

DELEGATED REPORT

Report by Helen Pressley	Date of report: 31/03/2023	Ref: 69267/FUL
Registration: 09/02/2023	LDFC: 16/03/2023	Expiry Date: 06/04/2023
Site Visit: 23/02/2023	Site Notice: 23/02/2023	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from party venue/games hub (Class E(a)) to drinking establishment (Sui Generis) at ground floor and ancillary office/storage space at first floor (Class E/Sui Generis)

Location: 2A & 2B Wash Lane, Bury, BL9 6AS

Description

The application relates to an end terraced property located on the junction of Wash Lane and Lomax Street. The ground floor of the unit is currently in class E(a) use, with associated office space at first floor. There is a yard to the rear of the site that exits onto Mill Yard. The site is located at the end of a short row of commercial premises with a shop, hairdressers and dentists to the east, a public house to the west, and offices to the north. There do appear to be some residential properties above some of the commercial properties, and to the rear of the site with further terraced residential properties located to the east of dentist.

Planning permission is sought for a change of use of the unit from Change of use from party venue/games hub (Class E(a)) to drinking establishment (Sui Generis) at ground floor and ancillary office/storage space at first floor (Class E/Sui Generis). The application seeks the following opening times Monday to Friday: 13:00 - 01:00 Saturday: 12:00 - 03:00 and Sunday / Bank Holiday: 13:00 - 01:00.

No external changes have been applied for.

Relevant Planning History

None

Publicity

Neighbour letters 15/02/2023
Site Notice 23/02/2023

No representations received

Statutory/Non-Statutory Consultations

Traffic Section - condition in relation to bin storage

Environmental Health - No comments to make

Waste Management - No response

Planning Policy Manager - No response

Greater Manchester Police - designforsecurity - condition in relation not premises plan for security

Licensing Department - No response

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

S2/6	Food and Drink
EN7/2	Noise Pollution
EC4/1	Small Businesses

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.

Policy

S2/6 - Food and Drink. The Council in considering all proposals which involve restaurants, hot food takeaways, cafes, snack bars, wine bars and public houses, together with any other uses contained within Class A3, will have regard to the following factors:

- a) the amenity of nearby residents by reason of noise, smell, litter and opening hours;
- b) whether or not the proposal would result in an over concentration of Class A3 uses, which could adversely change the nature or character of a centre as a whole;
- c) parking and servicing provision associated with the proposed development and its effects in terms of road safety, traffic generation and movement;
- d) provision for the storage and disposal of refuse and customer litter;
- e) the environmental impact of any ventilation flues and/or ducting.

EC4/1- Small Businesses. Proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.

EN7/2 - Noise Pollution does not permit development which could lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users.

Use

The site is not located within a local or neighbourhood shopping area. The unit is located within a short row of commercial premises with a shop, hairdressers and dentists to the east, a public house to the west, and offices to the north. There do appear to be some residential properties above some of the commercial properties, and to the rear of the site. As such, it is considered that the proposed bar use would not result in an over concentration of grouping of uses.

It is considered that the bar use would not impact on the vitality of the locality. Whilst not classed in the UDP as a shopping area, shopping areas today have changed with regard to their function and land use characteristics, with alternative uses becoming an ever increasing feature. Furthermore, the unit is currently vacant and as bringing the unit into use is considered favourably. The use of the upstairs of the unit as ancillary office/storage space is considered to be acceptable. The proposed bar use is therefore considered to be acceptable in terms of scale and is compatible with the row within which it is located.

It is therefore considered that a complimentary land use would help to preserve the vitality and viability of changing shopping areas and as a new small business it is considered that the proposal complies with Policies EC4/1.

Residential Amenity

Residential properties are located above 6A - 8A Wash Lane, 2 - 10 Wash Lane (terraces), and to the south east of the site off Mill Yard. The ground floor of the proposal site is located within a row of commercial properties as set out above. The proposal seeks opening hours Monday to Friday: 13:00 - 01:00 Saturday: 12:00 - 03:00 and Sunday / Bank Holiday: 13:00 - 01:00. Due to the location of these properties Environmental Health were consulted. Environmental Health confirmed that the application has already been to a licensing panel, and noise mitigations were put forwards by the applicant at this point. If noise complaints are received, then it is stated on the licence that a review could be taken and the licence revoked. As such, Environmental Health do not have any comments in relation to the planning applications.

As Environmental Health are satisfied that provisions for noise mitigation have already been put in place through licensing and environmental health legislation it is considered that no further mitigation or restrictions are required to be put in place through planning conditions restricting the hours of opening.

Greater Manchester Police (GMP) have been consulted upon the application, and the contents of the Premises Plan which set out a series of measures to minimise the risk of crime and disorder affecting the premises. GMP do not raise any objections to the location of the proposal subject to a condition that requires the details of the Premises Plan to be implemented.

As such the proposed use is considered to be acceptable it is therefore considered that the proposal would comply with UDP Policies EN7/2 and S2/6.

Bin Storage and Servicing

The proposed change of use would utilise the rear yard for bin storage can be accessed off the existing adopted highway. The proposal is therefore considered to comply with UDP Policy S2/6 in this respect.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to the drawings Location Plan and Block Plan Received 23rd January 2023, Proposed cellar floor plan and first floor plan received 30th January 2023, Proposed ground floor/site plan received 9th February 2023 and Proposed full site plan received 27th March 2023 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 3 The bin storage facilities indicated on the approved plans shall be made available prior to the use hereby approved commencing and maintained thereafter.
Reason. In the interests of amenity pursuant to Policy S2/6 – Food and Drink of the Bury Unitary Development Plan.
- 4 The use hereby permitted shall operated and maintained in accordance with the submitted Premises Plan dated 27th March 2023.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy S2/6 – Food and Drink of the Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 31/03/2023		DM	03/04/2023