

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 13/01/2025	Ref: 71159/FUL
Registration: 25/11/2024	LDfC: 26/12/2024	Expiry Date: 20/01/2025
Site Visit: 04/12/2024	Site Notice: 04/12/2024	Press Date: 05/12/2024
Objections: 0	Con Area:	Adv Type: CA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of the building from a mixed use to a sports bar

Location: 12 Bolton Street, Bury, BL9 0LQ

Description

The application relates to a two storey mid terraced property located on a 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.

This side of the shopping street comprises a restaurant, bars/pubs and a mix of Class E uses.

At the rear of the site is a paved area where servicing area where most of the premises on this row of store bins.

Planning permission was granted May 2024 for the change of use of the ground floor from a retail Class E use to a sports bar (sui generis) with offices above.

This application seeks a change of use of the building from a mixed use to sports bar (ie to include the first floor (96 sqm) as a bar).

No external alteration are proposed and as the upper floor would be part of the same planning unit as the ground floor, the existing bin store facilities and waste collection arrangements would not alter.

Hours proposed are the same as approved for the ground floor -

Sunday: 8am -3 am

Monday: 8am -3 am

Tuesday: 8am -3 am

Wednesday: 8am -3 am

Thursday: 8am -3 am

Friday: 8am - 4:30 am

Saturday: 8am - 4:30 am

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shop (Class E) to sports bar and restaurant with first floor offices (Class E/Sui Generis); Replacement shop front - Withdrawn by Applicant 21/02/2024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

70841 - Installation of extraction flue and 2 no air conditioning units - Approve with Conditions 08/08/2024

71158 - Internally illuminated fascia sign - Refused 14/11/2024

Publicity

Letters sent to 29 properties on 29/11/24

Site notice posted 4/12/24

Press advert 5/12/24

No responses received

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to condition for the provision of the bin store area

Environmental Health - Contaminated Land - No comments to make

Waste Management - No response received.

Conservation Officer - No objection

Environmental Health - Pollution Control - Recommend a noise survey

Greater Manchester Police - designforsecurity - No comments received

Pre-start Conditions - Not relevant

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
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
TC2/1	Upper Floors

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.

Principle

The application site is located within Bury Town Centre and as such Bury's Unitary Development Plan (UDP) policies S1/1 (Main Shopping Area in Bury Town Centre), S2/3 (Secondary shopping area and frontages) and Area BY 3 Bolton Street/Market Place are relevant.

Policy S1/1 states that the Council will protect, maintain and enhance the role of Bury Town Centre as a sub-regional shopping centre and promote the centre as a focal point for further development.

Under Policy S2/3 the Council seeks to maintain class A1 retailing (now Use Class E(a)) as the predominant land use at ground floor level within secondary shopping frontages. Where a proposal would lead to more than 40% of any identified secondary shopping frontage being in non-retail use, the Council will also consider several factors.

Policy TC2/1 states that within town centres, the Council will support proposals which bring underused and vacant space on upper floors of premises into beneficial use.

Paragraph 90 of the National Planning Policy Framework (NPPF) says 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 90 (a) further states that planning policies should promote the long-term viability 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 a suitable mix of uses and reflects their distinctive characters. The NPPF no longer refers to secondary shopping frontages.

This application relates to the first floor so the policies relating to maintaining a shop

frontage and retail use are less relevant. In addition, the upper floor currently has a planning consent for offices although it would appear this element of the previous consent (ref 70545) has not been implemented.

As the upper floor would be integrated with the ground floor bar use and would form one planning unit and would utilise the upper floor, it is considered that in principle the proposal would be acceptable.

Layout

The first floor would be accessed via an internal staircase close to the main entrance and would lead to a bar and seating area with WC facilities also provided at the upper floor. The bin store is located at the ground floor and accessed by a doorway at the rear for access on waste collection days.

There would be no other changes or alterations to the internal arrangements and no changes to the fenestrations or facade of the building.

It is therefore considered the proposed layout would be acceptable and comply with EN1/2 and S2/3.

Impact on the surrounding area

The property is located within Bury Town centre within a row of other commercial premises including shops, a bar, restaurant and public house.

The main issue relates to the additional impacts of noise, activity and disturbances to the area by utilising the upper floor as a bar.

Comparative to an office (recently approved) or storage associated with the former shop, the proposal to introduce a bar use into the first floor would create a higher level of activity and noise from additional customers who could be accommodated in the building, plus use of the upper floor at a much later time of the night and the early hours of the morning.

The premises are located in a town centre where it would be expected to find a range of different uses, open at various times of the day and night with regular and frequent activity from people visiting the premises and other drinking and eating establishments nearby.

The EH Pollution Control section have been consulted on the proposals and recommend a condition to carry out a noise survey so as to ensure noise from the associated use would not increase ambient noise levels at the boundary of the site, to which the applicant has agreed.

The applicant had previously commissioned a noise survey on the application for the change of use of the ground floor (ref 70545) which recommended that mitigation measures including insulation and repair and maintenance of windows be implemented. The EH Pollution Control were satisfied with the recommendations of the report and a condition was attached to the permission for the development to accord with these requirements.

There are no known sensitive land uses in the vicinity to protect and given the proposed use would be the same and essentially extend into the first floor it is considered the same mitigation measures which were previously recommended would be acceptable in this case. A condition would therefore be attached to require the development to be carried out in accordance with the recommendations of the Noise Report submitted for the planning application ref 70545

There was no control of hours condition of the application for the ground floor and given the first floor would be part of the same planning unit, the same hours are considered

reasonable.

It is therefore considered that the proposed development would be acceptable and comply with policies EN1/2 and EN7/2.

Heritage

The premises is located in the Bury Town Centre Conservation Area.

Para 200 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Para 205 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its 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.

There are no physical works to the building proposed in terms of alterations or extensions and the proposed change of use, like the application for the ground floor, is considered to preserve the character and appearance of that part of the conservation area by utilising an upper floor for a viable use which would conserve the character of the area.

The applicant has submitted a Heritage Statement which is considered proportionate to the application proposals.

As such, it is considered the proposed development would be acceptable and comply with Policy EN2/1, EN2/2 and the NPPF.

Carbon and energy

JP-S2 - Carbon and Energy requires new development to be net zero carbon in relation to regulated operational carbon emissions unless it can be demonstrated that it is not practicable or financially viable.

The applicant states that the proposed change of use will comply 1,2 and 3 of Policy JP-S2 and with Part L of Building Regulations by improving energy efficiency and generate renewable and low carbon energy, heating and cooling and proposes.

It is considered the proposed development would therefore accord with Policy JP-S2.

Digital Connectivity

JP-C2 - Digital Connectivity supports the provision of affordable, high quality, digital infrastructure.

The applicant states that the premises will have an internet provider. This will be full fibre optic connectivity.

It is considered the proposal would accord with Policy JP-C2.

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 -

Revised existing location plan A301
Revised location plan A302
Revised existing site plan A303
Revised proposed site plan A304
Revised existing floor plans A305
Revised proposed floor plans 01 - Proposed HVAC plan

Carbon and energy and Digital connectivity statement

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 and Places for Everyone Joint Development Plan listed.
- 3 The use hereby approved shall not be commenced unless and until the internal ground floor bin storage arrangements indicated on the approved plans have been implemented and thereafter maintained at all times.
Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to Policies S2/6, EN1/2 and EC4/1.
- 4 The development hereby approved shall be carried out in accordance with the recommendations in Section 5 of the Noise Report ref:P6759-R2-V1 dated 3rd May 2024 by NoiseAir (submitted for planning application reference 70545) and any subsequent requirements of Section 5 of the report.
Reason. To protect the amenity of adjacent occupiers pursuant to Policies EN7/2 Noise Pollution and EC4/1 - Small Businesses.

<u>Case Officer</u> JT 13/1/24	<u>Date</u>	<u>Sign off Officer</u> DM - 16/01/2025	<u>Date</u>
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