

**Application Recommended for Refusal**  
Ward

**APP/2016/0537**

Full Planning Application

Proposed change of use from financial and professional services (Use Class A2) to data controlled administrative booking office for private hire vehicles (Use Class Sui Generis) (re-submission of APP/2016/0356).

137 ST JAMESS STREET BURNLEY

**Background:**

This application has been brought to the Committee under the Call-In Procedure.

The property is situated in the Lower St James's Street area of Burnley Town Centre, within the Burnley Town Centre Conservation Area.

The former shop unit, vacant for many years, was (under the terms of planning permission granted in 2010) subdivided it into two units. The larger unit was to be used as a café/take-away; the other as a quite small general shop falling within Use Class A1 of the Town & Country Planning (Use Classes) Order 1987. The café was to be a daytime use and a condition was attached accordingly.

This application relates to the small shop unit resulting from the conversion.



Application site

**Relevant Policies:**

Burnley Local Plan Second Review

BTC2 - Secondary shopping areas in Burnley Town Centre

TM14 - Taxis and taxi booking offices

E12 - Development in or adjacent to Conservation Areas

National Planning Policy Framework (NPPF)

### **Site History:**

1980/0554: New shop front to restaurant – Granted

1983/0498: Use as a Victorian Coffee Shop and Restaurant – Granted

1987/0010: Change of use from clothing retailers to training centre for Burnley Centre for the Unemployed – Deemed Permission (Reg 4)

1987/0945 – Change of use from training centre to Cantonese restaurant – Granted

1988/0279: Alterations to frontage – Granted

1999/0119 – Alterations to elevations including new shop front – Granted

APP/2001/0236 – Renovation and repairs to shop and offices – Granted

APP/2010/0226 – Proposed change of use from shop to café/take-away and shop, with new shop front, roller shutters and ventilation duct to rear – Granted

APP/2013/0380 – Discharge of conditions 1, 3 & 5 on APP/2010/0226 relating to start of development, details of ventilation and noise insulation – Granted

APP/2015/0036: Proposed change of use from A1 (shop) to private hire booking office, operating 4no. vehicles, 24 hours a day, seven days a week with associated parking for 4 no. vehicles at Cow Lane car park. Creation of one ground floor flat to the rear of the premises – Refused

APP/2015/0217: Change of use of part of premises to private hire booking office operating 4 vehicles 24 hours a day 7 days a week with associated parking on Cow Lane Car Park. Also creation of flat to rear of premises (re-submission of APP/2015/0036) – Refused

APP/2016/0356: Proposed change of use from financial & professional services (A2) to private hire booking office (sui generis) – Refused

### **Consultation Responses:**

Highway Authority – Recommend that the application be refused as the indicated parking (on a furniture shop car park) is over 150m from the proposed offices and would not be sufficiently convenient for use by drivers and customers. Also there would be a reduction in parking arrangements for the furniture business.

*[Comment – There is doubt, in any event, that the applicant could make the indicated car parking available in connection with the use, and this is considered to be a reason for refusal of the application].*

Town Centre Manager – Objections summarised as follows:

- Already a significant number of taxi firms on Lower St James/s Street.
- The proposal would create an unattractive and dead frontage.
- The proposed car parking is over the 50m distance specified in the development plan policy and the likely result would be on-street taxi parking.
- The reasons for refusal of previous applications APP/2015/0217 and APP/2016/0356 still apply.

Neighbouring Business Occupiers – Objection from two shop/business occupiers on the following grounds (summarised):

- Planning policy is to redress the imbalance of retail/non-retail uses by restricting non-retail uses.
- The proposal has been refused twice previously.

Owner of car park space proposed in application – Letter stating that the applicant does not have permission to use the car park.

## **Planning and Environmental Considerations:**

The application relates to a ground floor unit in a 3-storey building at the end of a terrace of similar buildings fronting St James's Street, the main spine street of Burnley Town Centre. The buildings date from the mid-C19th. Adjoining the site is a more recent building in mixed use, comprising shop units on the ground floor, with residential apartments at first floor level.

### *Present use*

The planning history shows that the original property has, over the years, been put to a range of town centre uses. It has now been vacant for several years.

In 2010 planning permission was granted for 'change of use from shop to café/take-away and shop, with new shop front, roller shutters and ventilation duct to rear' The application related to the ground floor. The café was to be a daytime use and a condition was attached accordingly. It would occupy the majority of the floor space, extending through to the back of the building which fronts Gas Street. The shop unit, to which the present application relates, occupies one small, narrow room.

That application showed two, narrow, side by side units fronting the street behind a new combined shop front, split to provide a separate entrance door to each unit. Internally, a stairway to the basement was shown as being closed with a trap-door; and, there was no indication of stairs to the upper floors, either existing, or proposed.

The shop front has been installed, which for planning purposes constitutes a start of the development and on that basis the permission for the change of use to the separate café and the smaller shop has been implemented, albeit both units have remained vacant.

The present application relates to just the small shop unit which is described as 'financial and professional services (A2)', although from inspection of the premises no such use is apparent, the property being vacant.

### *Policies and Assessment*

The main planning issue is the acceptability of the proposed uses within this part of the town centre.

Although the property is within the Burnley Town Centre Conservation Area there is no impact on the character of the conservation area as no external alterations are proposed in this application, a new shop front having already been installed under a previous planning permission. On that basis, the proposal would not cause any harm to the conservation area, and no conflict with **Policy E12**.

**Policy BTC2** states that, in secondary shopping areas, the Council will permit development for A1 retail units and that other uses will be permitted in the following circumstances:

- a) The proposal would not lead to an unattractive and dead shopping frontage, and more than 15% of any frontage in non-A1 uses; and
- b) The proposal would retain a shop type frontage; OR
- c) Would not lead to the loss of ground floor retail floorspace and would bring back into use upper floors; OR
- d) Is for change of use of existing non-retail premises.

The aim of this policy is to protect and, where possible, enhance the role of this street as a retail area.

The present Local Plan was adopted in 2006, however, and events have now overtaken BTC2. The downturn in the UK and World economy has led to deterioration in the vitality of many highstreets. And, attempts to address this have resulted in legislative changes.

Relevant here is the introduction of a permitted development right to change between A1 and A2 uses, and vice versa (2015 General Development Order, as amended). This means that BTC2 has no effect in restricting A2 uses.

However, A2 uses, whilst not retail, as such, nevertheless are uses that complement a shopping area, as they are defined as providing services principally to visiting members of the public. A taxi booking office is not of the same character. Where it simply takes telephone bookings it would not add to shopping street footfall; where it takes personal bookings it would add undue traffic to the shopping street.

The **NPPF** (paragraphs 17 and 23) says that planning authorities should support the viability and vitality of town centres and take account of market signals.

The proposed use would be likely to cause significant harm to the already weakened shopping frontage and is recommended for refusal on that basis.

**Policy TM15** sets out the criteria for the assessment of taxi booking offices. These are:

- Should be located in a secondary shopping area in the town centre (or a District or Local Centre);
- Should have one parking space per private hire vehicle;
- Parking spaces should be on site or within 50m of the office;
- Must not have a detrimental effect on the area in terms of traffic movements, noise, fumes or other nuisance;
- Must not create an unacceptable concentration of taxi businesses within the secondary shopping street.

The application indicates that car parking space would be provided for the use. However, this is around 150m distant from the application site which would fail to comply with the parking requirement of TM16. Additionally, a representation from the car park owners (on whom the applicant has served an Article 14 Notice to Owner) states that the car park not available. In any event, the car park is fully utilised in connection with other town centre uses.

The inadequacy of provision made for car parking is likely lead to additional street parking to the detriment of the amenities of the shopping street.

### *Conclusion*

There is physical evidence of recent improvement to the nearby premises, bringing premises into retail use and making fuller use of upper floors. This includes the adjoining mixed-use building (shop units with residential above), recently converted from a drinking establishment/night club.

The application site has been vacant for a number of years, and bringing it back into an appropriate use would be of benefit to the economic and social well-being of the area. However, the property is capable of retail or other beneficial use, including use of its upper floors. Such uses are fully supported by the development plan; however, this proposal is not.

The introduction of the taxi office use would be harmful to the vitality and viability of this part of the town centre and the recommendation is made on that basis.

### **Recommendation:**

That the application be refused for the following reasons:

### **Reasons**

1. The site lies within a secondary shopping street where local and national policies aim to protect and, where possible, enhance the role of the street as a retail area. The proposal for the private hire booking office use would detract from the appearance of the street by creating an unattractive and dead shopping frontage, and would increase the over-concentration of non-retail uses in this part of the street. The benefit of bringing the unit back into use for the purpose proposed would not out-weigh the harm likely to be caused to the shopping street. The proposal would therefore be contrary to policy BTC2 of the Burnley Local Plan, Second Review, and to the National Planning Policy Framework.
2. The proposed development fails to provide conveniently located car parking in connection with the use which would be likely to result in private hire vehicles waiting on the highway to the detriment of the amenity of the shopping street and highway safety. The proposal would therefore be contrary to policy TM14 of the Burnley Local Plan, Second Review, and to the National Planning Policy Framework.