

**DELEGATED REPORT**

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|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Dean Clapworthy | <b>Date of report:</b> 26/07/2024 | <b>Ref:</b> 70770/FUL          |
| <b>Registration:</b> 04/06/2024  | <b>LDFC:</b> 26/06/2024           | <b>Expiry Date:</b> 30/07/2024 |
| <b>Site Visit:</b> 13/06/2024    | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 0             | <b>Con Area:</b> N/A              | <b>Adv Type:</b> NONE          |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> COUS        |

**Proposal:** Creation of an additional shop Class E (a) to rear of the existing shop Class (E), including alteration of existing window on side elevation to form new shop front

**Location:** 100 Spring Lane, Radcliffe, Manchester, M26 2QX

**Description**

The proposal relates to a portion of the ground floor of 100 Spring Lane that is presently utilised as a lounge and kitchen to serve the associated shop (Use Class E), that has its shop front addressing Spring Lane. The kitchen element occupies a single storey flat roofed rear extension. A three bedroom flat is accommodated at first and second floors.

The application site occupies an end of terrace traditional property that falls immediately adjacent to the junction between Spring Lane and Rectory Lane. It has a small remaining rear yard with access off Rectory Lane (which will have been reduced by the rear extension) and the gable elevation contains large vertically proportioned ground and first floor windows (with the ground floor windows having security shutters).

The adopted highways adjacent to the property are subject to parking restrictions with a single allocated loading bay. A long section of the opposing side of Rectory Lane is free of parking restrictions and the rear alley is subject to residential permit controls for parking.

The site falls within Inner Radcliffe, in a predominantly residential area. The nearest boundary to Radcliffe town centre falls around 530m to the south-west, whilst the secondary shopping frontage that extends north-east from the town centre on Church Street West is around 400m distant.

The proposal is for the creation of an additional retail unit (Class E - Commercial, Business and Service (a)) to the rear of the existing shop, including alteration of existing window on side elevation to form a new shop front.

The proposed shop would occupy the existing kitchen and lounge area which would comprise an area of approximately 17 sq.m. A new shop front would be installed within the Rectory Lane elevation which would comprise an aluminium door and display window with metal surround with what appears to be a roller shutter with fascia.

The application is silent with regard to the intended occupier and opening hours.

**Relevant Planning History**

52244 - External alterations including new doorway and relocation of post box - Approve with Conditions 30/03/2010.

**Publicity**

21 addresses directly notified on 05/06/2024. No representations were received.

### **Statutory/Non-Statutory Consultations**

**Traffic Section:** Objection. The proposal would result in the intensification of the use of a building with inadequate servicing and no off-street parking facilities, which is highly likely to lead to vehicles parking, servicing and carrying out manoeuvres on the surrounding classified roads and residential streets in hazardous positions. Additionally, there would be inadequate off-highway bin storage, which is highly likely to lead to the adjacent adopted highways being used for refuse collection purposes.

**Pre-start Conditions** - Not relevant.

### **Development Plan and Policies**

|       |                                               |
|-------|-----------------------------------------------|
| NPPF  | National Planning Policy Framework            |
| EC4/1 | Small Businesses                              |
| EN1/2 | Townscape and Built Design                    |
| HT2/4 | Car Parking and New Development               |
| HT6/1 | Pedestrian and Cyclist Movement               |
| HT6/2 | Pedestrian/Vehicular Conflict                 |
| SPD11 | Parking Standards in Bury                     |
| EN1/5 | Crime Prevention                              |
| EN1/8 | Shop Fronts                                   |
| S2/1  | All New Retail Proposals: Assessment Criteria |
| S2/5  | New Local Shopping Provision                  |
| SPD11 | Parking Standards in Bury                     |
| JP-C2 | Digital Connectivity                          |
| JP-C5 | Streets For All                               |
| JP-S2 | Carbon and Energy                             |

### **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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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**

### **Principle of the development**

The proposal is for a Class E (a) use for the display of retail sale of goods, that would comprise a separate planning unit to the existing unit at 100 Spring Lane. The site is positioned approximately 530m north-east of Radcliffe town centre and 400m of the secondary shopping frontage and the proposal constitutes a main town centre use.

The NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. UDP Policy S2/1 states that the Council will support new retail development proposals which are within or immediately adjoining the main shopping area of existing centres.

The submission is not supported by a sequential test or statement, which is a requirement given that the site does not fall within a defined town centre. Therefore, the application contains insufficient information to demonstrate that the proposed development would comply with the locational requirements of the NPPF paragraph 91 and UDP Policy S2/1.

### **Accessibility, servicing and highway safety**

The circumstances pertaining to the adopted highway network immediately around the site are described above.

The Highway Authority objects to the proposal as the proposal would result in the intensification of the use of a building with inadequate servicing and no off-street parking facilities and would therefore lead to vehicles parking, servicing and carrying out manoeuvres on the surrounding surrounding classified roads and residential streets in hazardous positions. Additionally, there would be inadequate off-highway bin storage, which is highly likely to lead to the adjacent adopted highways being used for refuse collection purposes.

It is therefore considered that the proposal would not be compliant with UDP Policy HT2/4 and PfE Policy JP-C5.

**Visual amenity**

The proposed alterations to the property would be minor in nature and scale and would not harm the character and appearance of the host property or the wider street scene.

**Impact on amenity**

The site adjoins the existing corner shop and whilst it would result in additional activity and traffic, this would not extend significantly towards neighbouring properties. Further, the access into the unit would be gained from the gable elevation, which does not share a frontage with neighbouring dwellings. The proposal would not therefore unacceptably undermine existing residential amenity in the locality.

**CONCLUSION**

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be refused.

**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 submission is not supported by a sequential test or statement, which is a requirement given that the site does not fall within a defined town centre. Therefore, the application contains insufficient information to demonstrate that the proposed development would comply with the locational requirements of the NPPF paragraph 91 and UDP Policy S2/1.
- 2 The proposal would result in the intensification of the use of a building with inadequate servicing and no off-street parking facilities, which is highly likely to lead to vehicles parking, servicing and carrying out manoeuvres on the surrounding classified roads and residential streets in hazardous positions on the highway network and where on-street parking facilities are at a premium at all times of day, which would be detrimental to the free flow of traffic and road safety and have a significant impact on existing parking facilities for existing residents, contrary to Bury Unitary Development Plan Policies EN1/2, HT2/4 and HT6/1 and Supplementary Planning Document 11 and Places for Everyone Joint Development Plan Document Policy JP-C5.
- 3 The proposal would result in the intensification of the use of a building with inadequate off-highway bin storage, which is highly likely to lead to the adjacent adopted highways being used for refuse collection purposes and the storage of communal bins, contrary to Bury Unitary Development Plan Policies EN1/2, HT2/4 and HT6/1 and Places for Everyone Joint Development Plan Document Policy JP-C5.

**DELEGATED REPORT**

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| <u>Case Officer</u><br>DC 26/07/24 | <u>Date</u> | <u>Sign off Officer</u><br>DM 26/07/24 | <u>Date</u> |
|------------------------------------|-------------|----------------------------------------|-------------|