

DELEGATED REPORT

Report by Sam Summers	Date of report: 30/06/2023	Ref: 69351/P3JPA
Registration: 24/02/2023	LDfC: 24/03/2023	Expiry Date: 21/04/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	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 2 no. flats (Class C3) on first and second floors

Location: 215A Bury Old Road, Prestwich, Manchester, M25 1JF

Description

Prior approval for proposed change of use from commercial (Class E) to a mixed use including 2 no. flats (Class C3) on first and second floors under Part 3 Class G of the General Permitted Development Order 2015(as amended). The property is a three storey building at the end of a short terraced row, located on Bury Old Road. It is proposed to change the use of the first and second floors into 2no flats. There will be no external alterations as part of this application. There would be adequate natural light to all habitable rooms. The floor space would exceed the 37 square metres required under the national housing standards but would not exceed the limit of 1500 square metres allowed under the permitted development right. There is a rear yard with proposed bin storage.

Relevant Planning History

46545 - CHANGE OF USE FROM RETAIL TO TAXI BOOKING OFFICE AT GROUND FLOOR AND AERIAL ON GABLE WALL - Approve with Conditions 27/09/2006

Publicity

Letters to neighbours sent 03/03/2023 - No responses received

Statutory/Non-Statutory Consultations

Traffic Section - No response

Environmental Health - Contaminated Land - No response

Environmental Health - Pollution Control - Comments recieved - Details below

Planning Policy Manager - No response

Pre-start Conditions - None

Unitary Development Plan and Policies

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.

Development permitted by Class G is subject to the following conditions-

(a) some or all of the parts of the building used as Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;

(b) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat;

(c) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)-

(i) by a single person or by people living together as a family, or

(ii) by not more than 6 residents living together as a single household (including a household where care is provided for residents).

Development complies with all the above conditions.

(d) before beginning development, 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-

(i) contamination risks in relation to the building;

There are no operational or engineering works proposed.

(ii) flooding risks in relation to the building;

The site is not in a Flood Risk Zone.

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

It is suggested that the internal target noise levels will not be achievable when the windows are open, because of noise emanating from the adjacent restaurant. Therefore, as said in the report, an alternative method of ventilation is required.

Furthermore, results from the airborne sound insulation test determined that the floor partition separating the office and the proposed flats should be sound insulated, in excess of that required for newbuild or refurbished purpose-built dwelling house or flats, as set out in approved document Part E 2010 Resistance to the passage of sound.

Results from the plant noise impact assessment undertaken indicate noise emitted from the restaurant extraction system to be well below what is required. This indicates that no detectable effect on the health and quality of life due to noise from the extraction system will be present.

As such, the proposed development would not have a significant adverse impact upon the amenity of the occupiers of the proposed flats, if the development is carried out in accordance with the submitted noise report.

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

There would be adequate natural light to all habitable rooms.

(v) arrangements required for the storage and management of domestic waste.

There is a rear yard with proposed bin storage.

The development shall only be carried out in accordance with the noise report submitted as part of the application, dated 16th May 2023.

Reason. For the avoidance of doubt and to ensure satisfactory noise mitigation for the intended occupiers

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS - 30/06/2023			