

CARLISLE CITY COUNCIL

Report to:- **Development Control Committee**

Date of Meeting:- 14th December 2001

Agenda Item No:-

A2

Public	Information	Delegated: Yes
---------------	--------------------	-----------------------

Accompanying Comments and Statements

	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
City Treasurers Comments:	No	No
City Solicitor & Secretary Comments:	No	No
Head of Personnel Services Comments:	No	No

Title:- **HOT FOOD TAKEAWAY ESTABLISHMENTS,
BOTCHERGATE, CARLISLE**

Report of:- **Director of Environment and Development**

Report reference:- **EN.171/01**

Summary:-

The Report details three planning applications which have been submitted for determination by this Council. Consent is sought to extend the opening hours currently requiring closure at 0130 hours to allow trading until 0300 hours.

Recommendation:-

That Members note and accept the contents of this Report and agree to await the determination of these at a future meeting of this Committee.

M Battersby
Director Environment and Development

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

1.0 Introduction

- 1.1 This Report relates to three premises on Botchergate which currently operate as hot food takeaway establishments. These are namely number 18, 24 and 26 Botchergate which trade as Pizza Time, The Crusty Cobbler and Indian Spice respectively.

2.0 Present Position

- 2.1 When planning permission was originally granted for these businesses to operate, conditions were attached to the planning consent restricting the trading hours to no later than 0130 hours, although some were conditioned to close slightly earlier. This was in accordance with the Policy of the Carlisle Urban Area Local Plan, adopted in 1992, which was carried forward and embodied into Policy S15 (Food and Drink) of the adopted Carlisle District Local Plan. This Policy states:

“Within the Plan area, proposals for uses within Use Class A3 (food and drink, including restaurants, public houses, wine bars and take aways) will be approved provided that:

- 1. the proposal does not involve disturbance to occupiers of residential property; and***
- 2. the proposal does not involve unacceptable intrusion into open countryside; and***
- 3. the proposal, whether new development or conversion complements surrounding development or the character of the existing building; and;***
- 4. appropriate access and parking can be provided; and***
- 5. within the City Centre Shopping Area opening hours are restricted to no later than 01.30 am. Here and elsewhere in the Plan area opening hours will be imposed having regard to the surrounding uses, the character of the area and the possibility of disturbance to residential areas.”***

- 2.2 These businesses have been trading later than the condition of the planning permission permits and following a number of complaints, the Council's Enforcement Officer drew attention to the fact that the conditions were being breached. The proprietors subsequently submitted individual planning applications to formally vary the condition to allow trading until 0300 hours.
- 2.3 The proprietor of a fourth hot food take away at number 97 Botchergate, trading as Pizza Italia, has also submitted a planning application to extend the opening hours. This matter is formally presented to Members elsewhere in this schedule, under application reference 01/0986. The issues surrounding this application are significantly different which allow a recommendation to be made at this meeting. The site is located in an area of Botchergate which is close to a number of residential properties. The extended opening hours would result in a detrimental effect on the occupier of the residential properties, an issue which was identified by a Planning Inspector in an appeal decision in 1997.
- 2.4 Prior to the remaining planning applications being considered, further consultation is required with the relevant agencies involved before a formal recommendation can be made to Members. With the proposed redevelopment schemes already underway in Botchergate, and the changes being implemented within the Licensing legislation, a joint and definitive response is being sought with advice from the City Solicitor, Cumbria Constabulary, Environmental Health Officers, Licensing Officers, and Planning Officers.
- 3.0 **Recommendation**
- 3.1 It is recommended that Members note the contents of this Report and agree that further consultation be undertaken with prior to a formal report being presented to Members for determination.

Mike Battersby
Director of Environment & Development

Contact Officer: Richard Maunsell

Ext: 7176