

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 20/01/2022	Ref: 67684/FUL
Registration: 28/10/2021	LDFC: 26/11/2021	Expiry Date: 23/12/2021
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: COUS

Proposal: Change of use of vacant nightclub (Sui Generis) to a licenced pizza restaurant (Class E), and associated external alterations including installation of a flue to the rear elevation.

Location: 45 Church Street West, Radcliffe, Manchester, M26 2SP

Description

The application relates to a vacant ground floor commercial unit in a 3 storey property located within a shopping frontage in Radcliffe Town Centre. The unit which was formerly in use as a nightclub and which has been vacant since 2012.

It is located on a short row of 4 premises in between a pharmacy, another vacant property with a hairdressers on the other side. To the rear of the premises is a large public car park.

Above the application premises, the first and second floors are 8 residential flats which have a separate access at the rear.

There is an internal bin store at ground floor level accessed and serviced from the rear.

The application proposes the change of use of the ground floor to a restaurant with associated external alterations including installation of a flue to the rear elevation and insertion of louvre ventilation doors to the rear roller shutters.

Hours are proposed as midday to 10pm Monday to Saturday and midday to 5pm Sunday and Bank holidays.

Relevant Planning History

53842 - Change of use of ground floor from dance studio/club to canine hydrotherapy centre and dog grooming parlour (Sui Generis) - Approve with Conditions 17/05/2011

54326 - Change of use of first floor and second floor extension to form three flats - Approve with Conditions 22/09/2011

14/0440 - Not built in accordance with approved plans of planning application 54326 - 19/11/2014

Publicity

Letters sent on 4/11/21 to 44 properties on Church Street West, Quarry Street, Crompton Place.

No responses received as a result of the publicity

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to objections

Waste Management - No response received

Borough Engineer - Drainage Section - No response received

Environmental Health - Pollution Control - No objection subject to conditions to restrict

delivery hours

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
S1/2	Shopping in Other Town Centres
S2/3	Secondary Shopping Areas and Frontages
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
S2/6	Food and Drink

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 S1/2 - Shopping in Other Town Centres seeks to maintain and strengthen with emphasis on consolidation and enhancement.

Policy S2/3 - Secondary Shopping Areas and Frontages seeks to maintain retaining as the predominant use at ground floor.

Proposals for other uses will be assessed on its own merits and considered the following factors including -

Design and appearance of the shop front, maintenance or provision of a display window, access and whether the use would give rise to disturbance or nuisance.

Where proposals would lead to more than 40% of any identified secondary shopping frontage being in non-retail use, factors including location and prominence of the proposal, number and types of other uses in the area and the particular character and use proposed, would also be considered.

Policy S2/6 - Food and Drink considers proposals with regard to factors including amenity of residents, concentration of use types, parking and servicing provision, bin storage and refuse disposal and impacts of flues/ventilation systems.

In chapter 7 - Ensuring the vitality of town centres, the NPPF supports proposals to strengthen shopping centres and a wide range of different of uses to promote their long term viability and vitality by allowing diversity to offer a range of products and services.

Principle - Use - The application states the property has been vacant since 2012 and was formerly in use as a nightclub.

The premises are located close to Radcliffe Town Centre, form a shopping frontage and front a main route through the town. The proposed development would bring back into use a vacant premises and as a cafe/restaurant and as such the proposed use would continue to draw footfall to the shopping area and town centre. There are a mix of uses in the centre offering a variety of goods and services and it is considered the proposed use would continue to support the vitality and viability of the centre.

As such, it is considered the proposed development would comply with Policies S1/2, S2/3 and S2/6.

Visual amenity - The shop frontage would essentially remain the same, the only changes would be to provide a new fascia and new step into the building to aid access.

At the rear, louvre openings would be formed in the existing roller shutter doors to provide an air vent. It is also proposed to erect a flue on the left hand side of the rear elevation. This would extend above the doorway to project just beyond the roof slope. Whilst this would be a visible external structure, the rear of the property faces a public car park and does not form the main shopping frontage or the main public area and as such it is considered that impacts on the visual amenity of the area would not be significantly harmful.

It is therefore considered that the proposed development would be acceptable and comply with EN1/2, S2/3 and S2/6.

Residential amenity - The nearest residential properties would be the flats above the shop unit at the first and second floor. The flats are accessed via a separate entrance at the

rear.

The nature of a restaurant is one which would likely draw a degree of noise and disturbance to the area and to those living in the flats. However, comparative to the existing use as a nightclub, the proposed use would likely involve less disturbance and activities. The premises are also located within a shopping and commercial area and close to the town centre where there is already frequent activity.

Hours are proposed as midday to 10pm Monday to Saturday and midday to 5pm on Sundays and Bank Holidays and these hours are considered to be reasonable and not excessive within a shopping and town centre location.

The proposed flue would be located on the rear elevation approx 1.2m from habitable room windows to the flats. The occupiers of the flats have been notified of the application and no objections have been received. The Pollution Control Section is also satisfied with the specification of the flue and level of detail provided and that appropriate measures would be in place to keep odour and noise levels to a minimum. A condition to restrict deliveries to the premises from 8am to 10pm is recommended.

As such, it is considered the proposed development would not have a significantly detrimental impact on the occupiers of the flats or adjacent residential properties and as such would comply with policies EN1/2, EN7/1, EN7/2, S2/3 and S2/6.

Highways issues

There is a large public car park directly to the rear of the property and other car parks located nearby. Given the town centre location and highly sustainable area it is considered parking and access are considered acceptable.

The flue would be located 2.45m above ground floor level and highways are satisfied this would provide the standard underside clearance so as not to impact on highway safety or pedestrians.

The applicant has also agreed to undertake remedial works to reinstate the footway along Church Street West and remove the cellar grate which is no longer required.

The Highways Section are satisfied with the details of the proposed development and subject to conditions have raised no objections to the proposed development.

Bin storage - This is currently accommodated internally within the ground floor and would continue to be provided in this area. The access and refuse collection arrangements for the site will be from the servicing area to the rear, which is understood to be the current arrangement.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings Revised site location and proposed site plan 45CSW/200/PL P1; Existing layout 45CSW/201/PL; Proposed layout 45CSW/202/PL P1 received 19/1/22; Kitchen ventilation design C661/1 C and Noise Impact assessment ref E18347 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 3 The development hereby approved shall be carried out in accordance with approved plan C661/1 C and submitted scheme and extraction/ventilation details and Noise Impact assessment ref E18347 and installed prior to the first use of the development hereby approved.

The flue/ventilation system shall be in compliance with the measures proposed in the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. To maintain the residential amenities of nearby residential properties from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink, EN7/1 - Atmospheric Pollution, EN7/2 - Noise Pollution.

- 4 Deliveries in association with the development shall be restricted to the hours of 8am to 10pm.
Reason. In the interests of residential amenity pursuant to Policy S2/6 - Hot Food and Drink.
- 5 The use hereby permitted shall not be open to customers outside the following times:
midday to 10pm Monday to Saturday and midday to 5pm Sundays and Bank Holidays.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S2/5 – New Local Shopping Provision Outside Recognised Shopping Centres and S2/6 – Food and Drink of the Bury Unitary Development Plan.
- 6 Prior to the first occupation/use of the development hereby approved, works to soundproof the floor/ceiling between the ground floor and the first floor flat, which shall be in accordance with standards of construction specified in current Building Regulations, shall be implemented and such works shall be completed before the development is brought into use.
Reason. To protect the residential amenities of the occupiers of the flat pursuant to UDP Policy EN7/2 Noise Pollution.
- 7 The use hereby approved shall not be commenced unless and until the works to reinstate the redundant cellar access and grate on the adjacent footway to a scope and specification to be agreed with the Highway Authority and lower/alter the existing pedestrian access from Church Street West indicated on approved plan references 45CSW/200/PL Revision P1 and 45CSW/202/PL Revision P1 received

DELEGATED REPORT

19/1/22 have been implemented to the satisfaction of the Local Planning Authority.
Reason. To ensure good highway design and maintain the integrity of the adopted highway pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 8 The kitchen ventilation fan and ducting indicated on approved plan reference C661/1 Revision C that projects over the adopted footway on Quarry Street shall be installed with a 2.4m minimum underside clearance and 0.45m minimum horizontal clearance to the kerb.

Reason. In the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and S2/6 - Food and Drink.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	20/1/22	DM	21/01/22