

DELEGATED REPORT

Report by Tom Beirne	Date of report: 02/02/2022	Ref: 67840/FUL
Registration: 15/12/2021	LDfC: 10/01/2022	Expiry Date: 09/02/2022
Site Visit: 19/01/2022	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 from retail (Class E) to hot food takeaway (Sui Generis)

Location: 47 Bury Old Road, Prestwich, Manchester, M25 0FG

Description

The application relates to the ground floor of two storey end terraced commercial unit with a Local Shopping Centre. The ground floor was previously a shop but is currently vacant whilst the upper floor is occupied by offices. Pedestrian access into the ground floor unit is at the corner of the frontage with Kings Road. There is a service road to the front with on-street parking. There is a back access via a rear service road. The attached property on the commercial row is a small kitchen showroom/shop. To the south, across Kings Road is a Jewish study centre and there are residential properties to the rear.

The proposal is to change the use of the ground floor to a hot food takeaway (50sqm) with a small seating area to the front (15 covers). The frontage with shutters would be retained in its current form and a extractor flue would be attached to the rear elevation. There would be a small bin storage area at the rear. Hours of opening are proposed:

Mon-Fri: 1600-2200hrs

Sat: 1700-0000(midnight)hrs

Sun/ Bank Hols: 1230 - 2200hrs.

Relevant Planning History

12/0341 - Erection of Canopies - 02/08/2012

15/0563 - Unauthorised advertisements - 01/01/2016

Publicity

Immediate neighbours notified by letter dated 17/12/22. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - No comment.

Environmental Health - No comment.

Waste Management - No comment.

Pre-start Conditions -N/A**Unitary Development Plan and Policies**

NPPF National Planning Policy Framework

EN1/2 Townscape and Built Design

EN1/8 Shop Fronts

EN7/2 Noise Pollution

EN7/1 Atmospheric Pollution

S2/6 Food and Drink

S1/4 Local Shopping Centres

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.

Use - With only one other takeaway on the commercial row, the new takeaway would not represent an overconcentration of such uses in the immediate vicinity. In bringing the existing vacant unit into use, the proposal would help maintain the viability and vitality of the centre by reducing vacancy rates. As such the principle of the change of use is considered to be acceptable and complies with UDP Policy S1/4 Local Shopping Centres, subject to the impact on visual and residential amenity.

Visual Amenity and Streetscape - The proposed shopfront would be refurbished but in essence, would remain as existing which is generally in keeping with the other units on the row. The rear, the flue would be relatively modest in scale and finished in a grey powder

coating (required by condition). Overall the proposal would be acceptable in terms of appearance and would comply with UDP Policies EN1/2 Townscape and Built Design and S2/6 Food and Drink.

Residential Amenity - There are offices at first floor with the nearest residential properties to the rear, fronting Kings Road. Given the limited scale of the operation, the opening hours on 6 days to 10pm (midnight on Saturday), and the flue at the rear, it is not considered that there would be any serious residential amenity issues arising from the proposal, particularly as any approval would be conditional on the suitable installation and operation of the flue. It is also noted that no objections have been received from neighbours. The proposal is considered to be acceptable in terms of residential amenity and complies with UDP Policies EN7/2 Noise Pollution and S2/4 Food and Drink.

Traffic - Given the on-street parking available on the service road to the front and servicing at the rear, there are no serious traffic issues arising from the change of use. Complies with UDP Policy HT2/4 Car Parking and New Development.

Access - There is a stepped access which would be difficult to amend given existing levels. Given the modest scale of the operation and that the applicant has indicated that a portable ramp would be available if required, the proposal is considered acceptable in terms UDP Policy HT5/1 Access for those with Special Needs.

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 numbered 001/1, 002 and 003/2 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 permitted shall not be open to customers outside the following times:
 08.00 to 22.00 Sunday to Monday
 08.00 to 00.00(midnight) Saturdays.
 Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy S2/6 Food and Drink of the Bury Unitary Development Plan.
- 4 No development shall commence unless and until a written statement from a suitably qualified person which demonstrates that the proposed system for treating, diluting

and dispersing fumes and odours is in compliance with the measures set out 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) has been submitted to and approved in writing by the Local Planning Authority;

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

Reason. In the interests residential amenity pursuant to UDP Policy S2/6 - Food and Drink.

- 5 The proposed extractor/flue in the rear elevation shall be finished in a grey/black powder coating (or equivalent) and maintained as such to the satisfaction of the Local Planning Authority.

Reason. In the interests of residential amenity pursuant to UDP Policy S2/6 Food and Drink.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	02/02/2022		