

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 05/08/2024	Ref: 70841/FUL
Registration: 19/06/2024	LDFC: 18/07/2024	Expiry Date: 14/08/2024
Site Visit: 02/07/2024	Site Notice: 02/07/2024	Press Date: 27/06/2024
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Installation of extraction flue and 2 no air conditioning units

Location: 12 Bolton Street, Bury, BL9 0LQ

Description

The application relates to a shop which is located in the middle of a row of other shops and businesses on a secondary shopping street in Bury Town Centre which is within the Conservation Area.

The premises is currently vacant having operated as a retail sport shop at ground floor with associated storage rooms above.

Planning permission (ref 70545) was recently granted for the change of use of the ground floor to a sports bar with offices at the first floor.

This application seeks consent for the installation of an extraction flue and 2 no air conditioning units in association with the bar.

The extraction flue would project from the roof of the single storey outrigger by 1m.

The 2 air conditioning units would be located on the side (east) elevation and would be located 0.7m above ground floor level and the units would be 900mm x 900mm in size.

Relevant Planning History

69796 - Prior approval for proposed change of use from commercial, business and service (Class E) to mixed use including 2 No. Flats (Class C3) - Prior Approval Required and Granted 08/02/2024

70390 - Change of use of ground floor from shop (Class E) to sports bar and restaurant with first floor offices (Class E/Sui Generis); Replacement shop front - Withdrawn by Applicant 21/02/2024

70545 - Change of use of ground floor shop (Class E) to sports bar with first floor offices (Sui Generis) - Approve with Conditions 08/05/2024

Publicity

Letters sent on 21/6/24 to 39 properties.

Site notice posted 2/7/24

Press advert 27/6/24

No responses received

Statutory/Non-Statutory Consultations

Conservation Officer - No objection

Environmental Health - Pollution Control - No objection

Pre-start Conditions - Not relevant

Development Plan and Policies

S1/1	Shopping in Bury Town Centre
EN2/2	Conservation Area Control
Area	Bolton Street/Market Place
BY3	
S2/3	Secondary Shopping Areas and Frontages
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
EN2/3	Listed Buildings
S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
S2/6	Food and Drink
EN7/2	Noise Pollution
JP-S2	Carbon and Energy
JP-S3	Heat and Energy Networks
JP-C2	Digital Connectivity

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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.

Siting

The proposed flue would be located on the single storey rear outrigger and would be fitted internally with the cowl projecting from the roof of the outrigger by 1m. There are no properties directly opposite the rear of the site and the installation would be more than 8m from the rear elevation of the adjacent property, No 10.

Given the position and relatively small size of the proposed flue, it is considered there would not be a significant impact on the visual amenity of the surrounding area.

The Conservation Officer has raised no objections and as such the proposed development would preserve the character of the Conservation Area.

Pollution Control

There has been no objection from the Pollution Control Section subject to the implementation of the extraction system and units in accordance with the product specification for the control of noise/vibration and odours. This would be conditioned.

The proposed development would therefore comply with Policy EN7/2.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 - Location plan; Existing site plan; Existing front and rear elevations; Existing floor plans received 10/6/24; 01- Proposed HVAC Plan; 02 - Proposed side elevation; 03 - Proposed rear elevation, Product specifications for the control of noise/vibration and odours - SuperLite - JM Aerofoil Accessories; Acoustica Fam mounted Silencer; Outdoor Unit Specifications,

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Electrostatic Air Cleaner (RY 5000B) received 10/6/24 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 the product specification for the control of noise/vibration and odours received 10/6/24.

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy EN7/2 - Noise Pollution.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	5/8/24		