

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 28/10/2020	Ref: 65949/FUL
Registration: 11/09/2020	LDfC: 09/10/2020	Expiry Date: 06/11/2020
Site Visit: 20/09/2020	Site Notice: 20/09/2020	Press Date: 17/09/2020
Objections: 1	Con Area: RAMS	Adv Type: CA
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from tattoo studio to drinking establishment (Sui Generis) at ground floor with ancillary office accommodation to first floor

Location: 1C Smithy Street, Ramsbottom, Bury, BL0 9AT

Description

The site relates to a small commercial/shop premises which is located in Ramsbottom Town Centre and within the Conservation Area set in a short side street off a main shopping frontage which faces onto Bolton Street. The property is attached behind a restaurant on the western side and there is a back access alley along the eastern side which serves the rear of properties on Bolton Street. Opposite are other shop premises and the Theatre Royal.

The property has a relatively small floor area of 60 sqm and is a 2 storey stone building with the tattoo studio located over both floors. The main entrance is directly off Smith Street and there is a yard area for bin storage which is shared with the attached restaurant business.

The application seeks the change of use from the tattoo studio to a drinking establishment at ground floor and ancillary office at first floor.

The applicant proposes hours of 4pm to 11pm daily.

Relevant Planning History

65814 - Change of use from shop (Class A1) to drinking establishment on the ground floor with ancillary office at first floor (Sui Generis) - Withdrawn - Invalid 11/09/2020

Publicity

31 letters sent on 11/9/20 to properties on Smithy Street, Square Street, Bolton Street.

Site notice posted 20/9/20

Press advert 17/9/20.

Two representations received.

No19 Square Street,

- Considering the number of food and drink related establishment in and close to the above application premises, my concern is the additional noise from customers standing outside smoking and talking usually loudly, especially if they have a late licence and more so at weekends.
- Appalled at the dustbin situation, considering Ramsbottom has what I think a high profile. Silver street has so many bins. It's not much better behind some of the shops on Bridge Street.
- On the opposite side to the above premises and outside the theatre on Smithy Street, it is just commercial and grey bins that lower the appearance in Ramsbottom.
- I appreciate that some of my comments don't relate specifically to a gin bar but in general, but there are residential properties here which I think sometimes is forgotten.

DELEGATED REPORT

- Concerned about opening hours especially at weekend, re noise, this area becomes a taxi rank at night, and we have several bars, pubs and restaurants and take aways so close together we the local residents in very close proximity to this property, Smithy Street, Square Street get forgotten about.
- My main concern is late opening hours.
- Consider this an objection to opening hours after midnight at weekend and an earlier closing midweek.

Theatre Royal

- We are as keen as anyone to see the town centre full of successful businesses. However, we feel there are two areas that need careful control and monitoring, especially if this application is to result in another drinking/catering establishment.
- The parking in the town centre side streets in the evenings is becoming ever more a problem, the casual parking around the streets, including on double yellow lines and on pavements, gets ever worse. This was before the impact of the lockdown.
- We have recently written separately to your Commercial Waste dept about waste bins permanently parked around our theatre. Any new business, especially catering establishments, should be required to store its own waste within the curtilage of its own premises, except on collection days.

Statutory/Non-Statutory Consultations

Traffic Section - Clarify bin storage arrangements so there will be no obstruction on highway

Environmental Health - Pollution Control - No comments to make

Environmental Health - Commercial Section - No response received.

Waste Management - No response received.

Greater Manchester Police - designforsecurity - No objection - recommend security measures be incorporated.

Conservation Officer - No response received.

Pre-start Conditions - Not relevant

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
S1/2	Shopping in Other Town Centres
S2/2	Prime Shopping Areas and Frontages
S2/6	Food and Drink
EN7/2	Noise Pollution
Area	Bolton Street/Bridge Street
RM3	
HT2/4	Car Parking and New Development

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

UDP Policy S1/2 - Shopping in Town centres seeks to maintain and strengthen retail roles in other town centres. The main emphasis will be on consolidation and enhancement of the centres.

UDP Policy S2/2 - Prime Shopping Areas and Frontages seeks to maintain retailing as the predominant land use at ground floor level. proposals for change of use will be assessed on their merits and take account of factors to include:

- a) design and appearance of the proposed frontage;
- b) maintenance/provision of a display window at ground floor where appropriate;
- c) access for the mobility impaired where appropriate;
- d) whether the proposal will give rise to disturbance or nuisance.

In addition, where a proposal would lead to more than 10% of any identified prime shopping frontage being in non-retail use the Council will also take into account:

- e) the location and prominence of the proposal within the prime shopping frontage;
- f) the number, distribution and proximity of other premises in non-retail use;
- g) the particular nature and character of the use proposed, including the level of activity associate with it.

The application site is located within Ramsbottom Town Centre and as such policies S1/2

(Shopping in other town centres) and S2/2 (Prime shopping areas and frontages) of the adopted Bury Unitary Development Plan (UDP) are relevant. Under Policy S2/2 the Council seeks to maintain class A1 retailing as the predominant land use a ground floor level within prime shopping areas and frontages by taking into account a range of factors.

Paragraph 85 of the National Planning Policy Framework (2019) states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth management and adaptation. Paragraph 85 (a) further states that planning policies should promote the long term vitality and viability of town centres by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows as suitable mix of uses and reflects their distinctive characters.

It is understood that the premises are currently vacant having last been used as a tattoo studio. The unit is not classed as an A1 use and therefore the proposed change of use would not result in the loss of a retail shop., At present the unit is generating no activity, and although the proposal is not for an A1 retail use it is considered that the change of use to a drinking establishment will generate activity. Furthermore it will make a positive contribution to help support the long term vitality and viability of the town centre.

A first floor ancillary office use for the proposed use is considered to be an acceptable associated use for a commercial premises.

Therefore there is no objection to the proposed change of use.

Conservation Area - Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 sets out the duties imposed upon a Local Planning Authority in respect of Conservation Areas in exercising its planning functions.

In Chapter 16 - Conserving and enhancing the historic environment, the NPPF advocates positive strategies for the conservation and enjoyment of the historic environment, recognising that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

Paragraph 189 states that in determining applications, LPA's should require an applicant to describe the significance of any heritage assets affected, including any contribution to 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.

EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control policies only support proposals where it can be demonstrated that development would preserve or enhance the special character of the area. In the case of re-use of buildings or the introduction of new uses, the impact of the proposal on the character or appearance of the area and the fabric of the building will be considered.

The site is within the Ramsbottom Town Centre Conservation Area and a Heritage Assessment has been submitted with the application.

The application site is located within the town centre. As a vacant premises, it does not contribute positively to either the vitality of the shopping centre or the character of the conservation area. UDP Policy EN2/1 and para 192 of the NPPF considers the positive benefits of the re-use of buildings and contributing to the economic vitality of an area, providing it would conserve or enhance the Conservation Area.

There would be no alterations to the shop frontage and as such no change to the important historic fabric of the building. The re-use of the building would bring positive benefits in preserving the historic character of the area and contributing to the vitality and viability of the town centre.

As such, it is considered that in heritage principles, the re-use of the building would preserve Ramsbottom town centre and would comply with the principles of the NPPF and UDP Policies EN2/1 and EN2/2.

Impact on residential amenity - Whilst the site is located within a town centre characterised by a number of different uses including shops, cafes, bars and restaurants, there are residential properties in the vicinity and to the east of the site where there is a row of terraced properties. There are also residential flats above some of the commercial and shop premises.

The proposed development would generate some levels of activity from customers entering and leaving the bar and potentially gathering outside the establishment. As a relatively small premises at just 60 sqm in area, the property could not accommodate a large number of customers at one time, and hours until 11pm in the evening would be in line with other drinking establishments in the town. Located in the middle of the town centre, a variety of uses, would be expected and which is part of ordinary town centre living for those who reside in these areas.

Given the business would be small in scale, the hours proposed and given its position very close to main shopping streets and other similar uses, it is considered the proposed development would not result in an over concentration of drinking establishment uses to significantly harm the amenity of residents who live nearby.

At first floor, the proposed use would be an ancillary office use and as an associated use which would not give generatesignificant noise or disturbance, is considered to be acceptable.

As such, the proposed development is considered to be acceptable and would comply with UDP Policies S2/2, S2/6 and the principles of the NPPF.

Visual amenity - There are no changes proposed to the externality of the building.

Bin storage - To the rear of the property is a store/yard area which is accessible directly from the property and would be used for the storage of bins. On collection days the bins would be moved to the access alley similar to the other shops and businesses which characterise this row.

As the bins would be contained within a secured area, it is considered the provision would be acceptable and comply with policy.

Response to objections -

- As a relatively small scale business set within the town centre, customers to the premises would either live in the locality and walk, use public transport/taxis or alternatively, there are public car parks in the vicinity and walking distance. It is therefore considered that the proposed development would not generate traffic or parking problems to the area.
- The objections raised in relation to impact on residential amenity, noise and disturbance and bin storage have been covered in the main report.

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

DELEGATED REPORT

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 - site location plan Revision B - Bin storage area added; Existing ground and first floor plans 01; Proposed ground floor and first floor plans Rev A; Elevations 03; Ownership plans 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 use hereby approved shall not be commenced unless and until the bin storage arrangements indicated on approved plans have been implemented and thereafter be maintained available for use at all times.
Reason. To ensure adequate off-street bin storage arrangements in the interests of highway safety pursuant to Bury Unitary development Plan Policies EN1/2 - Townscape and Built Design, S2/6 - Food and Drink and HT2/4 - Car parking and New Development.
- 4 The use hereby permitted shall not be open to customers outside the following times: 4pm to 11pm Daily.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S2/2 – Prime Shopping Areas and Frontages and S2/6 – Food and Drink of the Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	28/10/20	DM	02/11/20