

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 11/10/2023	Ref: 69959/FUL
Registration: 25/08/2023	LDfC: 21/09/2023	Expiry Date: 20/10/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	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 of existing residential dwelling (Class C3) to prayer hall (Class F1(f)) to ground floor and self-contained flat (Class C3(a)) to first floor

Location: 52 Albert Avenue, Prestwich, Manchester, M25 0LX

Description

The application relates to a semi detached dwellinghouse, No 52 Albert Avenue which is located on a residential street.

The dwelling is attached to No 50 and on the other side to No 54 there is a pedestrian access between the two gable walls which leads to the rear garden of No 52.

Planning permission was granted in 2021 for a two storey rear extension. The ground floor extension was 4.5m in depth and the 1st floor extended 3m in depth with a juliet balcony to the window opening to prevent the ground floor roof being used as a balcony. The development has been completed but a railing has been constructed around the perimeter of the 1st floor balcony which does not have planning consent.

Air conditioning units have also been installed at the upper level on the side wall which overhangs the access without planning consent.

This application seeks the change of use of the existing dwelling house (No 52) to a prayer hall at ground floor and a self-contained flat at first floor.

The application states that the prayer hall would be used on the Jewish Sabbath only and by members of an extended family.

Hours of use and number of attendees are not specified.

The prayer hall would be accessed via an existing front entrance.

The 1st floor flat would have a separate entrance door at the front and lead directly to a staircase and the upper floor to provide living accommodation and 2 bedrooms.

The application is retrospective.

Relevant Planning History

67125 - Prior approval for proposed single storey rear extension - Approved 20/7/21

67418 - Two storey rear extension with juliet balcony - Approve with Conditions 20/10/2021

22/0327 - Change of use of property to 2no. separate dwellings - 29/08/2023

Publicity

Letters sent to 17 adjacent properties.

No responses received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal on lack of information to assess parking provision.

Environmental Health - Pollution Control - No comments to make.

Waste Management - No response received

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
CF1/1	Location of New Community Facilities
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H3/1	Assessing Non-Conforming Uses

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.

Use

Policy CF1/1 - Location of New Community Facilities states that factors to be considered in an application include -

- impact on residential amenity and local environment
- traffic generation and parking
- scale and size of development
- suitability of the location in relation to the catchment or community it intends to serve
- needs and requirements of the disabled.

Policy H3/1 - Assessing Non-Conforming Uses states that proposals will not be supported where they are considered incompatible in residential areas. Factors taken into consideration are noise, vibration, smells, fumes, visual intrusion, traffic generation and parking arrangements and hours of operation.

The application proposes a prayer hall at the ground floor of a semi detached residential dwelling.

The main issues to consider are impacts on residential and visual amenity and parking.

Residential amenity

The application states that the prayer room would be used on the Sabbath only but has not provided any details of the times the prayer room would be used, whether this would be at an early hour, late at night or whether the prayer room would be visited and used continually throughout the day.

The application states that the prayer room would be used by an extended family, but no information has been provided as to how many family members and 'extended' family members would visit and use the prayer room. This could be a significant number but unknown at this time.

As a prayer room, members would likely arrive and leave at the same time, resulting in a significant number of trips by visitors to the property within a short time period. No information has been provided in the application to state otherwise.

The proposed use has the potential to significantly intensify the use of part of a residential dwelling which would go far beyond a general and 'normal' residential use and the usual functions and activities associated with a modest sized semi detached dwelling.

The application states that the activities within the prayer hall are '*not anticipated to be particularly noisy or cause undue disturbance to the attached neighbour.*'

No evidence or justification has been provided to back up this statement.

The application is lacking in fundamental information to enable an informed assessment to be made as to what impacts and harm from noise and activity if any, could arise if the application were supported

The application submission does not provide any comfort or confidence that there would be no harm caused to local residents by the proposed development within this semi detached property in a residential setting.

As such, the impact of the scale of the development and the intensification of use of the premises cannot be accurately assessed.

The proposed development would therefore be contrary to Policies CF1/1, H3/1 and EN1/2.

Highway

The dwelling is located within a residential street where the majority of properties do not have driveway or garage parking and therefore rely entirely on the street for parking.

The Design and Access Statement states that worshippers would reside within walking distance of the prayer hall, ensuring minimal external transportation needs but this contradicts a later statement that the property is located in a highly accessible area and close to public transport which suggests that members would be travelling from further afield than living locally and therefore could rely on using a car to access the venue.

There are already parking pressures on the street and in the vicinity and given the unknown numbers of people who could be visiting the site, car travel to the site would further add to the parking pressures on this street, and to such a degree which would cause highway safety issues to both drivers and pedestrians in the area.

The applicant has failed to provide sufficient information demonstrate that the proposed development would not impact on the parking provision in the area.

As such, the application cannot be supported in this regard and would be contrary to policies CF1/1, H3/1, HT2/4 and HT6/2.

Proposed 1st floor residential flat

The application proposes to provide a self-contained residential flat above the ground floor prayer hall. The flat would be accessed via a separate entrance at the front of the property.

The property has recently been extended at the rear on the ground and first floor (67418). A juliet balcony was approved to the door opening at the 1st floor to restrict access to the ground floor roof and balcony as this would have caused issues of overlooking and privacy impacts on the adjacent neighbours. There was no handrail to be installed around the balcony.

Following a site visit, it transpires that the handrail to the balcony has been installed and the 'as-built' plans which have been submitted with this application (which are those plans approved for the extension) do not reflect what has actually been built out. As such, the balcony handrail which has been installed is unlawful and there is conflicting information in the application and therefore it cannot be accurately assessed.

If it is the intention that the balcony be used to provide amenity space for the flat, this would not be accepted due to impacts on the amenity of adjacent occupiers. In terms of the rear garden, the application does not state which occupier, ground or first floor, would have use of this space.

It also transpires that two air conditioning units have been installed on the upper part of the ground floor side wall. The units overhang the pedestrian access at the side of the property adjacent to No 54 and it is not clear from the red edge plan whether the air con units overhang and encroach onto the neighbours property. The air con units have not been included on the proposed plans and therefore conflicting information has been submitted.

In conclusion, the application is a poor submission with conflicting and insufficient information and therefore at this time the proposed development cannot be supported.

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 application and submitted plans contain insufficient information to enable them to be properly assessed with regards to the number of members attending the prayer hall, opening times of the prayer hall, mode of travel to the property and thereon cannot assess the implications and impacts on residential amenity of the adjacent occupiers and highway safety. The proposed development would therefore be contrary to Bury Unitary Development Plan policies EN1/2 - Townscape and Built Design, EN7/2 - Noise Pollution, CF1/1 - Location of New Community Facilities, H3/1 - Assessing Non-Conforming Uses, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian and Vehicular Conflict.
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- 2 The application and submitted plans contains conflicting and insufficient information to enable them to be properly assessed with regards to the installation of the balcony and the air conditioning units to assess the impacts of the development on the adjacent occupiers. The development would therefore be contrary to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design, EN7/2 - Noise Pollution, CF1/1 - Location of New Community Facilities, H3/1 - Assessing Non-Conforming Uses, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian and Vehicular Conflict.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	11/10/23		