

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 04/10/2024	Ref: 70914/FUL
Registration: 16/08/2024	LDfC: 10/09/2024	Expiry Date: 11/10/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: N/A
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, 2 no. three-bedroom apartments (Class C3a) on the first floor with rear roof dormer 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, 2 no. 3 bed apartments (Class C3a) on the 1st floor and in the roofspace with rear dormers and associated car parking, landscaping and boundary treatment.

The building would have a rectangular footprint of 129 sqm and would be sited in the western part of the car park with the main elevation extending 14.8m and fronting Rainsough Brow. A second entrance on the east elevation would also be provided in front of which would be a row of 4 parking spaces including 1 disabled space.

A 2.2m high brick wall would run from the front corner of the building to the southern boundary with an access gate which would lead to the side of the building where there would be a secure cycle store and grassed amenity area. Attached to this side of the building would be a brick enclosed staircase which would be used to access the 2 upper floor flats.

There would be a separate bin store for both the residential and commercial uses located along the southern boundary.

The building would have a mixed use, proposing a retail shop at the ground floor with associated office, storage and staff facilities.

At the first floor and in the roofspace and dormers, would be 2 x 3 bed flats (each flat located over the two floors).

The building would be built of red brick with black concrete roof tiles and the windows to the residential units would have juliette balconies at the first floor.

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

02874/E - Proposed new standalone building (retail at ground floor, flat at first floor) on existing car park - 25/9/23

Publicity

Letters sent to 20 properties on 19/8/24.

One objection received which raised the following issues -

- Totally against this development.
- We do not need another retail shop in the Rainsough area especially 100 metre from one already. It's not a viable business
- There is no call for a retail shop here. We have one already and this retail shop causes nothing but anti social behaviour, litter, dumping of rubbish , deprivation due to obesity, alcoholism, Drugs, smoking, poor diet from fast food , high sugar products, high fat products, high salt products, Having studied Sociology and Psychology, Studies suggest that there is a link between all the above items and diseases, ie Cancer, Cardiovascular disease, Stroke, High blood pressure.
- This in return puts pressure on local hospitals, Healthcare centres , Resources to pay for other local services. I'm not against the apartments being built even thou we need more green spaces but definitely no more retail shops. In the radius of two miles we must have over 40 Supermarkets, Fastfood outlets, Corner shops so we do not need anymore.

Statutory/Non-Statutory Consultations

Traffic Section - Object and recommend refusal

Environmental Health - Contaminated Land - No objection subject to conditions

Environmental Health - Pollution Control - No comments to make

Waste Management - No response received.

Borough Engineer - Drainage Section - No response received

United Utilities (Water and waste) - Object and require a drainage scheme
Greater Manchester Ecology Unit - No objection subject to condition.

Pre-start Conditions - Not relevant

Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
EN1/7	Throughroutes and Gateways
EN1/8	Shop Fronts
S2/1	All New Retail Proposals: Assessment Criteria
S2/5	New Local Shopping Provision
HT5/1	Access For Those with Special Needs
HT2/4	Car Parking and New Development
SPD11	Parking Standards in Bury
H1/2	Further Housing Development
H2/2	The Layout of New Residential Development
JP-S1	Sustainable Development
JP-S2	Carbon and Energy
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-P1	Sustainable Places
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
SPD6	Supplementary Planning Document 6: Alterations & Extensions

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.

Housing - Principle

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework states that unless they have an adopted plan that is less than five years old that identified a five year supply of specific deliverable sites at the time of conclusion of the examination, then local planning authorities should identify and update annually a supply of specific developable sites to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing in certain circumstances set out in NPPF paragraph 226.

The joint Places for Everyone Plan was adopted with effect from 21 March 2024 and sets the up-to-date housing requirement for Bury against which the deliverable supply of housing land must be assessed.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the deliverable land supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). In addition to the housing land supply in the SHLAA, the joint Places for Everyone Plan allocates significant strategic sites for housing within Bury and will accelerate housing delivery within the Borough to meet housing needs.

Following the adoption of Places for Everyone, the Council is now able to demonstrate a deliverable 5 year supply of housing land when assessed against the adopted PfE housing requirement.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

In terms of housing delivery the Borough has under-delivered against the local housing need, and as a result the 'tilted balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

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.

Layout

The proposed site area currently forms part of the site for the existing retail shop, 49 Rainsough Brow and provides 8 standard parking spaces for this shop plus an area for delivery vehicles to turn and service the site.

The existing site plan which has been submitted does not show the current or the approved layout arrangement of the existing retail shop, nor does the proposed site plan account for the loss of parking and servicing for No 49 by proposing alternative arrangements. Without a comprehensive assessment of parking and servicing provisions, it cannot be reasonably established that the existing retail unit could function within the remaining site area in terms of the parking, servicing or delivery requirements which would be needed to allow the shop to operate acceptably.

Turning to the proposed development site itself, the proposed plan shows 3 parking spaces (one with EV chargepoint) and one accessible space. Although not stated in the application, it is assumed these 4 spaces would serve both the retail shop and the 2 residential units. Whilst located in an accessible area, it is considered that four spaces to serve both uses would not be sufficient for the scale of development. The proposed site plan does also not account for servicing of the shop for either deliveries or bin collections.

The proposed site layout would conflict with the consent which has been granted for the retail shop under planning reference 61442 and the servicing and parking arrangements for the existing shop could not be provided as approved.

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.

Design and appearance

The proposed building would be rectangular in form with a footprint of approximately 129sqm and would run linear to Rainsough Brow, set directly behind the back edge of the footway.

The build would be 2.5 storeys, and the height would range from 8.2m increasing to 9.3m as the site and Rainsough Brow slopes downwards in a north to south direction but the building does not follow this gradient in terms of stepping down in height to address the gradient of the site or road. At this height and given its position in relation to the road and frontage, it is considered the build would appear dominant and overbearing on the street scene, and more so when viewed within the context of the existing single storey retail unit which has a less oppressive appearance within its setting.

The front (north) elevation would comprise the main entrance to the shop which would have glazing along the majority of the ground floor with windows and two juliette balconies for the flats and the east elevation facing the site would similarly provide a shop entrance and glazing with juliette balcony above. The rear elevation (south) would be less visible from the street and there would be a service door for the shop and large windows at first floor with 2 flat roof dormers. The west elevation would incorporate a juliette balcony at 1st floor. Elevations would comprise red brick with black concrete roof tiles.

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.

In terms of the fenestration patterns and materials, the building would be acceptable.

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. There would be bedroom windows located within the proposed dormers and large 1st floor windows overlooking part of the adjacent site on the western side which would only be approx 6m away and as such this relationship would not be acceptable and fail aspect standards which requires 7m from a first floor habitable window to a directly facing boundary (with additional separation for additional floors).

The approved site plan for the apartment development also showed that the apartment building would be set almost directly next to the red edge site boundary but within the blue edge of this application. There would be a 1st floor lounge window and Juliette balcony located on the western elevation of the proposed building and it being the case the apartment block would be set directly next to the application site, there would only be 1.4m from this window to the adjacent development which would not meet aspect standards and would provide a poor level of outlook and amenity for future occupiers of the proposed flat.

However, the site plans which have been submitted for this application are poor in detail and do not show enough of the adjacent site to fully understand the relationship of the proposed development and the approved apartment block.

The application would therefore be recommended for refusal for conflicting and insufficient information in order to understand the potential impacts on future occupiers which could arise as a result of the direct interface between the proposed development and the adjacent site.

The proposed development would therefore be contrary to policies H2/1 and EN1/2.

Highways

The site layout approved for No 49 Rainsough showed 3 accessible parking spaces and a service bay to the front of the shop with 8 spaces located to the west in the application site.

The existing site plan does not reflect the current arrangements in terms of the parking and servicing provided for No 49, nor does the proposed site plan show how the proposed development would integrate within the site in terms of providing servicing and parking for both the existing and proposed developments.

The Traffic Section have been consulted and recommend refusal on 3 grounds -

1. The proposal would result in the loss and a restriction in the use of existing, approved parking facilities for the retail use and would adversely affect approved servicing arrangements for the site and deliveries of goods into the retail shop.
2. The proposed servicing arrangements and car parking provision for the proposed additional retail and residential uses would be inadequate to serve the scale of development.
3. 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 would be maintained.

The proposed development would therefore be unacceptable and be contrary to policies H2/2, S2/1, S2/5, H2/4, JP-C5 and JP-C6.

Ecology

Birds

The vegetation on site has the potential to support nesting birds. All birds, with the exception of certain pest species, and their nests are protected under the terms of the Wildlife and Countryside Act 1981 (as amended). GMEU would therefore recommend that any works to scrub and the hedge should not be undertaken in the main bird breeding season (March to July inclusive), unless nesting birds are found to be absent, by a suitably qualified person. GMEU would therefore suggest that a condition to this effect be placed on any permission, if granted, in order to protect wild birds.

Biodiversity Enhancement

In line with Section 11 of the NPPF, GMEU would recommend that opportunities for biodiversity enhancement be incorporated into the new development. These should include:

- Bat bricks and/or tubes within the new development
- Bat boxes
- Bird boxes
- Native tree and shrub planting

In conclusion, GMEU are satisfied that the application can be forwarded for determination and that any permission if granted is supported by the condition/informative above.

Biodiversity Net Gain

The site comprises of a hardstanding which does not contain any on-site habitat and as such the proposed development would be exempt from BNG.

Drainage

United Utilities (UU) have been consulted.

Due to the proximity of the proposed development to UU assets and apparatus, the current position of UU is to object to the scheme and advise the applicant to contact their Developer Services Team to investigate a satisfactory resolution.

UU also request that the applicant provides a detailed drainage plan prior to the determination of the application but in the event this is not provided, have recommended a condition for the submission of a drainage scheme prior to commencement of the development.

Air quality

Would require an EV chargepoint. This could be conditioned.

PfE Policy JP-H3 - TYPe, size and Design of New Housing

The applicant states that the proposed flats would comply with the nationally described space standards and as such the proposal would accord with policy JP-H3.

PfE Policy JP-C2 - Digital connectivity

The applicant states that the development would include full fibre-to-premises connections, ensuring operational internet connectivity and accessibility to network providers.

PfE Policy JP-S2 - Carbon and energy compliance

The applicant states that the development 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.

Recommendation: Refuse

Conditions and Reasons:

- 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. The proposed development would therefore be contrary to Development Plan Policies EN1/2, S2/1, H2/2, HT2/4, JP-C5 and JP-C6.
- 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. The proposed development would therefore be contrary to Development Plan Policies H2/2, EN1/2, S2/1, S2/5, HT2/4, JP-C5 and JP-C6
- 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 contrary to Development Plan Policies EN1/2, JP-C5 and JP-C6.
- 4 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 approved 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.
- 5 The proposed building would, by reason of its size, massing 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 and S2/1.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	4/10/24	HL	09/10/2024