

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 13/11/2023	Ref: 70131/FUL
Registration: 02/10/2023	LDfC: 02/11/2023	Expiry Date: 27/11/2023
Site Visit: 23/10/2023	Site Notice: 23/10/2023	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Variation of condition no. 5 following approval of planning permission 67437 - Extend opening hours from Friday 09:00-22:00 hrs (as approved) to Friday 09:00-23:00 hrs (extended)

Location: 425 Bury New Road, Prestwich, Manchester, M25 1AF

Description

The application relates to a shop premises on a main shopping street in Prestwich Town Centre. It is located on the end of a row of other business/shop premises. On the other side of the property next to the southern gable is a Burial Ground.

The ground floor was formally a retail shop and there is a separate residential flat above which is accessed via an external staircase at the rear. The premises has a small single storey side extension and to the rear is a yard and area to store bins which are serviced from Albion Place to the north.

Planning permission was granted for the change of use of the property to a cafe/restaurant with an extraction flue. The proposal also included an awning to the front, re-configuration of the shop front and to build up part of the wall on the existing side extension. Hours were proposed as Monday to Friday and Sundays 9am to 10pm, and Saturdays 9am to midnight.

This application seeks to amend the opening hours and proposes to extend the opening hours on a Friday from 9am to 11pm.

The applicant states that the additional hour would align with their premises licence which allows alcohol to be served until 2230 and music to be played until 2300. As Fridays are typically a busier day in hospitality it would be financially more viable for the business to open longer and provide a better customer service for those visiting the cafe/restaurant.

Relevant Planning History

67437 - Change of use from retail to cafe/restaurant (Class E), with extraction flue at side/rear, alterations to shop front with new awning and build up walls/new roof to existing side extension - Approve with Conditions 05/01/2022

Publicity

Neighbours notified 11/10/23.
Site notice posted 23/10/23.

No representations received.

Statutory/Non-Statutory Consultations

Environmental Health - Pollution Control - No response received.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

Area	The Longfield Centre/Bury New Road
PR1	
NPPF	National Planning Policy Framework
S1/2	Shopping in Other Town Centres
S2/3	Secondary Shopping Areas and Frontages
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution
S2/6	Food and Drink

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Impacts on the surrounding area

The business is located within Prestwich Town Centre and forms the end of a row of premises in shop, commercial and business use which operate at various times of the day. Within a town centre location, there is still activity from those visiting bars and restaurants in the area and also from passers by and traffic along this major through route at a later time of night and as such it is considered the additional opening hour until 11pm would not result in cumulative noise or disturbance issues in the area. The premises is also fairly moderate in size and the number of patrons who would be visiting at this later hour would not be of a significant number to detrimentally add to noise in the area.

There is a residential flat above the property but as this is a town centre location, there would be an expectation that living above a commercial business would result in some noise and it is considered that the additional hour on a Friday night only, would not be significantly harmful to this occupier particularly given the location of the premises on a busy main town centre street.

It is not clear if the residential flat above the shop is currently occupied. However, the flat has been notified of the application and it is noted that there has been no objection made to the application.

As such, it is considered the proposed hours would not significantly increase noise and disturbance to this particular area and would have no greater impact upon amenity of local residents and as such would comply with UDP Policies EN7/2, S2/3 and S2/6.

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 decision of planning consent reference 67437 (date of permisison 5/1/22).
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings Red edge block plan and site layout plan received 1/10/21; Existing and proposed plans and elevations GSS21043.1 002 Rev 2; Proposed elevations to include flue extraction details 1188C_EX Rev B 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 details and information submitted for the discharge of condition 3 of application reference 67437 for the extraction system/flue.
The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.
Reason. To maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink, EN7/1 - Atmospheric Pollution and EN7/2 - Noise Pollution. .
- 4 The ventilation/flue shall be installed such that the maximum noise emitted does not exceed NR25 (Noise Rating) in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.
The equipment installed shall be used and maintained in accordance with the manufacturers and installers instructions.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation from impact upon noise from the ventilation/flue installation system pursuant to UDP Policy S2/6 - Food and Drink, EN7/1 - Atmospheric Pollution and EN7/2 - Noise Pollution.
- 5 The use hereby permitted shall not be open to customers outside the following times:
09.00 to 22.00 Monday to Thursdays and Sundays and Bank Holidays
09.00 to 23.00 Fridays
09.00 to 23.59 Saturdays
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies EN1/2 - Townscape and Built Design, EN7/1 - Atmospheric Pollution and EN7/2 - Noise Pollution, S2/3 - Secondary Shopping Areas, S2/6 – Food and Drink of the Bury Unitary Development Plan.
- 6 The bin storage facility shown on revised red edge and block plan received 1/10/21 shall be made available prior to the first use/occupation of the development hereby approved and thereafter maintained.
Reason. To ensure there would be adequate refuse storage facility and avoid obstruction on the public highway pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and S2/3 - Secondary Shopping Areas and Frontages.
- 7 Prior to the first occupation/use of the development hereby approved, works to soundproof the floor/ceiling between the ground floor and the first floor flat, which shall be in accordance with standards of construction specified in current Building Regulations, shall be implemented and such works shall be completed before the development is brought into use.
Reason. To protect the residential amenities of the 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	13/11/23		