

DELEGATED REPORT

Report by Tom Beirne	Date of report: 12/01/2023	Ref: 68953/FUL
Registration: 05/10/2022	LDFC: 17/11/2022	Expiry Date: 30/11/2022
Site Visit: 22/11/2022	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: MIOT

Proposal: Flue system to the rear of the property (retrospective) and Single storey side extension

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

Description

The proposal follows a recent refusal of planning permission and relates to a vacant two storey end terraced commercial property within Prestwich Town Centre. Rendered to front and side and brick at rear. A 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 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. The proposal includes the flue which is currently fixed to the proposed rear elevation.

Relevant Planning History

67595 - Single storey side extension to provide additional seating to restaurant; Changes to front elevation door and window - Refused 17/12/2021
21/0401 - Installation of extraction flue - 05/10/2022

Publicity

Immediate neighbours notified by letter dated 26/10/2022. One objection received from the owner of the attached property at 425 Bury New Road - I have a residential upstairs flat and a downstairs commercial unit. I am objecting to development for 3 reasons:

- Bin storage, at rear, for my commercial property is accessed through Albion Place off Bury New Road on which the development is proposed. It is not clear from the drawings but I'm concerned space to bring 4-wheel bins from rear to the front of Albion Place for collection has not been considered.
- Access to my residential flat is also through the thoroughfare of Albion Place and it is not clear from the application how the proposed development would affect my tenants right of access.
- The space at the rear of properties 425, 427, 429, 431, 433 & 435 is a shared communal space (albeit unregistered land and in terrible condition) which could be used for a more mutually beneficial means i.e. parking spaces once cleaned up. This proposed development, blocking any future vehicle access would make this impossible. I am not against the existing flue system approval.

One representation in favour of the proposal was received.

Statutory/Non-Statutory Consultations

Traffic Section - Concerns about the structure obstructing the highway and impact on ability to allow refuse to be moved from the rear to front. 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
HT6/1	Pedestrian and Cyclist Movement

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 flue on the rear may raise residential amenity issues with regard to the flats at the rear although insufficient 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 EN1/2 Townscape and Built Design, S2/6 Food and Drink and H6/1 Pedestrian and Cyclist Movement.

Refuse - The proposed pedestrian footway access created by the proposal would be narrow and would not be appropriate in terms of storing the refuse bins at the rear and bringing them onto Bury New Road for collection. The commercial bins are large and require an adequate route through from Bury New road to the bin storage areas at the rear of the premises. Without an appropriate route, the bins would most likely have to be stored on the frontage a situation that would be both visually intrusive and would likely cause a hazard to pedestrians using the adjacent footway. The proposal therefore is unacceptable and conflicts with UDP Policies EN1/2 Townscape and Built Design, S2/6 Food and Drink and H6/1 Pedestrian and Cyclist Movement.

Communication

Concerns regarding the proposal were relayed to the agent by email on 01/12 and then again on 22/12. No revised proposals or further information has been submitted.

Objection - The concerns from the owner of No.425 Bury New Road have been addressed in the above report and, where relevant, reflected in the reasons for refusal.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised

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sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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 neither sympathetic nor appropriate 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 for the extension and the specifications for the flue at the rear to enable them to be properly assessed. The proposal is therefore unacceptable and contrary to UDP Policies EN1/2 Townscape and Built Design, EN7/2 Noise Pollution and S2/6 Food and Drink.
- 3 The proposal would restrict access to the existing bin storage areas at the rear of the properties along the row, which would likely lead to bins being stored on or adjacent to the adopted highway, which would be detrimental pedestrian safety and contrary to UDP Policies EN1/2 Townscape and Built Design, S2/6 Food and Drink and H6/1 Pedestrian and Cyclist Movement.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	12/01/2023		