

DELEGATED REPORT

Report by Claire Booth	Date of report: 29/03/2023	Ref: 69318/PIAPA
Registration: 02/02/2023	LDFC: 24/03/2023	Expiry Date: 30/03/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 5	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for proposed change of use from Commercial (Class E) to 9 no. Apartments (Class C3)

Location: 509-511 Bury New Road, Prestwich, Manchester, M25 3AJ

Description

The application relates to the Former Rileys Snooker Club, located on Bury New Road, Prestwich, which adjoins Prestwich Liberal Club. The Liberal Club is located on the corner of close to the junction with Chester Street. Bury New Road is the main thoroughfare through Prestwich. The former snooker club is a two storey large semi-detached property which extends the full width of its frontage, and the full depth of its curtilage, with the exception of a thin rear yard area. This yard area only seems to be accessible via the building.

This prior approval application is submitted under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class MA allows development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. Prior Approval consent is thus sought to change the use of a vacant property last used as a Snooker Club to nine residential apartments.

All external alterations would be subject to a separate planning application which has been submitted (69319) and is currently invalid due to material changes to the building and its boundary not being submitted.

Development permitted under class MA is subject to conditions detailed within section MA.2. which will be detailed within this report.

As the building is under 18 metres in height and does not contain seven or more storeys there is not a requirement for a fire statement.

Relevant Planning History

69311 - External works to change the existing fenestration, including new door and windows, a Balcony at the front and repainting of the building - Under consideration

48928 - Proposed external timber decked smoking area - Refused, 20/12/2007

40746 - Halo illuminated fascia signage to front elevation - Approved, 24/06/2003

Publicity

23 nearby residents were formally consulted on the proposals. 5 representations have

been received raising objections for the following reasons:

- Questions whether the existing use falls under Class E
- The site is close to a very busy junction and access is not safe
- No parking provision proposed for occupants or any visitors
- Raises concerns that neighbouring streets are already over subscribed for car parking, the proposals cannot be accommodated.
- The area is already under massive pressure from the surrounding area with cars for parking and volume of traffic, the addition of 9 apartments would increase pressure.
- The space for the apartments and the lack of amenity space and refuse storage will lead to a poor standard of development
- This type of poor quality housing accommodation should be rigorously resisted.
- This property is not suitable for conversion to residential use as it has no natural light on one elevation and no amenity space.
- Introducing new windows on the immediate boundary of neighbouring properties is unacceptable.
- Questioning who would own and manage the proposed accommodation.

Statutory/Non-Statutory Consultations

Traffic Section - Objections

Environmental Health - Contaminated Land- No comments or observations received.

Borough Engineer - Drainage Section - No comments or observations received

Planning Policy Manager - No comments or observations received

Environmental Health - Pollution Control - Prior Approval of the Council is required to assess the noise impacts of adjacent uses on future occupiers of the proposed apartments.

Pre-start Conditions - Not applicable.

Unitary Development Plan and Policies

Not applicable.

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.

ASSESSMENT

The proposed development is for the change of use of the former Snooker Club building from Class E use to Class C3 use. The scheme would create 9 no. units consisting of 1 bedroom apartments and studio apartments. The applicant has submitted this application for prior approval to the Local Planning Authority under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

As this is not an application for planning permission, the Local Planning Authority can only assess the application for prior approval on the basis of whether it constitutes permitted development and against the relevant criteria within Class MA and the associated conditions under MA.2. of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Whether the proposal constitutes permitted development

Class MA is subject to a number of criteria as to whether the scheme would be permitted development or not which are listed below and subsequently assessed.

MA.1.—(1) Development is not permitted by Class MA—

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

The building has been vacant for some time and at least 3 months prior to the submission of the application. The proposal thus complies with criteria MA.1(a).

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

Whilst the property has been vacant since the last use of the building was as Snooker Club premises which are considered to fall under Use Class E, specifically Class E(d): 'Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink).

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The floor area of the building to be converted under Class MA is well below the threshold.

- (d) if land covered by, or within the curtilage of, the building—**
- (i) is or forms part of a site of special scientific interest;**
 - (ii) is or forms part of a listed building or land within its curtilage;**
 - (iii) is or forms part of a scheduled monument or land within its curtilage;**
 - (iv) is or forms part of a safety hazard area; or**
 - (v) is or forms part of a military explosives storage area;**

None of the above are applicable to this site.

- (e) if the building is within—**
- (i) an area of outstanding natural beauty;**
 - (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;**
 - (iii) the Broads;**
 - (iv) a National Park; or**
 - (v) a World Heritage Site;**

None of the above are applicable to this site.

- (f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or**

The site is not part of an agricultural tenancy.

- (g) before 1 August 2022, if—**
- (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and**
 - (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.**

The application was submitted after the 1 August 2022 on the 02 February 2023.

- (2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—**

- (a) the following classes of the Schedule as it had effect before 1st September 2020—**

- (i) Class A1 (shops);**
- (ii) Class A2 (financial and professional services);**
- (iii) Class A3 (food and drink);**
- (iv) Class B1 (business);**
- (v) Class D1(a) (non-residential institutions – medical or health services);**
- (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);**
- (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;**

- (b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.**

The former Snooker Club use of the building was well established, and this use was within Class E(d): Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,) use the building has been within the Class E use and therefore prior approval is acceptable subject to there being no conflict with the

criteria to which Class MA developments are assessed against and subject to full compliance with the requirements in Part 3, Paragraph W of the Order.

Matters subject to Prior Approval

Part 3, Class MA.2 of the General Permitted Development Order 2015 (as amended) states:

- (1) Development under Class MA is permitted subject to the following conditions:
- (2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—
 - (a) transport impacts of the development, particularly to ensure safe site access;
 - (b) contamination risks in relation to the building;
 - (c) flooding risks in relation to the building;
 - (d) impacts of noise from commercial premises on the intended occupiers of the development;
 - (e) where—
 - (i) the building is located in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
 - (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
 - (h) where the development involves the loss of services provided by
 - (i) a registered nursery, or
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost.
- the impact on the local provision of the type of services lost; and
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

These matters will be discussed below.

(a) transport impacts of the development, particularly to ensure safe site access;

The application site is located on the A56: Bury New Road. This is a Class 1 Principal Road and is a primary route that can accommodate abnormal load and is used as a route for such loads. It is a main transport route and the main thoroughfare through Prestwich.

The application site is located in close proximity to the signalised junction of the crossroads, where Bury New Road meets Chester Street and Fairfax Road. At the frontage of the property, there is a dropped kerb and space to park two or three cars. Highway railings extend along part of the pavement in front of the former Snooker Club.

The Highway Authority raise objections to the proposal for two reasons. Firstly, due to the

proposed car parking provision being inadequate for the proposed use it would likely lead to vehicles parking and carrying out manoeuvres on the adjacent classified and unclassified highways, to the detriment of the free flow of traffic on this Principal Road, to the detriment of highway safety. In addition, the proposal would result in an intensification of the use of a site with inadequate access and servicing arrangements in close proximity to a signalised junction on the A56 and would be detrimental to road safety and maintaining the free flow of traffic on the adjacent classified road.

Prior approval relating to the transport impacts of the development, particularly to ensure safe site access, is therefore required and refused.

(b) contamination risks in relation to the building;

The site is not within 250m of a landfill site. The proposal seeks a change of use of the property only and thus the ground conditions around and under the building will not be disturbed. Therefore the contamination risks to future occupiers of the building would be extremely low. This is confirmed by the Council's Contaminated Land Officers who raise no objections to the proposals.

(c) flooding risks in relation to the building;

Paragraph W (prior approval) (6) (c) states that where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency where the development is—

- (a) in an area within Flood Zone 2 or Flood Zone 3; or
- (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The site is within Flood Zone 1 and there are no known critical drainage issues in this area. The property already has a drainage system and it is not envisaged that the proposal would cause an increase in flooding in the locality. The proposal is therefore acceptable having regard to flood risk and prior approval would therefore not be required in this regard.

(d) impacts of noise from commercial premises on the intended occupiers of the development;

The site is attached to Prestwich Liberal Club which has a beer garden and a bowling green to the rear.

The Council's Environmental Health section of the Council has raised concerns that noise generated from the uses within and adjoining the Liberal Club would highly likely cause noise impacts of the development on the intended occupiers of the development.

Prior Approval of the LPA is therefore required given future occupants of the site could suffer from noise pollution from this commercial premise and its users.

It may be that the impact of noise from the Liberal Club, its beer garden and Bowling Green, combined with any other commercial noise sources, perhaps from the commercial uses located opposite the application site, which would be determined by the applicant's Acoustic consultant, could be mitigated. However without a Noise Impact Assessment, which includes monitoring over a sufficient length of time and over 24 hour periods, and

provides any mitigation measures considered necessary, it is unknown whether the impact of noise from commercial premises on the intended occupiers of the development could be made acceptable. Prior approval of the Council is therefore required.

(e) where—

- (i) the building is located in a conservation area, and**
- (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;**

The property is not located within a Conservation Area.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

Whilst windows are shown to serve all of the apartments many former windows of the building are blocked up, primarily on the rear and side elevations of the building. In addition, part of the walls where new windows are proposed are currently blank/ void of any windows. No external alterations are allowed under Class MA of the GPDO. This prior approval application therefore does not meet the requirement in MA.2(f).

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

The site is not in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

(h) where the development involves the loss of services provided by

- (i) a registered nursery, or**
- (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost, the impact on the local provision of the type of services lost; and**

The loss would be of a Snooker Club and thus the proposed change of use would not involve the loss of services provided by either a registered nursery or a health centre.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The development proposed does not meet the fire risk condition, as no details have been submitted demonstrating the proposal would accord with the relevant Building Regulations.

Space Standards

Article 3(9A) of the Order makes it clear that Schedule 2, which Part 3 applications fall under, does not grant permission for, or authorise any development of, any new dwellinghouse where the gross internal floor area is less than 37 square metres in size, or that does not comply with the nationally described space standards issued by the former DCLG on 27 March 2015. The smallest of the 9 apartments is stated as being 38 square metres, however, in this case whilst the submitted floor plans indicate an overall floor area of each apartment, they do not define whether the apartments would house one or two persons and therefore it is unclear whether the proposals meet the requirements of the national space standards. In addition, the submission of these types of applications must accord with the requirements of Part 3, Paragraph W of the aforementioned order.

Paragraph W(2)(bc) of the Order requires:

(bc) in relation to development proposed under Class G, M, MA, N, O, PA or Q of this

Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;

In this case the submitted floor plans do not indicate the total floor space in square metres of each dwellinghouse/ apartment, they also do not show *the dimensions and proposed use of each room*, nor have elevations of the dwellinghouses been submitted. The proposed change of use is therefore not Permitted Development.

It is clear that the proposed plans do not contain the necessary dimensions of each room required for Part 3 applications. The application therefore fails to meet the procedural requirements outlined in paragraph W, Part 3 of the GPDO, for this type of application thus the proposed change of use is not Permitted Development. In addition, the proposal also fails to demonstrate that the proposals accord with the nationally prescribed Space Standard (2015), therefore recommended the application also be refused on this basis.

Conclusion

In light of the above the proposal would not be Permitted Development and thus it is recommended that this prior approval be refused.

Neighbours Representations

In terms of the matters raised by residents relating to the lack of amenity space and the unsightly position of the refuse storage area, regrettably, these are not matters which the General Permitted Development Order identifies as being able to be assessed on Class MA applications.

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The proposal is not Permitted Development as it fails to provide the dimensions and proposed use of each room and the elevations of the dwellinghouses, as required by Paragraph W(2)(bc) of the Town and Country (General Permitted Development) Order 2015 (as amended).
- 2 The proposal would result in an intensification of the use of a site with inadequate access and servicing arrangements in close proximity to a signalised junction on the A56 and would be detrimental to maintaining the free flow of traffic on the adjacent classified road and highway safety.
- 3 The proposed car parking provision is inadequate for the use proposed and would lead to vehicles parking and carrying out manoeuvres on the adjacent classified and unclassified highways to the detriment of the free flow of traffic and highway safety.
- 4 The proposal fails to provide adequate natural light in all habitable rooms of the dwellinghouses, contrary to the requirements of Class MA(f).
- 5 The proposal fails to demonstrate that the new dwellinghouses proposed would accord with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015, as required by Article 3(9A) of the General Permitted Development Order (as amended) 2015.

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- 6 Prior Approval of the Council is required relating to the impacts of noise from commercial premises on the intended occupiers of the development as insufficient information accompanies the application in this regard.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	29/03/2023	DM	29/03/2023