

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 30/09/2022	Ref: 68423/FUL
Registration: 23/05/2022	LDfC: 25/06/2022	Expiry Date: 18/07/2022
Site Visit: 10/06/2022	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Proposed two storey building with retail E(a) to ground floor and storage space above E(c)

Location: Land between 32 and 36 Albion Street, Radcliffe, Manchester, M26 1BH

Description

The application relates to a vacant plot of land which is located on Albion Street between 2 shops and an electricity sub station. The surrounding area is predominantly residential.

The row of shops contains a convenience store (No36), the electricity sub station, the vacant site and a hot food takeaway (No 32) which has a separate residential flat at first floor. The site has been enclosed by a block wall across the street frontage and is land which is associated with the adjacent hot food takeaway, No 32 Albion Street.

The remainder of Albion Street comprises residential dwellings, with residential properties directly opposite.

To the rear of the site is an embankment which drops down to the back street which is at a lower level to the site. Beyond this are residential properties on Rupert Street.

There is on street parking on both sides of Albion Street.

The application seeks permission for a 2 storey building with a retail shop at ground floor and storage at 1st floor.

The proposed shop would be located on land between the sub station and No 32 Albion Street (hot food takeaway) and attached to the side elevation of No 32. It would have a glazed ground floor frontage with double door openings. The build would have an 'L' shaped footprint and would extend past the sub station and wrap round the rear, covering the majority of the site area.

A small area of the shop would be used for storage with further storage located at the first floor.

Bins for the proposed development would be located at the rear on a level platform which would be formed within the embankment at the rear of the site, clear of the back street. This bin store area would also accommodate the commercial bins for No 32 and the residential flat above this property. A new gated opening would be created between No 32 and the site at the rear to enable access to the bin store for the users of No 32.

The bin store would be enclosed within timber boarding and accessed via steps from the rear of the site which would be formed within the embankment.

Servicing of the proposed retail shop would be at the rear via the back street.

Relevant Planning History

01231/E - Proposed two storey extension and erection of garage. - Enquiry completed 08/02/2013

01456/E - Erection of 1 no. dwelling - Enquiry completed 24/01/2014

56349 - Single storey extension at rear; new boundary wall - Approve with Conditions 28/06/2013

58120 - Erection of two storey building on existing vacant land between 32 & 36 Albion Street to create 2 no. self contained flats and erection of 3 no. single storey storage buildings at the rear - Withdrawn by Applicant 21/01/2015

14/0279 - Container at rear used as storeroom and loft used as residential - 17/07/2014

Publicity

Letters sent on 1/6/22 to 21 adjacent properties.

One objection received with issues as follows -

- The site is a heavily residential area with no parking. Already flanked by retail units with inadequate parking this development would make a bad situation worse.
- Proximity to the ELNW sub station is also an area of concern.
- This shop is disgusting they have no respect for the area and community it's always messy outside, overflowing bins and the back is piled high with rubbish. Until they take pride in the area they shouldn't be allowed to expand.

Revised plans received and neighbours at Nos 31, 33 and 35 re-notified by letter dated 20/9/22.

No response received

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal due to insufficient information, loss of bin storage and servicing arrangements on Albion Street, use of back street for servicing and vehicular and pedestrian conflicts and impacts on highway safety.

Environmental Health - Contaminated Land - No objection subject to conditions

Environmental Health - Pollution Control - No comments to make.

Pre-start Conditions - Applicant/Agent has agreed with pre-start conditions

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
S2/5	New Local Shopping Provision
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
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.

Principle - Policy S2/5 - New Local Shopping Provision Outside Recognised Shopping Centres states that small scale local shopping provision can be supported with assessment of the balance with regards to -

- whether there is a local need
- the effect of the vitality and viability of established local shopping facilities
- whether or not the proposed use would be appropriately located elsewhere
- availability of alternative premises
- potential nuisance to neighbours
- parking and servicing provision and effects on road safety and traffic.

The site is located in a predominantly residential area outside a recognised shopping centre. There are two existing shops which serve a local need and the proposed shop would likewise contribute to providing a small scale shopping facility for the local community.

The applicant has applied for a Class E (a) for the display or retail sale of goods. Class E covers a variety of uses, from retail sale of goods, provision of business/professional services, sale of food and drink on the premises, gyms, nurseries and former B1 uses such as industrial processes and planning permission would not be required to interchange between these uses.

There are some constraints in this particular locality and in relation to the site itself which would limit or restrict usage of the site for certain types of uses which fall within Class E and

which would be considered unacceptable in this locality.

It is therefore considered appropriate to condition the use for a Class E (a) use only, as proposed in the application.

It is therefore considered that the proposed development would be acceptable in principle within this locality subject to the following considerations.

Layout - The proposed new build would be located on land which is associated with No 32. The proposed build would be attached to the side gable of No 32 and next to the sub station to the west. It would be set along the same build line as the adjacent shops and dwellings which are on this row and as such considered appropriate within the street scene.

The proposed build would be 2 storey at the front and single storey at the rear where it would project past the sub station and would be 8.5m x 6m. The footprint of the build would cover the majority of the site area. This would displace the bin store area for No 32.

It is therefore proposed to provide a communal bin store area for both the proposed development and No 32 which would be located at the rear of the site. This would require part of the embankment to be excavated to form a level platform for the bin store which would be accessed via a newly created set of steps formed in the embankment. This area would be accessible to No 32 by a new opening created in the boundary fence between the 2 sites at the rear.

Whilst a rather unusual arrangement, the proposed development would provide commercial facilities for both the new and existing builds as well as a bin store for the residential flat above No 32. Located off the highway it would not impact on access along the back street. In this respect, the proposal is considered acceptable.

In terms of the layout of No 32, there would still be a small garden area to the rear of this property which for a mixed commercial and residential use would be considered acceptable.

It is therefore considered that the proposal to infill a vacant plot with a small scale local shop would be proportionate for the site and land available and within the context of the character of the area.

The proposed development is therefore considered to comply with S2/5, EC4/1 and EN1/2.

Design and appearance - The proposed build would be attached to the side gable of No 32 and as such continue the row of terraced properties which are formed along the street. The proposed build be slightly lower in height than No 32 but with matching eaves levels and fenestration patterns which would provide continuity along the streetscene and therefore considered acceptable.

The proposed development would have brick elevations and a tiled roof which would be in keeping with the area with a condition to secure the details of the materials.

It is therefore considered that the proposed development would be acceptable and comply with EN1/2 and EC4/1.

Impact on residential amenity -

Impact on No 32 - The proposed new build would be located on a vacant plot between two established local shops and attached to the side gable of No 32, the hot food takeaway which has a residential flat above. The applicant has confirmed they own this property. Attaching the proposed new build would result in the loss of a 1st floor side window (non habitable to a WC only) and the side access to the flat. The applicant states this access is not used and the flat would be accessed via the shop entrance at the front which is considered acceptable. The loss of the window to the WC is considered not to be

significantly detrimental to residential amenity and is similar to other flats where toilet facilities are not lit by window openings.

Impact to houses on Albion Street - In terms of impacts on the residential dwellings on Albion Street given the relatively small scale development it is considered there would not be significantly additional activity from deliveries or servicing or from customers to the shop. Separation distances to the houses opposite would be the same as the adjacent shops and as such considered acceptable.

Impacts on Rupert Street - The bins would be stored at the rear of the site within a new enclosure which would be formed within the embankment. This would result in the bins for both the proposed development, the shop at No 32 and the flat above being collected from the back street. This arrangement would be similar to the bin collections for residential dwellings on Rupert Street to the rear of the site and therefore considered to be acceptable.

There would be a distance of 22m from the proposed single storey element and more than 23m from the 2 storey element of the build to the rear elevations of houses on Rupert street. Taking into account the difference in levels, and as the build would be a commercial use, the proposed development would comply with SPD6.

Hours would be conditioned as 7am to 10pm which is considered acceptable for a local shopping provision in this area.

It is therefore considered that the proposed development would not have a significant impact on residential amenity and as such is considered acceptable and would comply with EC4/1, EC4/1 and S2/5.

Highways issues

Parking - There would be no associated parking provided for the proposed development. There is on street parking in front of the site and along Albion Street as well as on nearby side streets. The proposed development would provide a relatively small scale local shopping provision which is anticipated would serve local needs and as such the majority of the custom would be by foot.

It is therefore considered that given the scale of development and location of the site, the proposed development would be acceptable.

Servicing - The proposed development could be serviced either from the back street, where vans could pull in and quickly unload, although it is more than likely in practice to be serviced from Albion Street at the front. The Highway Section would not support either arrangement due to impacts on highway safety and lack of parking.

Carrying out deliveries at the front would be the same arrangement which has been historically carried out for other 2 shops and which has not caused undue parking or obstruction problems in the area.

As the proposed development would provide a relatively small scale local shop, deliveries would not be numerous and would be similar to those carried out for the 2 established shops and it is considered the addition of 1 no. local shop to the area would not significantly intensify pressures on the area due to the additional servicing arrangements.

Bins would be located at the rear which would be the same arrangement for collection purposes as the terraced houses on Rupert Street to the rear of the site and as such considered acceptable.

On consultation with the Highway Section, confirmation has been received that the development would not be supported and has recommended refusal on the following grounds -

- lack of information to reinstate the existing vehicular access from Albion Street

- insufficient information to assess the physical impact of the rear bin store and surface water drainage on the adopted back street
- Loss of existing servicing and bin storage arrangements accessed from Albion Street and subsequent use of the adjacent un-named back street, leading to a deterioration of the poorly surfaced carriageway and conflicts between residents and service vehicles
- Likely use of the forecourt area on Albion Street for bin storage which could lead to the obstruction of the footway.

These issues have been discussed in the above report and it is considered that given the scale and character of development in this locality, on balance, the proposed development would not have a significant or detrimental impact on highway safety and would be acceptable with appropriate conditions and informatives.

Electricity north west - The development is shown to be adjacent to or affect Electricity North West's operational land or electricity distribution assets and could have an impact on infrastructure.

The applicant has been notified of the response from ENW and an informative would be included on the grant of a planning permission to advise the applicant to contact ENW.

Response to objections

The issue of parking provision and proximity to the ENW sub station have been covered in the above report.

The proposed development would make adequate provision for bin store facilities for the proposed development and existing site (No 32).

Issues of untidy land and excessive litter would be addressed under separate legislations.

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.

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 drawings - Proposed floor plans dwg 02 rev 11; Proposed elevations 03 rev 11; Proposed section plan dwg 04 rev 12; Proposed street elevations dwg 05 rev 11; Proposed floor plans with additional property dwg 06 rev 11; Proposed site plan dwg 07 rev 11. 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 contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have

been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;

- Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 4 Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 5 The first floor of the development hereby approved shall be used for storage purposes only.

Reason. To ensure a suitable scale of development for the proposed location and to protect the amenity of surrounding properties and impacts on highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built design, Ht2/4 - Car Parking and New Development and EC4/1 - Small Businesses.

- 6 The premises to which this approval relates shall be used for Class E a) retail sale of goods other than hot food and for no other purpose (including no purpose as a showroom or for the display of bulky household goods).

Reason. In the interests of residential amenity and highway and pedestrian safety pursuant to Bury Unitary Development Plan Policies 4/1 - Small Businesses, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

- 7 Details/type of roller shutter to be used in the development shall be submitted to and approved by the Local Planning Authority prior to the first use and occupation of the development thereby approved. The approved roller shutter only shall be used in the development and thereafter maintained.

Reason. In the interests of visual amenity pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design, EN1/8 - Shop Fronts and EN1/5 - Crime Prevention.

- 8 Notwithstanding the approved plans, no development shall commence unless and until full details of the following have been submitted on a topographical based survey of the site and adjacent adopted highways to the Local Planning Authority:

- Full details of measures to any retaining structures and enclosures associated with the rear bin store enclosure are required that abut/sited in close proximity to the adopted highway, incorporating full structural, construction and drainage details, pedestrian protection measures and a detailed construction method statement.
- Full details of works to reinstate the redundant access to adjacent footway levels on Albion Street to a scope and specification to be agreed.

The details subsequently approved shall be implemented to an agreed programme

and to the written satisfaction of the Local Planning Authority.

Reason. Information not submitted at application stage. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 9 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and approved by the Local Planning Authority and shall confirm/provide the following:

- Hours of operation and number of vehicle movements;
- Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
- Parking on site of operatives' and demolition/construction vehicles together with storage on site of demolition/construction materials;
- Measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations

The approved plan shall be adhered to throughout the demolition/construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the demolition and construction periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of demolition/construction materials.

Reason. Information not submitted at application stage. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 10 The bin store facilities shown on approved plans shall be implemented and made available for use prior to the first occupation/use of the development hereby approved and thereafter maintained. There shall be no bins associated with the development or No 32 Albion Street stored on the highway.

Reason. To ensure that adequate bin storage arrangements are provided within the curtilage of the property pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses and EN1/2 - Townscape and Built Design.

- 11 Details/Samples of the (materials/bricks) to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the construction of the building hereby approved. Only the approved materials/bricks shall be used for the construction of the development.

Reason. No material samples have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/2 - Townscape and Built Design.

- 12 The use hereby permitted shall not be open to customers outside the following times: 07.00 to 22.00 daily.

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S2/5 – New Local Shopping Provision Outside Recognised Shopping Centres and EC4/1 - Small Businesses.

- 13 The development hereby approved shall be carried out in accordance with Surface Water Sustainable Drainage principles and must be based on the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). There shall be no surface water run-off onto the adopted highway as a result of the development. The drainage scheme shall be implemented prior to first occupation and thereafter maintained.

Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT 30/9/22			