

DELEGATED REPORT

Report by Tom Beirne	Date of report: 05/04/2022	Ref: 68023/FUL
Registration: 08/02/2022	LDFC: 03/03/2022	Expiry Date: 05/04/2022
Site Visit: 16/03/2022	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: Refurbishment of existing cafe/bar; Installation of new flue at rear; Alterations to shop front; New fencing to the rear

Location: 449A Bury New Road, Prestwich, Manchester, M25 1AF

Description

The application relates to a vacant cafe/bar on the ground floor (83sqm) of a two storey terraced property on a row of commercial properties on the west side of Bury New Road. It is within a Secondary Shopping Area and Frontage of Prestwich Town Centre fronting the main road and has been vacant for over a year.

The attached property to the south, on the corner of Bury New Road and Sherbourne Street is an off licence. On the north side is a barbers with a offices and a flat above. There is a tattoo parlour above the site itself. To the rear are residential properties fronting Warwick Street with blank two storey gables facing the site across the narrow rear access road. There is a pedestrian access from Bury New Road at the front and a pedestrian service access at the rear. There are parking restrictions in the form a double yellow lines along Bury New Road, directly in front of the property.

It is proposed to refurbish the property as follows:

- Removing the existing facade panelling directly above the shopfront and installing a new advert panel for which an advert application has been received. The new signage would be light by a trough light.
- The new aluminium shopfront would be similar to the existing and powder coated black.
- The existing roller shutter box would be removed.
- At the rear there would be a extractor flue installed and a bin store formed between the rear elevation and the adjacent footpath.

Relevant Planning History

54532 - Change of use from vacant shop (A1) to hot food takeaway (A5); installation of flue at rear; new shop front; new bin storage area at rear with roller shutters. - Approve with Conditions 24/11/2011

55755 - Retrospective application for change of use of ground floor from shop (A1) to cafe (A3) - Withdrawn - Invalid 23/11/2012

55961 - Change of use of ground floor from shop (A1) to tattoo & piercing studio (sui generis). - Approve with Conditions 21/02/2013

61159 - Change of use of ground floor from cafe (Class A3) to cafe/wine bar (Class A3/A4) - Approve with Conditions 29/03/2017

68024 - 1 No. Externally lit sign by trough led lighting

Publicity

Immediate neighbours notified by letter dated 10/02/2022. One comment from the owner of the attached property relating to the flue and possible impact on future occupier.

Statutory/Non-Statutory Consultations

Traffic Section - No objection.

Environmental Health - No objection.

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
S2/6	Food and Drink
EC4/1	Small Businesses
S1/2	Shopping in Other Town Centres
NPPF	National Planning Policy Framework
EN1/8	Shop Fronts

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.

Town centre and Economy - Currently the vacant property in its poor state of repair, detracts from the visual amenity of the streetscape within the town centre. The proposal to refurbish the property would improve the appearance of the property and the commercial viability and vitality of the town centre. The proposal complies with the NPPF and UDP Policies S1/2 Shopping in Other Town Centres and S2/6 Food and Drink.

Visual amenity and streetscape - The general design of the shop frontage would remain but the refurbishment would improve the appearance within the streetscape. The flue at the rear would not be particularly prominent and would be finished in a powder coated black or grey. The bins at the rear would be screened from the adjacent footway by the new fence around the bin store. The proposed alterations would be acceptable and comply with UDP Policies EN1/2 Townscape and Built Design and S2/6 Food and Drink.

Residential Amenity - The alterations to the frontage raise no issues with regard to residential amenity. The proposed flue on the rear elevation would be subject to environmental health control and a condition would require details of installation to be submitted prior to the use commencing. This would protect the residential amenity of nearby residents in the flats to the rear. The proposal in terms of residential amenity is acceptable and complies with UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.

Traffic - With the external bin store at the rear enclosed with a timber fence, there is no obstruction to the adjacent footpath. There are no other issues with regard to traffic. The proposal therefore complies with UDP Policy S2/6 Food and Drink.

Comment - The owner of the adjacent property is concerned that the flue may impact on the first floor window at the rear - Please can you view the property so you will understand how close this will be and If the proposed application for a flue at rear will affect the tenants quality of air that might enter the window when it's opened and also the noise pollution is also a real concern. There is a fire escape at the rear of the property and I am also concerned that this chimney/flue alterations will interfere with access to the essential fire escape.

It is noted that the window nearest the flue at the rear is not a main habitable room window. The flue on the rear would be subject to a condition that would manage noise and emissions to ensure there would be no issues with regard to residential amenity.

Servicing - The bin store at the rear is small but considered adequate. Servicing would be as existing with bins collected from the rear/side road. As with other commercial properties in the immediate vicinity, deliveries would be from the front or rear depending on the hours of the day and this would be generally acceptable and comply with UDP Policy S2/6 Food and Drink.

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

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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 revised location and site plan, drawings numbered PH0239-001.1, 2 and 3, PH0239-002.2, PH0239-006 and PH0239-D-010 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 No development shall commence unless and until a scheme for treating, diluting and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority, which shall include:
a written statement from a suitably qualified person which demonstrates compliance with the measures proposed in the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development); and
the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements .
The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.
Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.
- 4 The bin storage facilities indicated on the approved plans shall be implemented to the satisfaction of the Local Planning Authority prior to the development hereby approved being brought into use and maintained thereafter.
Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to UDP Policy S2/4 Food and Drink.
- 5 Notwithstanding the approved plans, the external flue shall be powder coated black/dark grey to the satisfaction of the Local Planning Authority.
Reason. In the interests of visual amenity pursuant to UDP Policies EN1/2 Townscape and Built Design and S2/6 Food and Drink.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	05/04/2022		