

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 11/01/2021	Ref: 66069/FUL
Registration: 14/10/2020	LDfC: 18/11/2020	Expiry Date: 09/12/2020
Site Visit: 13/11/2020	Site Notice: 13/11/2020	Press Date: 12/11/2020
Objections: 0	Con Area: MARY	Adv Type: CA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: COUS

Proposal: Change of use of existing second floor from office use Class E to form a residential self contained second floor apartment, planning use class C3; retractable awnings to rear patio area

Location: 395-399 Bury New Road, Prestwich, Manchester, M25 1AW

Description

The application site relates to a three storey building, which is set within a terrace of commercial properties fronting onto Bury New Road. The terrace is located close to the junction of Bury New Road with Church Lane and is located within the St Marys Conservation Area and is a Secondary Shopping Area of Prestwich Town Centre.

There is a shop with a flat above at No 393 and an insurance office on the ground floor of No 399 and a wine shop at No 1 Church Lane. Across Bury New Road is the Red Lion Public House. At the rear, across the yard area of the application property are residential dwellings on Church Lane and The Coppice.

The property forms a block on Bury New Road and dates back to the 19th Century. It is a relatively attractive build but is in need of some refurbishment and restoration works including new windows.

The property has a double fronted ground floor and is currently in use as a cafe/bar. The first and second floor extend over the adjacent premises, No 399. Planning permission has been granted for the conversion of the 1st floor to provide an extension to the ground floor business, including a private dining room with office space at the 2nd floor, which is currently unused.

This application seeks the change of use of the 2nd floor from the office use to form a residential 2 no. bed self-contained flat. The flat would be occupied by the owner of the business. The second floor would be accessed via an existing internal staircase which leads from the existing street entrance adjacent to No 399 Bury New Road.

It is also proposed to replace the 1st and 2nd floor windows which would be a upvc sliding sash type and insert a new window opening at the 2nd floor rear elevation.

At the rear, a free standing awning is proposed over the existing patio/outside seating/dining area.

Relevant Planning History

64844 - Change of use of the first floor into an extension of the Cuckoo Cafe Bar (A3) and the use of the second floor into offices and studios - Approved 15/4/20

56144 - Change of use of ground floor/basement from shop to cafe/Bar - Approved 30/05/2013.

Publicity

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Neighbours notified on 27/10/20 on Bury New Road, Hacking Street, The Coppice, Church Lane.

Site notice posted 13/11/20

Press advert 12/11/20

No responses received as a result of the publicity.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions.

Conservation Officer - No objection to the change of use or replacement windows.
Recommends white frames.

Pollution Control - No comments to make

Waste Management - No objection

Pre-start Conditions - Applicant/Agent has agreed to conditions

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN7/2	Noise Pollution
S1/2	Shopping in Other Town Centres
S2/3	Secondary Shopping Areas and Frontages
S2/6	Food and Drink
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
TC2/1	Upper Floors
TC2/2	Mixed Use Development
Area	Church Lane/Bury New Road/Clark's Hill
PR4	

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.

Policies -

Policy TC2/1 - Upper Floors states that within town centres, proposals for vacant upper floor areas of premises into beneficial use are supported.

Policy TC2/2 - Mixed Use development encourages compatible mixed use development within town centres.

Policies EN2/1 and EN2/2 - UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control seeks to only support proposals where it can be demonstrated that development would preserve or enhance the special character of the area. Proposals should encourage measures to retain, replace and restore features of historical and architectural interest, remove dereliction and bring unused land or buildings back into beneficial use, have regard to the special character of the surrounding area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 189 of the NPPF requires applicant's to describe the significance of any heritage assets affected, including the contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Paragraph 190 states that LPA's should identify and assess the particular significance of any heritage asset affected by the proposal, and in para 192, should take account of factors including the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, and the desirability of their contribution to logical character and distinctiveness.

Principle - change of use

The proposal would involve the upper floor of a commercial premises in a town centre location and would provide a residential accommodation which would be a beneficial and appropriate use of space which is considered to contribute to the vitality and viability of the

area.

As such, the proposed conversion to a residential flat is considered acceptable and would comply with the principles of the NPPF and UDP Policies.

Heritage principles -

The re-use of upper floors in Conservation Areas is encouraged. The proposed conversion into a residential flat development at 2nd floor would involve maintenance and refurbishment works and in doing so would contribute to the preservation of the building in the Conservation Area.

The installation of sliding sash windows would re-instate the original character of the building, thereby preserving the character of the Conservation Area.

The location of the building within the conservation area, although facing Bury New Road, is not in the historic core of St Mary's Conservation Area, ie Church Lane and is therefore less sensitive in context to change. The proposed windows would be at first floor level and therefore less visually dominant comparable to windows at ground floor level or in a more sensitive part of the conservation area such as Church Lane.

As such on balance it is considered that grey windows would be acceptable in this context in this part of the conservation area and would not cause harm to the character and appearance of the conservation area and therefore would at least preserve the character and appearance of it, satisfying the requirement of Section 72 of the Planning (Listed Building and Conservation Area) Act 1990.

The proposed canopy at the rear of the building would be free standing and removable at any time and as such considered not to harm the special character of the Conservation Area.

It is therefore considered that the proposed development would be acceptable and would be in compliance with the principles of the NPPF and UDP policies EN2/1 and EN2/2 which seeks to preserve the special character of the Conservation Area.

Layout - Internally, works would comprise renovations to the 2nd floor to enable a residential use. The proposed flat would utilise the existing access off Bury New Road with access via the internal staircase.

The existing bin store for the commercial cafe/bar, which is located at the side of the building would be sufficient to accommodate bins for the residential unit. The waste management team have confirmed this would be an acceptable arrangement on collection days.

At the rear, there is an existing patio and outside area which is already utilised as a seating and dining area. The proposed canopy would be free standing and removable. It would not extend beyond the existing patio area. This area could already be used by customers to the business and as such, the layout and use of the external area would not be fundamentally altered by the proposed development.

It is therefore considered that the proposed layout would be acceptable and comply with EC4/1, H2/1 and H2/2.

Impact of the development on residential amenity are considered below.

Residential amenity - The proposal to utilise the 2nd floor as a residential unit is accepted as an appropriate use at the upper floor to a commercial property in a town centre location.

The application states that the proposed flat would be accommodated by the owner of the ground and first floor business and as such would be aware of any noise and disturbances associated with the existing use and its town centre location.

Similarly, any future occupier would expect that town centre living to be a busier and noisier place to live comparative to quieter residential settings. Any future occupier would also be aware of the existing uses at the ground and first floor and occupation would be on an 'eyes open' basis.

The main issue with regards to residential amenity would be the noise which could be associated with the use of the external rear patio area and the impacts this could have on the occupiers of the adjacent residential properties.

The nearest residential properties are the flats above the adjacent commercial businesses and the houses on Church Lane to the west and The Coppice to the rear.

The erection of a canopy would enable the use of the external area at times of more inclement weather or later times of the evening, and in so doing encourage customers to sit outside when otherwise they may not be able to do so. Facilitating a covered outdoor space could result in customers gathering more regularly outside, and at later time of day and into the evening and night time which could generate levels of noise and disturbances beyond what could currently occur. Hours were conditioned on the original change of use allowing the use to be open until midnight Thursday to Saturdays, 11pm midweek and 10pm Sundays. There was no condition to control hours of the use of the external patio area.

The applicant states that as a result of coronavirus, and resulting restrictions on customer numbers and capacity, they have had to explore other options to fully utilise the available public space which would contribute in part, to ensuring a viable future for the business. Whilst this is understandable, it is anticipated this situation would not be long term.

The outside area is already used by customers and there is evidence that seating, a parasol and heaters have been installed in this area and which do not need permission. As this area is associated with the cafe/bar, planning permission is also not required to use the area as a drinking, seating or eating area (same as that of a beer garden for a pub). However, the development would result in a more intensified use of the area and given there are residential properties nearby it is considered that restricting the time the patio could be used is considered reasonable.

The applicant has agreed to a condition to limit the use of the outside area until 10.30pm and this would be included as part of the recommendation.

In terms of the physical impact of the canopy on the adjacent properties, the canopy would extend no further than the existing patio area within the applicant's control and it would not project past the shared wall to No 399.

The canopy would project past the shared wall with No 393. This property is commercial at ground floor and as such considered not to affect outlook. At the first floor of No 393, there would be a view of the canopy. However, this would be no worse than the relationship of a single storey rear extension which would be considered acceptable under the guidance and advice of SPD6. The canopy would be a free standing and more lightweight structure and it is considered that impacts on visual amenity would not be detrimental to these occupiers.

It is therefore considered that the proposed development would not cause an adverse or significantly detrimental harm to the amenity of the adjacent residential properties and as such would comply with EN1/2 and S2/6.

Recommendation: Approve with Conditions

Conditions and Reasons:

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- 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 - 20111/E/01-A; 20111/E/02; 20111/E/03; 20111/E/04; 20111/P/01-B; 20111/P/02-A; 20111/P/03-A; 20111/P/04 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 bin storage arrangements within the curtilage of the building indicated on the approved plans shall be implemented before the use hereby approved commences and thereafter maintained available for use at all times.
Reason. To ensure adequate off-highway bin storage arrangements are provided within the curtilage of the site, 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.
- 4 Apart from the approved 2nd floor rear window, the new windows hereby approved shall be sliding sash type with the dimensions, set back and sections as shown on the approved plan 20111/P/04 and thereafter maintained.
Reason. In order to preserve the special architectural or historic interest of the building pursuant to Bury Unitary Development Plan Policies EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control and the principles of the NPPF.
- 5 The windows hereby approved shall be finished in a dark grey/black grey colour (Ral 7021 or 7016) and thereafter maintained.
Reason. In the interests of visual amenity and to preserve the character of St Marys Conservation area pursuant to Bury Unitary Development Plan Policies EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control and the principles of the NPPF.
- 6 The use of the external rear area shall not be open to or used by customers outside the following times: 10am to 10.30pm.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies EN1/2 - Townscape and Built Design and S2/6 – Food and Drink of the Bury Unitary Development Plan.
- 7 A scheme to soundproof the floor/ceiling between the first floor and the second floor flat and the party walls to the 2nd floor flat which shall be in accordance with no less than the minimum standards of construction specified in current Building Regulations shall be completed before the first occupation of the residential development hereby approved.
Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policy EN7/2 Noise Pollution.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT 11/1/21		DM	11/01/2021