

DELEGATED REPORT

Report by Claire Booth	Date of report: 17/03/2023	Ref: 69269/LDCP
Registration: 23/01/2023	LDFC:	Expiry Date: 20/03/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: RAMS	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed change of use from Chiropractor (Class E(e)) to a Bar (Class E(b))

Location: 5 Square Street, Ramsbottom, Bury, BL0 9BE

Description

The application relates to a stone mid-terrace property which has the appearance of a dwellinghouse. It is currently vacant, but appears to have last been in use as a Chiropodist (Use Class E(e)). The submitted application form records the existing/ last known use of the property as a Chiropractor. The description of development is therefore incorrect, however both used fall under the Class E use class.

A Lawful Development Certificate is sought to change the property from a Chiropractor and use the property as a Bar. The application form states that both uses fall under Use Class E. Whether the existing and proposed use are actually allowed within Use Class E will be discussed later in this report.

Relevant Planning History

None relevant

Publicity

There are no publicity requirements for Lawful Development Certificate applications.

Statutory/Non-Statutory Consultations

Not applicable with this type of application.

Pre-start Conditions - Not applicable with this type of application.

Unitary Development Plan and Policies

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.

Assessment

This is an application made under s.192 of the Town and Country Planning Act 1990 (as amended). Subsection (1) of section 192 provides for an application to determine whether any proposed use or operations would be lawful for planning purposes. In this case the LDC seeks confirmation that the use proposed is within the same use class as the existing use of the building, i.e. within Use Class E.

The Town and Country Planning (Use Classes) Order 1987 has been amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which came into force on the 1st September 2020. It created a new use class, Class E - Commercial, Business and Service use and allows buildings within the same use class to change uses falling within the Class E use class.

The existing use as a Chiropodist use and a Chiropractor use are considered to be within Use Class E and fall under the Class E(e) category.

Public houses, wine bars, and drinking establishments do not fall into a specific use class and therefore are considered to be in a use class of their own, known as Sui-Generis.

The proposed change of use from a Chiropodist/ Chiropractor (Class E(e)) to a proposed bar, a Sui-generis use would not be lawful as both of the uses fall within different use classes and as such would constitute a material change of use requiring planning permission. As such this Certificate of Lawfulness is recommended for refusal.

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Recommendation: Refuse

Conditions and Reasons:

- 1 The existing Chiropodist/ Chiropractor use falls within the Class E(e) use class. The proposed bar use is classed as Sui-Generis. The proposal would be a material change of use of the building which requires full planning permission. This Lawful Development Certificate therefore cannot be granted.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	16.03.2023	JT	17/03/23