

Reason- to protect the amenities of existing occupiers at nearby premises from nuisance sources associated with the building site.

Odour and noise

A scheme for the control of cooking odours and fan noise from the premises shall be submitted in writing to and agreed in writing by the Local Planning Authority.

Before the use hereby approved is commenced, the agreed scheme shall be implemented and thereafter retained.

Reason: to prevent dis- amenity to occupiers of neighbouring premises from cooking odours and/or extraction system noise.

Relevant Planning History

13/0433: Discharge of conditions no 3 and 4 of 11/13/0292. A/c 27.11.13

13/0415: Advert: display of 3 no fascia signs and 1 no hanging sign. A/c 19.12.2013

13/0292: Change of use from A1 to A3 and elevational changes. A/c 11.10.2013

Relevant Policies

Development Plan

Hyndburn Borough Local Plan Saved Policies

- Policy E.10 Development Criteria
- Policy R.6 Hot food Take-away

Hyndburn Core Strategy

- Policy Env4 Sustainable Development and Climate Change
- Policy Env6 High Quality Design
- Policy Env7 Environmental Amenity

Accrington Area Action Plan

- A2 Accrington Town Centre
- ATC2 Shopping frontages and the use of floors above shops

National Planning Policy Framework

- Paragraph 17 Core planning principles
- Section 7 Requiring good design

Other material considerations

- Planning Practice Guidance (PPG)

Observations

The key issues for consideration in this application are the principle of the change of use, its impact on amenity and highways matters.

Principle of development

Policy ATC 2 of the adopted Accrington Area Action Plan states,

'In order to protect and strengthen the retail offer in the town centre the Council will control the use of ground floor premises in shopping streets through the exercise of its planning powers to safeguard and enhance the vitality and viability of the town centre'. It goes on to state, 'A5 (Hot food take-aways) uses will not be permitted in the primary shopping area'.

Policy A2 of the adopted Core Strategy states: *'new comparison and convenience (including food) retailing will be focussed in Accrington Town Centre'*

Whilst the policy does not state where food offer should specifically go, this statement would support the proposed application. NPPF para 23 also states *'where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity'*

Accrington Town Centre does have an up to date *'town centre health check'* contained within the Hyndburn Retail Study (June 2016). The study identified that the town centre is struggling on a number of indicators of vitality and viability, vacancy rate is significantly higher than the UK national average and the proportion of comparison retail outlets is also well below the national average. Additionally, the study also notes that the important food and drink sector is significantly under-represented.

This site whilst not vacant has seen 3 of the 4 food offering stalls within the food court (A3) close since its approval in 2013.

The primary retail frontage of the site would remain A3 (Restaurant) with the addition of an A5 (Hot Food-take-away) which would allow for deliveries within the local area. The new unit forms part of the existing food court, customer access is available to the existing dining area for those wanting to eat in.

It is clear that retail activity in general has been suffering within the town centre and especially within the Arndale and there is the potential for this application to give rise to creating an undesirable precedent for similar A5 uses within the primary retail area.

However there is supporting policies within the AAP and the NPPF which seek to establish a vibrant and successful town centre. It would be anticipated that a mixed A3/A5 use in this location would create further footfall within the town centre and to take up vacant space in the food court. The development of the bus station in proximity to the Arndale would also lend support for the addition of an additional food offering in this location.

For these reasons it is therefore recommended that this application should be supported.

Impact on amenity

Policy Env7 of the Hyndburn Core Strategy states that proposals for new development will only be permitted if it does not result in unacceptable adverse impacts through (amongst other things), noise, odour, traffic or other nuisances. Additionally, Saved policy R6 of the Local Plan requires applications for hot food takeaways to be determined taking into consideration effects on amenity of local residents and on the character of the area through noise, disturbance, traffic and parking, smell and litter

The Environmental Health Officer raises no objection to the application subject to conditions on times of construction/demolition and the submission of a scheme for the control of odour and noise being submitted to and agreed in writing by local planning authority prior to the commencement of the development.

However, Planning Officers have noted that no external physical works are proposed as part of the application and the existing use of the unit is for convenience food. As such, no conditions are recommended in relation to physical works or a scheme for the control of odour and extraction noise.

Policy Env 7 of the Hyndburn Core Strategy states development which cannot demonstrate it will not give rise to unacceptable adverse impacts of loss of local amenity should not be approved. In this instance, the application is considered to comply with Policies E10 and R.6 of the Hyndburn Borough Local Plan, Policy Env 7 of the Hyndburn Core Strategy and the NPPF.

Highways

Lancashire County Council Highways has been consulted and offer no objection to the application. The engineer noted the following:

'There is an existing use for the preparation and sale of food at the above location. It is also a town centre location with a number of parking sites and good links to the public transport network within the vicinity. The proposal raises no highway concerns and I would therefore raise no objection to the proposal on highway safety grounds.'

Given the above, the application is considered to be acceptable in terms of its impact on the adopted highways.

Recommendation

That planning permission be granted subject to the following conditions:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents:

- (a) The planning application forms and additional information received by Hyndburn Borough Council on 22nd August 2016
- (b) Submitted drawing No's A3/01, A3/02, A3/100P, received by Hyndburn Borough Council on 22nd August 2016

Reason: for the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policies Env6 & Env7 of the Hyndburn Core Strategy.

Informatives

1. 13a
2. 14
3. 15
4. 16
5. 17
6. Env Health