

# NOTICE OF PLANNING PERMISSION

## Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

**To:**

lamb  
Steve Lamb  
11 Princes Road  
Heaton Moor  
Stockport  
SK4 3NQ

**On Behalf Of:**

Mr Freeman  
RGJB Whittaker Ltd  
4 Hartley Avenue  
Prestwich  
Manchester  
M25 0AT

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### PART 1 - Particulars of Application

**Application Number:** 71330

**Date of Registration:** 04/12/2024

**Proposal:**

Change of use from restaurant (Use Class E) to 13 bed (single occupancy) House of Multiple Occupation (HMO) (Sui-Generis), excavations to part of rear yard area and installation of steps, insertion of a window and door on rear elevation at Basement level change of rear ground floor doorway to a window, and enlargement of a first-floor window on the side elevation

**Location:**

12A Whittaker Lane, Prestwich, Manchester, M25 1FX

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### PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- 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 permission relates to the following plans:

Drawing no. 12WL-199-PL: Site Location Plan  
Drawing no. 12WL-203-PL Rev. P4 Proposed Plan Layouts  
Drawing no. 12WL-204-PL Rev. P2: Proposed Elevations

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the Bury Unitary

Development Plan and the National Planning Policy Framework.

- 3 The sound insulation of the party wall with no. 1 Stores Street shall be improved in accordance with the details shown on drawing no. 12WL-203-PL Rev.P4 prior to occupation of the development hereby approved. The soundproofing shall remain in situ in perpetuity.

Reason. To reduce nuisance from noise and disturbance to the occupiers of the adjoining dwelling pursuant to Policy EN7/2 Noise Pollution of Bury Unitary Development Plan and the National Planning Policy Framework.

- 4 The refuse storage facilities indicated on the approved plans, drawing no. 12WL-204-PL Rev.4 shall be implemented and made available for use to the written satisfaction of the Local Planning Authority prior to the development hereby approved becoming first occupied and shall thereafter remain available at all times.

Reason. In order to ensure that the development would maintain adequate facilities for the storage of domestic waste, including recycling containers, in the interests of amenity and pursuant to Policy JP-C8: Transport Requirements of New Development of the Places for Everyone Development Plan.

- 5 Notwithstanding any details shown on the approved plans and the requirements of condition no.2 [approved plans] of this permission, within 3 months of development first taking place full details of the alterations proposed to the boundary wall of the rear yard area shall be submitted to and approved in writing by the Local Planning Authority. The details shall include, the materials being used to infill the existing yard gate opening and the siting, height, design, materials and finish of the boundary treatment for the new enlarged opening. The duly approved boundary treatments shall be constructed in full accordance with the approved details before the use is occupied and shall be retained as such thereafter.

Reason. To ensure a satisfactory relationship with the character of surrounding buildings and the street scene in accordance with Policies EN1/2: Townscape and Built Design and H2/2: The Layout of New Residential Development and the National Planning Policy Framework.

- 6 No development shall commence on site unless and until a scheme of ecological mitigation and enhancements measures have been submitted to and approved in writing by the Local Planning Authority. The measures shall be retained and maintained within the development at all times thereafter.

Reason. To adequately protect the biodiversity value of the site and to secure an enhancement to biodiversity, in accordance with Policy JP-G8: A Net Enhancement of Biodiversity and Geodiversity of the Greater Manchester Places for Everyone Plan and the National Planning Policy Framework.

**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 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.

**The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:**

|       |                                                                                                        |
|-------|--------------------------------------------------------------------------------------------------------|
| S1/4  | S1/4 - Local Shopping Centres                                                                          |
| H2/1  | H2/1 - The Form of New Residential Development                                                         |
| H2/2  | H2/2 - The Layout of New Residential Development                                                       |
| H2/4  | H2/4 - Conversions                                                                                     |
| EN1/2 | EN1/2 - Townscape and Built Design                                                                     |
| EN7/2 | EN7/2 - Noise Pollution                                                                                |
| HT2/4 | HT2/4 - Car Parking and New Development                                                                |
| EN7/2 | EN7/2 - Noise Pollution                                                                                |
| H1/2  | H1/2 - Further Housing Development                                                                     |
| JP-C1 | Our Integrated Network                                                                                 |
| JP-C2 | Digital Connectivity                                                                                   |
| JP-C5 | Streets For All                                                                                        |
| JP-C6 | Walking and Cycling                                                                                    |
| JP-C8 | Transport Requirements of New Development                                                              |
| JP-H3 | Type, Size and Design of New Housing                                                                   |
| JP-H4 | Density of New Housing                                                                                 |
| JP-S2 | Carbon and Energy                                                                                      |
| SPD11 | Development Control Policy Guidance Note 11 - Parking Standards in Bury                                |
| JP-S1 | Sustainable Development                                                                                |
| SPD13 | Development Control Policy Guidance Note 13 - Conversion of Buildings to Houses in Multiple Occupation |
| JP-P1 | Sustainable Places                                                                                     |
| NPPF  | National Planning Policy Framework                                                                     |

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

**Applicant Plan Numbers:**

**NOTES TO APPLICANT**

1. In accordance with S93G of the Town and Country Planning Act 1990 (As amended by Section 111 Levelling Up & Regeneration Act 2023) there is a legal requirement for you to inform the Council of the date when you intend to commence the development on site via submission of a Commencement Notice. This notice is mandatory for all developments and came into effect on 31 March 2024. You can find more information and download a copy of the Commencement Notice under the Before Starting Work section on our website at:  
<https://www.bury.gov.uk/planning-building-control/planning-permission/planning-application-process>
2. This development affects adopted highway. This planning decision does not authorise the closure of the area of highway affected by the development. The applicant's attention is therefore drawn to the statutory procedures for obtaining a closure order of the affected area of highway. Development affecting the highway should not be commenced until the statutory requirements have been complied with and the closure order made. Enquiries regarding the necessary procedures should be made to the Department for Resources and Regulation, Bradley Fold. Telephone

0161 253 5713/5788.

3. The Council currently operate a curtilage system of refuse collection. The applicant is advised to liaise with Waste Management & Transport - Bradley Fold, on 0161 253 7010/6635, regarding the operation of this system.

5. **Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Before commencing development, you should consider whether a Biodiversity Gain Plan needs to be submitted and approved. Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

**Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.**

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or
  - (ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
  - 4.1 Development which is not ‘major development’ (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
    - vii) the application for planning permission was made before 2 April 2024;
    - viii) planning permission is granted which has effect before 2 April 2024; or
    - ix) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).
  - 4.2 Development below the de minimis threshold, meaning development which:
    - v) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act

2006); and

vi) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4. Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5. Self and Custom Build Development, meaning development which:

vii) consists of no more than 9 dwellings;

viii) is carried out on a site which has an area no larger than 0.5 hectares;

and

ix) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

\* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

#### **4. THE CONTROL OF POLLUTION REGULATIONS 1974, SECTION 60. CONTROL OF NOISE ON CONSTRUCTION SITES**

Works carried out in connection with the planning permission shall comply with the above regulations which require the following:

1. All works and ancillary operations which are audible at the boundary of the nearest house or noise receptor, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 0800 and 1800 on Mondays to Fridays and between the hours of 0900 and 1400 on Saturdays and at no time on Sundays and Bank Holidays.

2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.

3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer’s instructions.

4. Any emergency deviation from the above (1 – 3) shall be notified to Bury Council without delay.

Any contravention of these requirements will trigger the serving of a Notice under Section 60 of The Control of Pollution Regulations 1974.

7. Whilst the site has been assessed as low risk for bats, the applicant is reminded that under the Habitat Regulations it is an offence to disturb, harm or kill bats. If a bat is found during demolition all work should cease immediately and a suitably licensed bat worker employed to assess how best to safeguard the bat(s). Natural England should also be informed.
8. Whilst the site has been assessed as low risk for bats, the applicant is reminded that under the Habitat Regulations it is an offence to disturb, harm or kill bats. If a bat is found during demolition all work should cease immediately and a suitably licensed bat worker employed to assess how best to safeguard the bat(s). Natural England should also be informed.

Signed:



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On behalf of the Council

**Date of Decision:** 30/05/2025