

DELEGATED REPORT

Report by Tom Beirne	Date of report: 16/12/2021	Ref: 67595/FUL
Registration: 02/11/2021	LDFC: 29/11/2021	Expiry Date: 28/12/2021
Site Visit: 08/12/2021	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Single storey side extension to provide additional seating to restaurant; Changes to front elevation door and window

Location: 433 Bury New Road, Prestwich, Manchester, M25 1AF

Description

The proposal relates to a vacant commercial two storey end terraced property within Prestwich Town Centre. Rendered to front and side and brick at rear. A large flue has been installed on the rear elevation (without planning permission). To the side is Albion Place which allows access to the rear and currently is untidy and appears to be fly-tipped. The attached property is a nail salon and the property across Albion Place is a taxi booking office. To the rear are flats at Sherbourne Court.

The applicant intends to convert the premises to a cafe under the recent 'permitted development' Class E regulations. The proposal is to replace the existing shopfront and add a plastic clad seating area with a corrugated roof to the side of the building, extending 3/4 of the width of Albion Place. It would be set back from the back of the footway and extend out 3.2m, running back beyond the rear elevation. A narrow pedestrian footway approx 1m wide would be left for access to the rear yard areas. A small flue appears on the proposed rear elevation but this is not included in any other drawings and does not represent what has been erected currently.

Relevant Planning History

21/0401 - Installation of extraction flue - ongoing.

Publicity

Immediate neighbours notified by letter dated 05/11/2021. One objection from the occupier of 55 Sherbourne Court.

Statutory/Non-Statutory Consultations

Traffic Section - The Traffic Team has recommended refusal - see issues below. Due to the siting of the additional eating area, a road closure order may need to be applied for with regard to Albion Place.

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN1/7	Throughroutes and Gateways
S1/2	Shopping in Other Town Centres
S2/3	Secondary Shopping Areas and Frontages
S2/6	Food and Drink
EN7/2	Noise Pollution
EN7/1	Atmospheric Pollution

NPPF National Planning Policy Framework
SPD16 Design and Layout of New Development in Bury

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Use - The use of the existing property is not an issue given that the shop could be changed to a cafe under the current permitted development/ change of use regulations.

Visual amenity - The proposed alterations to the shopfront, whilst not particularly detailed, would be considered generally acceptable within what is a mixed commercial frontage along this part of Bury New Road. The proposed single storey extension, clad in plastic with

a corrugated roof (material unknown), would not be in keeping with the existing building and would be very incongruous within the streetscape despite being set back from the frontage. Poor design and finishing details. The proposal would be unacceptable and contrary to the NPPF and UDP Policy EN1/2 Townscape and Built Design and guidance within SPD16 - Design and Layout of New Development in Bury.

Residential Amenity - The proposed additional seating area is relatively small in scale and would not raise particular concerns with regard to noise and disturbance given that the structure could be insulated appropriately. The large flue on the rear may raise residential amenity issues with regard to the flats at the rear although no information has been submitted with the application to date.

Highways - To accommodate the extension, Albion Place would need to be closed off as a highway. It is questioned whether the applicant has control of Albion Place to do this. In addition the proposal would restrict access to and from bin area at the rear. In addition, the space remaining to the front of the extension on Albion Place may encourage parking in this area to the detriment of highway safety. In terms of highway safety the proposal is unacceptable and would be contrary to UDP Policies listed.

Refuse - The narrow pedestrian footway access created by the proposal would be relatively narrow and would not be appropriate in terms of bring the bins from the rear yard area to collection. This would most likely mean that bins would have to be stored on the frontage.

Objection - The concerns from the resident of Sherbourne Court at the rear, where relevant, have been addressed in the above report and are reflected in the reasons for refusal.

Enforcement - In addition to the refusal of permission, it is suggested that enforcement take the necessary action with regard to the existing flue which has recently been erected on the rear elevation.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The design and finish of the proposed extension is poor and completely out of keeping with the existing property and would therefore be seriously detrimental to the visual amenity of the area. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design and SPD16
- 2 The application and submitted plans contain insufficient information with regard to the detailing and finishing materials and the flue at the rear to enable them to be properly assessed. The proposal is therefore unacceptable and contrary to UDP Policies listed.

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- 3 The proposal would result in the creation of sub-standard access/parking arrangements at Albion Place, leading to the potential for parked vehicles not being able to be maintained clear of the adopted footway on A56 Bury New Road, to the detriment of pedestrian and road safety. The proposal is contrary to UDP Policies HT2/4 and S2/6 relating to parking.
- 4 The proposal would restrict access to the existing bin store at the rear of the property, which is highly likely to lead to the storage of refuse bins in the retained section of Albion Place and/or on the adopted highway, which would be detrimental pedestrian safety and contrary to UDP Policy S2/6 Food and Drink.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	16/12/2021	DM	16/12/2021