

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 15/02/2024	Ref: 68353/FUL
Registration: 16/05/2022	LDfC: 08/06/2022	Expiry Date: 11/07/2022
Site Visit: 25/05/2022	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: Construction of a glass canopy including retractable fabric roof covering to southern and western side of building to provide additional seating to the restaurant; Installation of extraction flue (retrospective).

Location: 6-8 Thatch Leach Lane, Whitefield, Manchester, M45 6BE

Description

The retrospective application relates to a former shop built as Co-Op Branch No.13 in the 1930s. It is detached and partially two storey, located adjacent to the junction between Thatch Leach Lane and Balmoral Avenue. The site falls within a Neighbourhood Centre.

The proposal is for the construction of a glass canopy including retractable fabric roof covering to southern and western side of building to provide additional seating to the restaurant (retrospective).

There are no controls over the opening hours of the main building. The submission states that the use of the extended canopy areas (for customers) ceases at 19:00 daily.

Despite repeated requests, the submission is not supported by an accurate proposed site plan, floor plan or elevation drawings. Nor has any information been provided concerning the specification or noise characteristics of the installed flue.

Relevant Planning History

68354: 4 x Aluminium signboards with projected lettering backlit with Led lights, including a automatic brightness control. - Undetermined.

66710: Lawful Development Certificate for proposed change of use from shop to restaurant. Approved 27/05/2021.

Publicity

Advertised by direct neighbour notification on 18/05/2022. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section: The submitted information does not show the adjacent footway or such features as the telephone kiosk, bus stop/shelter, etc. Bin storage arrangements are not shown.

Environmental Health - Pollution Control: No comments received.

Pre-start Conditions - Applicant/Agent [Not relevant/has/has not] agreed with pre-start conditions

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution
HT6/1	Pedestrian and Cyclist Movement

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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

Principle of development

The original building could lawfully operate as a restaurant, as established by the Certificate of Lawfulness (66710).

All other matters

The submitted plans do not accurately reflect what has been erected at the site nor has any information been submitted in relation to the flue. Therefore, a robust and reliable assessment of the likely impacts on visual amenity and the street scene, neighbouring amenity or highway safety cannot be undertaken.

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 application and submitted plans contain insufficient detailed information to enable a proper assessment of the impacts on visual amenity and the street scene, neighbouring amenity and parking, servicing and highway safety. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/2, EN7/1, EN7/2 and HT6/1.

<u>Case Officer</u> DSC	<u>Date</u> 15/02/2024	<u>Sign off Officer</u> DM 16/02/24	<u>Date</u>
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