

DELEGATED REPORT

Report by Tom Beirne	Date of report: 06/09/2023	Ref: 69890/FUL
Registration: 02/08/2023	LDfC: 23/08/2023	Expiry Date: 27/09/2023
Site Visit: 22/08/2023	Site Notice: N/A	Press Date: N/A
Objections: 19	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from beauty salon to cafe/wine bar (Class E/Sui Generis)

Location: 59A Church Street, Tottington, Bury, BL8 3BN

with new employment

Description

The application relates to a single storey brick built property (approx 120sqm) - a former beauty salon, on a residential road in Tottington. Attached to the property on the south side is a two storey commercial premises. To the north and south are residential houses. Opposite is an area of open space with residential properties to the south east. The property has no off-street parking. To the side is an unmade access that links to a pedestrian access lane at the rear.

It is proposed to change the use of the property to a cafe/wine bar. Plans are not particularly detailed or accurate but indicate the main bar area at the front with service area, kitchen and toilets at the rear.

Opening hours would be:

- Tuesday - Thursday 11.00 - 23.00hrs
- Friday/Saturday 10.00 - 24.00hrs
- Sunday 10.00 - 23.00hrs

There would be 3-5 staff employed by the business.

Relevant Planning History

54821 - Change of use of ground floor from retail (Class A1) to nail and beauty salon (Sui Generis) - Approve with Conditions 21/03/2012

Publicity

Immediate neighbours notified by letter dated 02/08/2023. 19 objections and a 52 name petition received and summarised below:

- The area is already congested with traffic and parking problems and the traffic generated by the new use would increase the traffic problems.
- The activities associated with the use is likely to cause noise and disturbance to neighbours particularly late in the evening.
- Hours of opening are unneighbourly.
- The plans are very poor and don't give a clear indication as to how the property would operate.

Statutory/Non-Statutory Consultations

Traffic Section - Refuse - parking and highway safety.

Environmental Health - No comment

Waste Management - No comment

Greater Manchester Police - No comment

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
EC4/1	Small Businesses
HT2/4	Car Parking and New Development
SPD11	Parking Standards in Bury
SPD14	Employment Land and Premises
NPPF	National Planning Policy Framework
HT6/2	Pedestrian/Vehicular Conflict

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.

Policy - EC4/1 Small Businesses. Proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.

EN7/2 Noise Pollution. In seeking to limit noise pollution the Council will not permit:

- a) development which could lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users;
- b) development close to a permanent source of noise.

HT2/4 Car Parking and New Development. The Council will require all applications for development to make adequate provision for their car parking and servicing requirements in accordance with the Council's car parking standards.

Economy - The establishment of a new business is supported in principle but it would be subject to material planning considerations such as the impact on residential amenity and highway safety. Whilst a cafe/bar can be sited in a residential area, much depends on the specific nature of the site, surroundings and business itself. In this particular case, the premises are very close to surrounding neighbours with no physical elements to buffer the impact of the proposal.

Visual amenity - The existing property is an existing commercial premises that has a number of different uses including the most recent beauty salon. The establishment of a cafe/bar in this location would not be considered seriously harmful to the visual amenity of the streetscape. The proposal in principle would not have a serious impact on visual amenity.

Residential amenity - Although the property has been in commercial use for a number of years, these uses have been more 'daytime only' uses that have not run into late evening operations. The proposed cafe/bar would be located in a relatively quiet residential area with the closest houses being located just across the side access track to the north and across Church Street, diagonally to the south. With opening times to 11pm Tuesday to Thursday and to midnight at weekends, the proposed use would potentially give rise to noise and disturbance both from activities within the premises and, probably more significantly, from activities related to the comings and goings of customers both on foot and in vehicles. The proposed use would therefore have a seriously detrimental impact on the residential amenity of nearby residents and would be contrary to UDP Policies EC4/1 Small Businesses and EN7/2 Noise Pollution.

Traffic - The premises has no on-site parking. Whilst the previous commercial uses have operated without parking, the proposed cafe/bar use would generate vehicular traffic in the evenings when Church Street would be more 'parked up' than during the daytime. As such the proposed use would likely have a significantly greater impact on parking and would lead to vehicles parking and manoeuvring on Church Street to the detriment of highway and pedestrian safety.

Little information has been submitted as to how the refuse/empty barrels/bottles etc would be managed on what is a very restricted site. This information is critical in relation to highway safety and residential amenity.

The Council's Traffic Team have serious concerns with regard to highway and recommend refusal. The proposal is contrary to UDP policies HT2/4 Car Parking and New Development and HT6/2 Pedestrian/Vehicular conflict.

Public representations - Where relevant, the concerns of objectors are reflected in the reasons for refusal.

Statement in accordance with Article 35(2) Town and Country Planning (Development

Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The use of the premises as a cafe/bar would be seriously detrimental to the residential amenities of nearby occupiers, by reason of the noise and disturbance and general activity associated with the proposed use, particularly during the evening period. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EC4/1 Small Businesses, EN7/2 Noise Pollution and S2/6 Food and Drink.
- 2 The lack of car parking and adequate servicing within the site would give rise to customers/visitors/deliveries parking and carrying out manoeuvres on the adjacent highway to the detriment of highway safety. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EC4/1 Small Businesses, HT2/4 Car Parking and New Development and HT6/2 Pedestrian/Vehicular Conflict.
- 3 The application and submitted plans are unclear and contain insufficient information with regard to the proposed use to enable them to be properly assessed. The proposal is therefore contrary to UDP Policies: EC4/1 Small Businesses.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	06/09/2023		