

52 Albert Avenue, Prestwich, Manchester, M25 0LX

Planning, Design and Access Statement

Proposal: Revised application for the change of use of existing residential dwelling (C3) to mixed use, part prayer hall (F1(f)) and part self-contained flat (Class C3(a)) to first floor. Installation of air-conditioning units (Retrospective)

March 2024



Table of Contents

Introduction	2
Site and Surrounding Area	3
Planning History	4
Background	4
Proposal Description	6
Principle of Development	6
Policy Considerations	8
Key Considerations	11
Conclusion	17

Introduction

This Planning, Design and Access statement has been produced by EA Town Planning Ltd to support a revised retrospective application for the change of use of existing residential dwelling (C3) to mixed use, part prayer hall (F1(f)) and part self-contained flat (Class C3). The original application was refused on 18-October-2023 for two reasons. This revised application seeks to address these reasons and the associated concerns raised by the planning officer within their delegated officer report.

The 2no reasons for refusal, as listed in the Decision Notice, are as follows:

- 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 required parking provision 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.*
- 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.

This document contains floor plans and a detailed description of the works and should be read in conjunction with the accompanying architectural drawings produced by JCD Architecture and Planning.

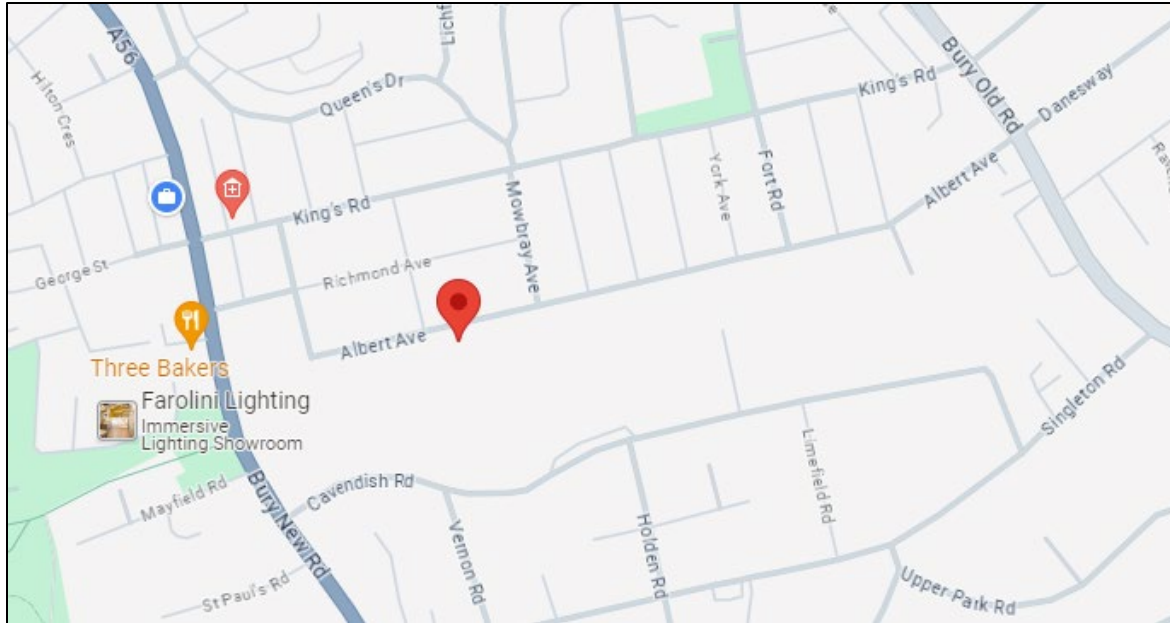
Site and Surrounding Area

The application site contains a semi-detached dwelling house, located on the southern side of Albert Avenue in Prestwich. The site comprises a 2-storey dwelling with a front and rear garden. The rear garden is large and backs on to a long strip of undeveloped greenfield area which separates between Salford and Prestwich.

Albert Avenue is a residential street characterised predominately by semi-detached dwellinghouses. There is a block of flats located directly opposite the application site. Albert Avenue connects to Bury Old Road directly, to the east, and Bury New Road to the east, via Mather Avenue and Richmond Avenue. The property is not listed and is not located within a conservation area.



Site Location Plan



Excerpt from Google Maps showing Site Location

Planning History

- Application for 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. Application Reference: 69959. Refused on 18-October-2023.
- Application for two storey rear extension with Juliet balcony. Application Reference: 67418. Approved on 20-October-2021
- Prior approval application for proposed single storey rear extension. Application Reference: 67125. Approved on 20-July-2021.

Background

Following our review of the planning officers report in relation to the most recent application at this site (App Ref: 69959), we noted that the planning officers assessment and recommendation for refusal, was not on the basis that the proposed use would be incompatible with the surrounding residential area. Instead, the reason for refusal stemmed from a lack of fundamental supporting information to enable an informed assessment of the potential impacts from noise and activity as the site. We have sought to rectify this within this revised statement, by providing comprehensive information to enable an informed and accurate assessment of the proposal.

The applicant lives on Albert Avenue in close proximity to the application site. The applicant originally purchased the application site for his elderly parents. The intention being that the applicant's parents would relocate to the property allowing them to reside closer to the applicant and his siblings who also live in the immediate locality. The applicants parents both have long-term health conditions which require regular assistance from family members and other care staff. Relocation to this property was intended to make it easier for the family to provide more consistent care and attention to their elderly parents. Due to the applicants mother's sensitive condition, it was decided by medical professionals that the move would be unwise, and the parents were advised to remain in their current residence.

The applicant and his family are religious observant Jews who observe the Sabbath and Jewish holidays and cannot travel to their parents by car on these days. Provision of care to the applicant's parents over the Sabbath remained a challenge given the distance to their home. The family eventually took the decision that the parents would continue to live at their current home throughout the week and relocate to the application site for the Sabbath only.

As an observant Jew, the elderly father has a duty to attend prayer services together with a quorum of 10 men on a daily basis and in particular on the Sabbath and Jewish Holidays. Given his mobility issues, it was considered opportune to create a place of worship in close proximity to his parent's place of residence on these days. Moreover, given the mother's condition, it is not recommended that she be left alone for extended periods of time.

It was thus decided to create a prayer hall at the house, whereby the father would not need to leave the house to attend synagogue. This would be achieved by converting the ground floor to a private prayer hall, allowing the father to pray with a quorum of men on the Sabbath. The first floor would be renovated into a 2nd bedroom self-contained flat for the applicants parents.

Although we have described the proposed use of the ground floor as a place of worship F1(f), it must be noted that the proposed use is not a regular F1(f) use. F1(f) usually refers to a use in connection with public worship. While the premises will be used for worship, it is not open to the general public and does not operate in the same way as a regular place of worship for use by the local community. The prayer hall is used for prayer by the applicant, their immediate family, and a select group of additional participants who contribute towards the required quorum of ten men for services. Attendance at this

prayer hall is by invitation-only due to the specific health conditions of the applicant's parents. A large number of unfamiliar people attending would be too overwhelming for the elderly couple. The applicant has therefore chosen to exclusively limit attendees to a small number of close family, friends and neighbours who reside in close proximity to the application site and are familiar with the applicant's parents. The applicant does not publicly advertise the prayer times to the general public for this reason.

Proposal Description

The applicant seeks retrospective planning permission for the following:

a. Conversion of ground floor to prayer hall (Class F1(f))

The entire ground floor has been converted to a prayer hall. The prayer hall has been designed to meet the specific requirements of religious worship i.e. it is laid out in the form of a synagogue.

b. Conversion of first floor to self-contained flat (Class C3(a))

The first floor has been converted to a 2no bedroom self-contained flat. The flat has been designed to provide a comfortable living space for the applicant's elderly parents, adhering to all relevant building regulations and guidelines. The flat has its own separate entrance door at the front of the property which leads directly to a staircase and the upper floor.

c. Installation of air conditioner units

2no. air conditioner units have been installed on the side elevation of the building. 1no unit serves the ground floor prayer room and the other unit serves the first floor self-contained flat.

Please see the attached plans produced by JCD Architecture and Planning which depict the proposal.

Principle of Development

First Floor Flat

Regarding the subdivision of the property into two distinct premises, we note that the principle of for subdivision of single dwellinghouses into self-contained flats has been well established with several examples of this form of development along Albert Avenue itself. We do not believe that the occupation of the first floor of the property as a self-contained flat is contentious.

Ground floor Prayer Hall

In general, prayer halls and places of worship fall under Class F1 learning and non-residential institutions of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, alongside other places of worship, museums and public libraries. This is because they are facilities which by their

very nature as Communal facilities, serve Local Communities and the general public. The Use Class Order is broad in its classification groups (use classes) which act as ‘umbrella’ terms for a wide range of uses.

While we have proposed the description as an F1 use, it should be noted that that proposed use is of a lower intensity than that found in a regular F1 communal use. We contend that this class does not accurately reflect the nature of this specific facility. As explained above, this prayer hall has been created to fulfil a specific need – providing an elderly man with mobility issues the ability to pray with a quorum of 10 Jewish men, as required by Jewish Law. The prayer hall operates by invitation only and is not open to the public. Full details of times of prayers, hours of usage and number of attendees are included below.

The premises does not function in the normal manner of a synagogue. Public worship takes place on Sabbaths and Festivals in a limited form. Its sole use is as a prayer hall on these specific days. The premises is not otherwise used to host any events or social gatherings. Moreover, the nature of prayer which takes place differs to other places of worship in that it does not involve a cantor or choral singing. The premises is not a communal facility and has not been designed to serve the wider community and general public in the same way as a typical Class F1 use. In addition, and as explained above, it would be harmful for the applicant’s parents if this prayer hall did serve the wider community.

Given that the primary intended use of the premises will be on Sabbath and Jewish Holidays, when use of a car is prohibited for Religious Orthodox Jews, the proposed use will not have any impact in terms of traffic generation and parking stress. In addition, no increased parking stress will result from the conversion of the first floor into a self-contained flat.

In light of the above, we assert that the prayer hall will not have any adverse impact on neighbouring residents given its limited scope of use, number of attendees and intended function. In addition, as the attached acoustic report points out, there would not be any noise nuisance arising from the use of the premises as a prayer hall during these days.

For the sake of clarity, we have suggested an F1 use class. We would however invite the LPA to condition it’s use, restricting attendance at the premises, hours of use and any potential noise generating activities.

The provision of this private prayer hall to support the applicant's father and to afford him the ability to pray with a quorum of Jewish men is supported by the Public Sector Equality Duty contained in section 149 of the Equality Act (2010). The Act sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act seeks to ensure that people with protected characteristics (i.e. disabilities) are given equal opportunities and not discriminated against. This prayer hall is thus in keeping with objectives and duties laid out within the Act.

Policy Considerations

We have assessed the proposal under the LPA's UDP Policies for 'New and Improved Communal facilities'. We assert that this prayer hall is appropriate for this location and conforms with Bury's Unitary Development Plan's policies regarding community facilities and more specifically places of worship as detailed below.

Bury's Unitary Development Plan (UDP)

Policy CF1 – Proposals for new and improved community facilities

'Proposals for new and improved community facilities will generally be looked on favourably by the Council.'

Justification

It is to everyone's benefit that there are community facilities, such as hospitals, clinics, places of worship, nurseries, schools, meeting places and care facilities of a high standard, in sufficient numbers and in the right locations. The Council will, therefore, generally look favourably on proposals for additional or improved community facilities, where these do not conflict with amenity or the local environment.'
(underline added for emphasis).

Based on our assessment of the proposal against this policy, we have concluded that the development proposal does not conflict with policy CF1 and will not have any adverse impact on local amenity or the local environment.

The prayer hall meets a specific local need for a new prayer hall facility in this area. The site is situated close to the applicant and his family members, making it a convenient location for them to support their elderly parents whilst also enabling the applicants elderly father to take part in prayer services with a quorum of men in the prayer hall.

The prayer hall will not have any adverse impact on neighbouring residents given its limited scope of use, number of attendees and intended function as a private place of worship. As the attached acoustic report points out, there would not be any noise nuisance arising from the use of the premises as a prayer hall during these days. The proposed prayer hall is thus judged to comply with UDP Policy CF1.

UDP Policy CF1/1 provides a number of criteria that proposals for new and improved community facilities must be considered against:

- a. impact on residential amenity and the local environment;
- b. traffic generation and car parking provision;
- c. the scale and size of the development;
- d. where applicable, access to shops and other services;
- e. if the use is intended to serve a local community, or catchment area, the suitability of the chosen location in relation to that community or catchment area;
- f. accessibility by public and private transport;
- g. the needs and requirements of the disabled;

Based on our assessment of the proposal, we have determined that the prayer hall is fully compliant with the above mentioned criteria.

- a. The proposal will not have any adverse impact on the residential amenity and the local environment. Prayer services and worship take place on Sabbaths and Festival Days in a limited form and the premises do not operate in the normal form of a synagogue. The premises operates by invitation only with a limited number of attendees to any prayer services. Given its scale and scope of use, the proposed prayer hall does not in our view represent an intensification of use that is out of character within the surrounding residential neighbourhood. In addition, as the attached acoustic report points out, there would not be any noise nuisance arising from the use of the premises as a prayer hall.

- b. Traffic generation and car parking provision; The intended use of the prayer hall is limited to Sabbath and Festival days on which use of a car, and car travel in general is prohibited by Jewish Law.
- c. The scale and size of the development; The premises has been split into two distinct parts. Ground and first floor. The conversion of the ground floor into a prayer hall is not discernible from the street view and the properties retains the appearance of a residential dwelling house split into two flats. From the outside of the building, it would be entirely plausible to conclude that the ground floor is occupied as a self-contained flat.
- d. where applicable, access to shops and other services; NA
- e. if the use is intended to serve a local community, or catchment area, the suitability of the
- f. chosen location in relation to that community or catchment area; The premises was created to meet a specific need, providing a place of prayer for the applicant's elderly father in close proximity to the applicant and his family members.
accessibility by public and private transport; As stated above, the premises is intended for use on Sabbath and Festival days on which use of a car and public transport is prohibited by Jewish Law.
- g. the needs and requirements of the disabled; As stated above. The premises provide the opportunity for an elderly gentlemen with mobility constraints to attend prayer services in a dignified way.

Policy H3/1 Assessing Non-Conforming Uses

Policy H3/1 stated that, *'The Council will assess proposals for the development of non-conforming uses in primarily residential areas and will not permit proposals considered to be incompatible. Factors which will be taken into account when assessing such proposals will include noise, vibration, smell, fumes, smoke, soot, ash, grit, dust, visual intrusion, traffic generation and parking arrangements, and hours of operation.'*

Justification

'The development of non-residential uses, including changes of use, in a residential area, can be harmful to the amenity of residents. In order to achieve the objective of improving the quality and amenity of residential areas in the Borough, it will be necessary for the Council to ensure that the development of non-residential uses only takes place where residential amenity can be protected.'

We assert that the proposed use as of the ground floor premises as a private prayer hall is not in conflict with nor is it inappropriate for the surrounding residential context. Given the nature of the prayer hall, its limited and controlled use and number of attendees (all of whom are immediately local to the site), it is considered that that the mixed use of the premises as a prayer hall and residential flat will not have any adverse impact on residential amenity or the surrounding residential context as demonstrated within this statement. We consider that the proposed use should be deemed as a compatible use within its residential context.

Key Considerations

The Delegated Officers Report concerning the recently refused planning application (App Ref: 69959) identified key concerns with the application proposal and emphasised the absence of sufficient information to enable a comprehensive evaluation of the proposal. Within this statement, we have sought to provide thorough responses to clarify the extent and use of the premises and provide detailed responses to fill in the gaps and address the concerns raised by the Planning Officer in their report. Please find below a comprehensive breakdown of all issues raised by the Planning Officer, with the applicant's accompanying responses in line.

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."

The prayer room is used at specific times over the Sabbath and Festival Days for prayer services in a limited form. The prayer hall holds services on Friday Evenings at the entrance of the Sabbath and Saturday mornings (Sabbath) for up to no more than 20 people (cumulatively) for up to 2 hours as detailed in the table below. Please note that some of these times change from the winter to summer months. Please see the table below for the range of start times and durations of services on Sabbath and Festivals. A full timetable can be provided upon the Planning Officer's request but is not being

provided with the application documents to preserve privacy and also ensure the safety and security of the premises.

Prayer Service	Earliest Start Time	Latest Start Time	Duration
Friday Evening	3:30pm	7:30pm	50 mins
Sabbath Morning	9:30am	9:30am	2 hours
Sabbath Afternoon	3:00pm	6:00pm	30 mins

The prayer room is not used outside of these hours on the Sabbath.

Please further note that prayer services are also held on the Jewish holidays. These can often occur on weekdays. On these occasions, similar prayer times are followed.

It is the applicant's intention to keep the membership of the private prayer hall to the absolute minimum required. Under Jewish Law, a quorum of ten men is required for prayer services. In order to account for absences and the like, twenty men in total have been invited to use the prayer hall, to ensure that there will always be a quorum of ten men at services. A list of these twenty men can be provided to the Planning Officer upon request. Nevertheless, there are rarely twenty men praying in the prayer hall at the same time. The applicant, his brothers and immediate family and their elderly father make up the core attendance group at the prayer hall. The other attendees are either close friends or immediate neighbours.

"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."

As explained above, the applicant has sought to keep the membership of this private prayer room to the minimum. The intention being to keep the number of trips made by visitors to the property, low. The applicant, his father, his sons and his brothers make up for 6 - 7 of the consistent attendees. This is of relevance given that the applicant and his brother always stay behind to spend time with and assist their parents following prayers.

The other attendees to the prayer room arrive and leave in small groups of 1 or 2 persons. They do not arrive at the same time with different attendees arriving at different times depending on their circumstances, distance of travel, but broadly arriving around the start time of prayers.

“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.”

As explained above, the applicant has sought to limit the number of visitors to the minimum required i.e. a ‘minyan’ (quorum) of ten men whilst at the same time remaining sustainable - Prayers cannot be held without 10 attendees. This requires a slightly wider pool of attendees to ensure that a quorum of 10 men are always in attendance at prayer times. Notwithstanding this consideration, several small groups of visitors to a dwelling for short periods of time over the weekend is a usual function of a dwellinghouse, much the same as other weekend uses of a dwelling house such as family get togethers. Accordingly, we would argue that the introduction of the private prayer room has not significantly intensified the use of the dwelling beyond what one could expect to see in a regular residential dwellinghouse. The prayers are also intentionally kept short to ensure that the use does not conflict with the surrounding residential amenity of the neighbours, and limit any perceived intensification of use of the premises.

“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.”

In light of the information provided, and the nature of activity at this site, we assert that the proposed use of the premises as a prayer hall will not cause any noise nuisance or disturbance to neighbouring residents. To substantiate this assertion, the applicant has commissioned a Sound Insulation Test at the site. This was conducted by Sitma Acoustics Consultants. Please see the Test Report attached. As detailed in the report, the site passed all of the sound insulation tests carried out, indicating that the activities within the prayer hall will not result in any noise nuisance to the attached neighbour or any other surrounding neighbours.

Highways Considerations

“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.”

All prayer services take place on the Sabbath (Saturdays) and Festivals when Jewish Law forbids the driving of vehicles. Similarly, the use of public transport is also prohibited by Jewish Law on these days. These laws are adhered to by observant Jews. The premises is intended for this group set and it can thus be guaranteed that all visitors to the prayer hall will arrive on foot. The applicant has clarified that all of the invited attendees of the prayer hall live within the immediate proximity or in very close walking distance of the application site.

In light of the above, it is guaranteed that this development would not have any negative impact on the current parking provision in the area and will not increase parking pressure on the street and in the immediate vicinity of the site.

Proposed First Floor Residential Flat

“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.”

The applicant has confirmed that it was never their intention for roof above the ground floor extension to be used to provide amenity space for the flat. A glass balustrade Juliet balcony has now been installed to restrict access to the roof extension and prevent this area from being used as amenity space. Please see a photograph of the recently installed Juliet balcony below. Access to the roof extension is no longer possible and the proposal will not result in any issues of overlooking or loss of privacy on the adjacent neighbours. In any case, the rear garden area is designated for the sole use of the first floor flat and the amenity space afforded by the roof extension is unnecessary.



Photograph showing recently installed glass balustrade Juliet Balcony

“In terms of the rear garden, the application does not state which occupier, ground or first floor, would have use of this space.”

The rear garden is intended solely for the use of the first floor flat, although this space is rarely frequented by the applicants parents given their specific health conditions. There is no direct access from the prayer hall into the rear garden area.

“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 neighbour’s property. The air con units have not been included on the proposed plans and therefore conflicting information has been submitted.”

Please see the updated drawing number A1.3, ‘As Built Plans and Elevations.’ This updated drawing includes the 2no air-conditioner units on the left elevation of the application site. It is clear from both this drawing and drawing number A1.5, ‘As Built Site Plans,’ that the 2no. units are contained within the red line boundary of the site and do not overhang into the neighbour’s property.

Furthermore, please see the site pictures (attached and below) from which it is clear that the air-conditioning units fall entirely within the red-line site boundary of the application site.



Site Pictures showing Air Conditioning Units Located within the Applicant's Demise

Conclusion

In conclusion, this revised application seeks retrospective planning permission for the change of use of the former residential dwelling house (Class C3) into a prayer hall (Class F1(f)) at ground floor and self-contained flat (Class C3(a)) at first floor. The introduction of this prayer hall will allow the elderly person with mobility issues the opportunity to pray with a quorum of Jewish men on the Sabbath and festivals, giving him equal opportunities to pray despite his disabilities whilst also making it possible for the applicant and his family to provide care to his elderly parents on these days when car travel is prohibited.

The prayer hall has been designed to ensure that there is no visual impact on visual amenity resulting from the change of use. The premises are strictly managed so as not to interfere with the amenity of the residents who live in its vicinity. Prayer times are strictly adhered to, and the premises is not used outside of these times. As demonstrated within this statement and the supporting documents, the use of the ground floor as a prayer hall will not constitute an intensification of the site's use which is incompatible with the surrounding residential uses.

The principle of development aligns with Bury Council's Unitary Development Plan Policies of CF1/1 - Location of New Community Facilities, H3/1 – Assessing Non-Conforming Uses and the other relevant policies in Bury's Unitary Development Plan.

We trust that you will find this proposal acceptable and grant approval for the proposal as submitted. Should you require any further information, please do not hesitate to contact us at info@eatownplanning.co.uk or 0330 221 0449.

EA Town Planning LTD