

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 01/10/2025	Ref: 71982/FUL
Registration: 08/08/2025	LDfC: 29/08/2025	Expiry Date: 03/10/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Erection of a two storey mixed use development consisting of 1 no. shop (Class E) on the ground floor and 1 no. apartment on first floor (Class C3) and associated car parking, landscaping and boundary treatment

Location: Land adjacent to 49 Rainsough Brow, Prestwich, Manchester, M25 9XW

Description

The application relates to the western part of a car park which is associated with a retail store. The retail unit is located in the eastern part of the site and the main parking area which serves the unit is to the west. The retail unit was granted permission which included 3 disabled parking spaces to the front of the shop and 8 spaces in the western part of the site, between which is the access into the site located off Rainsough Brow. The approved car park also provides areas for cars to turn around and manoeuvre and for the servicing and deliveries to the shop.

The application site itself is not level and sits on an incline falling away from the east to the west and following the topography and the gradient of Rainsough Brow itself. The site fronts Rainsough Brow and there are houses to the rear (south) on Halliwell Walk which are in a slightly elevated position. To the west is a vacant plot which formally accommodated The Plough public house which is at a lower level. This site has been granted a consent for the redevelopment for an apartment block.

This application seeks the erection of a two storey mixed use development consisting of 1 no. shop (Class E) on the ground floor, 1 no. x 1 bed apartment (Class C3) on the 1st floor with associated car parking, landscaping and boundary treatment.

The building would have a footprint of 86 sqm and would be sited in the western part of the car park with the front elevation extending 11m along the Rainsough Brow frontage and would provide 2 large display windows. The 'side' elevation' facing the car park would form the main entrance with glazed automatic doors and there would be a door at the rear to access the store room.

The first floor would provide a 1 bed flat with a combined kitchen, living and dining area, bathroom and storage. The floor plan also shows there would be an external terrace accessed from the living accommodation.

Attached to the south elevation would be an enclosed staircase which would provide access to the 1st floor apartment.

The proposed site plan shows the servicing and bins for the retail unit would be located behind the staircase and bins for the residential unit would be at the side of the staircase.

In front of the retail unit entrance would be a row of 5 parking spaces including 1 accessible space.

DELEGATED REPORT

5 parking spaces are shown to serve the existing retail unit to the east including 3 accessible spaces with a hatched area for servicing.

The application is a resubmission of a scheme for a retail unit and 2 flats which was previously refused on highway grounds, insufficient information and scale and design of the unit.

Relevant Planning History

56394 - Single storey building consisting of 200m2 retail space - Approve with Conditions 25/07/2013
57066 - Single storey building consisting of 200m2 retail space (resubmission) - Approve with Conditions 18/02/2014
57899 - Variation of Condition no.2 of planning permission 57066 to reposition the building 850mm to the West. - Approve with Conditions 03/10/2014
59063 - Variation of condition 2 of planning permission 57899:
Condition no. 2 - revised site layout plan and change to Rainsough Brow elevation
- Approve with Conditions 18/09/2015
60034 - Residential development - 5 no. dwellings - Approve with Conditions 22/07/2016
60941 - Retention of ATM and alterations to shop front - Approve with Conditions 10/02/2017
60942 - 3 no. internally illuminated fascia signs to ATM - Approve with Conditions 10/02/2017
61442 - Variation of condition no. 14 (access alterations), no. 15 (turning facilities) and no.16 (car & cycle parking) of planning permission 59063 to refer to revised site layout plan (dwg no. ms1-b02 rev H) - Approve with Conditions 21/06/2017
64755 - Use part of a car park as a hand car wash with a container to be used as storage and office space - Refused 02/12/2019
66290 - Erection of 2.4 metre high green wire mesh fencing around boundary of existing car park - Refused 01/03/2021
66677 - Partial change of use from grocery shop to car sale business with provision for office space; Section of parking lot to be dedicated for sales including the provision of a 1m and 1.8m high fence - Refused 28/05/2021
70914 - Erection of a two storey mixed-use development consisting of 1 no. shop (Class E) on the ground floor, 2 no. three-bedroom apartments (Class C3a) on the first floor with rear roof dormer and associated car parking, landscaping and boundary treatment. - Refused 10/10/2024
11/0489 - Untidy land - 23/02/2012
13/0598 - Untidy site - 25/11/2013
15/0517 - Not developed to plan - 07/12/2015
16/0242 - Breach of Conditions - 16/06/2016
16/0426 - Breach of Conditions - 26/04/2017
17/0452 - Untidy property - 12/02/2018
19/0396 - Breach of condition no's 7, 8 & 9 (car park/turning facilities) of planning permission 61442 - 11/09/2020
20/0085 - Hand car wash business being run from the car park - 17/04/2020
20/0405 - Running car sales/garage business from car park - 19/03/2021

Publicity

Letters sent to 21 properties on 8/8/25.
No responses received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal

Environmental Health - Contaminated Land - No objection subject to conditions

Environmental Health - Pollution Control - No objection subject to conditions

Waste Management - No response received

Borough Engineer - Drainage Section - no response received.

United Utilities (Water and waste) - Object due to location of a publish sewer

Greater Manchester Ecology Unit - No objection subject to condition
Prestwich Village Neighbourhood Forum - Object

Pre-start Conditions - Not relevant

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), 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.

Retail - Principle

Policy Assessment for the Use - Unitary Development Plan Policy S2/1 - All New Retail Proposals: Assessment Criteria supports new retail development proposals which accord with the following factors:

- (a) are within or immediately adjoin the main shopping area of existing centres;
- (b) sustain or enhance the vitality and viability of a centre;
- (c) are accessible by public transport;
- (d) are in conformity with other policies of the plan.

In assuming the issues of the principle can be overcome then the proposal should then be considered against the criteria (e) to (k) which takes into account the surrounding area in terms of design, scale and height, traffic and servicing; customers/visitors to the site; amenity of nearby residents and businesses by reason of noise, smell, litter, opening hours; access; parking and servicing and associated facilities where appropriate.

UDP Policy S2/5 - New Local Shopping Provision Outside Recognised Shopping Centres seeks to support small scale local shopping provision within Class A1 subject to the following factors:

- (a) whether or not there is a local need that cannot be met by existing provision in the area;
- (b) the effect on the vitality and viability of established local shopping facilities;
- (c) whether or not the proposed use would be more appropriately located within a recognised shopping centre;
- (d) the availability of alternative vacant shop premises and/or the level of unimplemented planning permissions in the vicinity that could accommodate the proposed use;
- (e) the potential nuisance that would be created for neighbouring residents;
- (f) the parking and servicing provision associated with the proposed development and its effects in terms of road safety and traffic generation.

The site is approx 90m away from the established Neighbourhood Centre and within a site boundary which already accommodates a retail shop and therefore considered to be close to an existing centre which would sustain the viability of that centre. The site is located in a sustainable area and accessible by public transport. In terms of scale, the proposal is considered to be such that it is likely to serve no more than purely local needs.

It is therefore considered that the proposal for a small scale retail shop on this site could be acceptable in land use terms.

That said, the proposed development now needs to be assessed against criteria (e) to (k) of Policy S2/1 and the other policies of the UDP and PfE Plan which are discussed below.

Housing - Principle

The site is considered to be in a sustainable location for housing within the urban area and sitting outside the Green Belt. The national requirement to significantly boost the supply of housing under the NPPF is a material consideration that would favour the residential development of this site in principle. The proposed development would not conflict with the surrounding land uses and would be located in a sustainable location with regard to public transport and services.

Therefore, the proposed development would be in accordance with Policy H1/2 and the principles of the PfE plan and the NPPF.

Layout

Retail unit

The proposed site forms part of the existing site for the retail shop, No 49 Rainsough Brow which provides 8 standard parking spaces for this shop in the western area of the site, 3 accessible spaces in front of No 49 and an area for delivery vehicles to turn and service the site.

For the existing unit, 5 parking spaces are shown in front of the shop. However, one of the

spaces located next to Rainsough Brow would be difficult to access due to the line of the kerb edge at the entrance. Whilst the plan shows a hatched area for a delivery vehicle, no tracking has been provided to show a vehicle could enter and exit within the remaining site area without conflict to other vehicles or the proposed parking for the new unit.

Similarly, parking is proposed to the front of the new unit, and would comprise 5 spaces including 1 accessible space and 1 space designated to the residential flat. The proposed layout also does not make any provision for the new unit to be serviced or an area provide for a service vehicle to park and no tracking has been provided to demonstrate a vehicle could enter and leave the site in a forward gear. The proposed plans also show that the servicing of the shop would be located towards the rear of the unit but there is no area in front of the site for a service vehicle and no indication of the size of vehicle required to serve the site.

It is therefore considered that the proposed layout would be unacceptable and the parking and servicing arrangements insufficient to serve the proposed site which would also conflict with the arrangements and layout of the existing retail use and as such would be contrary to Policies EC4/1, S2/1, S2/5, EN1/2, HT2/4, JP-C5 and JP-C6.

Residential unit

In terms of the layout of the residential unit, Policy JP-H3 - Type, size and Design of New Housing states that all new dwellings must :

1. comply with the nationally described space standards (NDSS); and
2. Be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations unless specific site conditions make this impracticable.

The proposed flat would have a total gross area of 55 sqm and room sizes and storage would be compliant with NDSS. The residential accommodation would be a first floor accessed by a staircase. It is recognised that not all development can fully comply compliant with Part 4(2) and as such, in this instance, the development is considered acceptable given it would provide housing accommodation in an urban and sustainable area.

Bin storage for the residential flat would be provided at the side of the staircase and whilst there is no amenity space as such, the proposed floor plans show a terraced set within the build.

The development would also provide 1 secure cycle store space in compliance with SPD11.

On balance, it is considered that the layout of the residential unit would be acceptable and comply with H2/1, H2/2 and JP-H3.

Design and appearance

The proposed building would be set linear to Rainsough Brow, the footprint of the build set back from the pavement edge by approx 1.2m.

The build would be 2 storeys and the highest part of the build would be approx 9.3m dropping to 7.3m to follow the gradient of the road. Whilst the building would be stepped to acknowledge the change in levels, the roof would be formed by 2 steep pitches. As the build would be close to the road, the height, roof form and massing of the unit would appear dominant and overbearing to the streetscene and more so when viewed within the context of the existing single storey retail unit which has a less oppressive appearance within its setting as illustrated on the section plan.

The building as a whole shows a number of roof forms and what appears as a flat roof gully in the centre, and as an overall build, the design appears disjointed and odd.

The front (north) elevation would comprise the main entrance to the shop which would have glazing along the majority of the ground floor and display windows on the west elevation

facing Rainsough brow which again would be acceptable for a unit but.

For the residential unit, windows would be modest although there are discrepancies in the proposed plans. The proposed rear elevation does not illustrate a 1st floor bedroom window.

Secondly, the terrace indicated for the residential flat is not shown on the proposed front elevation where a void 'hole in the wall' should be shown. As such, it is not possible to assess the acceptability of this element of the design.

It is therefore considered that the scale, massing and height and the setting of the building within the site would be overbearing and oppressive within the streetscape and within the site itself. As such, it is considered the proposed development would be unacceptable and contrary to policy EN1/2.

Impact on the surrounding area

In terms of relationship to established residential properties, the setting of the proposed building would not overlook or impact on the privacy of any established dwellings to the north or east or houses on Halliwell Walk.

There is an extant consent for the redevelopment of the site to the west for an apartment block. The red edge for this application showed land associated with this development wrapped round the rear boundary of the application site where some of the amenity space for the flats would be provided. The proposed floor plans show that there would be a bedroom window to the first floor flat although this is not annotated on the elevation plan. It is not clear from the proposed site plan whether this window would overlook the amenity space of the adjacent site.

The applicant would be advised to re-examine this element in any future application.

Also similar to the previously refused scheme, it is not clear how close the apartment building would be to the site and the proposed unit, where there are habitable room windows to the apartment scheme may result in sub-standard separation distances. Again, this would need addressing in a future application.

It is considered that insufficient information has been submitted to understand the potential impacts on future occupiers of the proposed and adjacent development.

Highways

An existing site plan for the current site has been submitted which shows there are 3 parking spaces in front of the existing shop and 8 spaces located in the western area of the site (11 in total)

The application proposes a new retail unit and residential flat and combined would require 5 parking spaces.

The new unit would have a floor area of 74 sqm and would require 4 parking spaces in accordance with SPD11. For the residential unit, 1 space is required and 1 is proposed. The development would therefore comply with SPD11.

The proposed development would result in the loss of 8 spaces for the existing retail shop although the proposed plan shows that 2 spaces would be added to the row in front of this shop to provide a total of 5 spaces. The space closest to Rainsough Brow however would be difficult to access due to the kerb edge.

The existing shop would require 10 spaces in accordance with SPD11 and as such there would be a parking deficit.

In terms of cycle parking, The residential unit proposes 1 secure cycle space which would be in compliance with SPD11.

The proposed retail unit would require 2 cycle spaces. None are proposed.

In terms of the servicing of the site, The application does not provide any information as to

how each of the retail units would be serviced, how a vehicle would enter and leave in a forward gear without impacts on the parking and highway and pedestrian safety.

The Highway Authority have been consulted and recommend refusal on 3 grounds.

1. The proposal results in the loss and a restriction in the use of existing, approved parking facilities for the retail use and adversely affects approved servicing arrangements for the site and deliveries of goods into the retail shop, which is likely to lead to vehicles parking and carrying out manoeuvres on an already hazardous part of the highway network to the detriment of the free flow of traffic and road safety.

2. The proposed servicing arrangements and car parking provision for the proposed additional retail and residential uses are inadequate and are likely to lead to vehicles parking and carrying out manoeuvres in a hazardous location on the highway to the detriment of the free flow of traffic and road safety. (RR16 Amended)

3. The application and submitted plans contain insufficient information to assess the physical impact of the proposed development on the adjacent adopted highway and private access road or demonstrate that visibility approved as part of previous developments on the site will be maintained and not restricted to sub-standard levels at the junction of the existing site access with Rainsough Brow.

The proposed development would therefore be unacceptable and be contrary to policies H2/2, S2/1, S2/5, H2/4, JP-C5 and JP-C8.

Air quality

The EH Section would recommend that for the residential unit, 1 no. electric vehicle (EV) charging point (minimum 7kW*) be provided.
This could be conditioned.

With regards the Retail Unit, as less than 10 spaces are proposed there is no requirement for electric vehicle charging facilities.

Ecology

Summary

There are no significant ecological issues associated with this development.

Wildlife Issues

The site consists of a car park, the only vegetation being two small patches of amenity grass either side of the car park entrance and an overgrown conifer hedge along the western boundary, located just outside the red edge. GMEU are satisfied the site has negligible potential for any protected species with a very low risk of disturbance during construction, to nesting birds that may nest in habitats just off-site. GMEU are satisfied that no further information or measures are required.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)

Section 187 of the NPPF 2024 states that the planning policies and decisions should contribute to and enhance the natural and local environment. 10% BNG is mandatory under Schedule 7A of the Town & Country Planning Act 1990 (as inserted by schedule 14 of the Environment Act 2021).

The site consists primarily of hardstanding with a very small area, of low value habitat either side of the entrance. This will be replaced with a building, hardstanding and a small area of ornamental planting. There are no wildlife issues to mitigate.

GMEU are satisfied that the development is exempt from 10% BNG under the de minimis rule, the vegetation on site covering less than 10 sqm and the ornamental conifer hedge off-site. No further information or measures are required.

The details of the soft landscaping can be provided via condition. GMEU recommend provision of one house sparrow terrace as enhancement for wildlife.

Digital connectivity

The development will include full fibre-to-premises connections, ensuring operational internet connectivity and accessibility to network providers.

The proposed development would comply with Policy JP-C2: Digital Connectivity.

Carbon and energy

The proposal would meet the U-values stated in Approved Document L Table 1.1. These implementations would ensure that the energy performance of the actual dwelling aligns with the required standards when compared to the notional dwelling, both at the design stage and upon completion of the work.

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 proposed building would, by reason of its size, massing, design and position be a prominent and intrusive feature in the street scene and would therefore be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/2, H2/1, EC4/1 and S2/1 and the principles of the NPPF.
- 2 The application and submitted plans contain insufficient information to enable them to be properly assessed in terms of the potential impacts on the amenity and outlook for future occupiers of the proposed residential flats by virtue of the siting and position of the proposed residential development at 51 Rainsough Brow (planning reference 62765). The proposed development would therefore be contrary to Development Plan Policies EN1/2, H2/1 and H2/2 and SPD6.
- 3 The proposal results in the loss and a restriction in the use of existing, approved parking facilities for the retail use and adversely affects approved servicing arrangements for the site and deliveries of goods into the retail shop, which is likely to lead to vehicles parking and carrying out manoeuvres on an already hazardous part of the highway network to the detriment of the free flow of traffic and road safety. The proposed development would therefore be contrary to policies JP-C5, JP-C6, JP-C8, EC4/1 and HT2/4.
- 4 The proposed servicing arrangements for the proposed additional retail use is inadequate and likely to lead to vehicles parking and carrying out manoeuvres in a hazardous location on the highway to the detriment of the free flow of traffic and road safety. The proposed development would therefore be contrary to policies JP-C5, JP-C6, JP-C8 and HT2/4.
- 5 The application and submitted plans contain insufficient information to assess the

DELEGATED REPORT

physical impact of the proposed development on the adjacent adopted highway and private access road or demonstrate that visibility approved as part of previous developments on the site will be maintained and not restricted to sub-standard levels at the junction of the existing site access with Rainsough Brow. The proposed development would therefore be contrary to policies JP-C5 and JP-C8.

- 6 The cycle storage facilities for the proposed retail store would be inadequate and as such the development would not promote or encourage the use of sustainable modes of transport. The proposed development would therefore be contrary to policies JP-C6 and SPD11.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	1/10/25		