

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 04/01/2022	Ref: 67437/FUL
Registration: 21/09/2021	LDfC: 12/10/2021	Expiry Date: 16/11/2021
Site Visit: 08/10/2021	Site Notice: 08/12/2021	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: 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

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

Description

The application relates to a vacant retail 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.

The application proposes to change the use of the ground floor to a cafe/restaurant with an extraction rear on the side/rear. The proposal also includes 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 are proposed as Monday to Friday and Sundays 9am to 10pm, and Saturdays 9am to midnight.

Relevant Planning History

N/A

Publicity

Letters sent on 21/9/21 to 20 properties at Sherbourne Court, Bury New Road and Sharp Street.

No responses received as a result of the publicity.

Statutory/Non-Statutory Consultations

Traffic Section - No objections

Environmental Health - Pollution Control - No objection

Waste Management - No objections

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. 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 S1/2 - Shopping in Other Town Centres seeks to maintain and strengthen with

emphasis on consolidation and enhancement.

Policy S2/3 - Secondary Shopping Areas and Frontages seeks to maintain retaining as the predominant use at ground floor.

Proposals for other uses will be assessed on its own merits and considered the following factors including -

design and appearance of the shop front, maintenance or provision of a display window, access and whether the use would give rise to disturbance or nuisance.

Where proposals would lead to more than 40% of any identified secondary shopping frontage being in non-retail use, factors including location and prominence of the proposal, number and types of other uses in the area and the particular character and use proposed, would also be considered.

Policy S2/6 - Food and Drink considers proposals with regard to factors including amenity of residents, concentration of use types, parking and servicing provision, bin storage and refuse disposal and impacts of flues/ventilation systems.

In chapter 7 - Ensuring the vitality of town centres, the NPPF supports proposals to strengthen shopping centres and a wide range of different of uses to promote their long term viability and vitality by allowing diversity to offer a range of products and services.

Principle - Use - The existing premises are currently vacant, and formerly in use as a retail shop.

Both retail and restaurant/cafes now fall within the same Use Class, Class E and as such planning permission would not be required to simply change the use of the premises to an eating establishment, it is the external alterations and flue which would require permission.

The premises are located within a town centre and busy shopping centre and front a main road and major route through the Borough.

There are a variety of different types of uses, including shops, offices, cafe's, pubs and takeaways.

The proposed development would bring back into use a vacant premises and as a cafe/restaurant, would continue to draw footfall to the shopping and town centre. There are a mix of uses on the centre offering a variety of goods and services and it is considered the proposed use would continue to support the vitality and viability of the centre.

As such, it is considered the proposed development would comply with Policies S1/2, S2/3 and S2/6.

Visual amenity - It is proposed to alter the shop frontage which would comprise the re-configuration to form a hatch in the glazed opening and a part tiled frontage. An awning would be erected over the ground floor shop front with the existing roller shutter to be retained. There are a variety of designs and types of frontages along the street and the proposal is considered to be in keeping with the rest of the shopping centre.

At the side, the wall to the narrow outrigger would be increased in height to half way up the elevation and a flue located on this extension which would extend to the rear wall. On the side, the flue would be hidden from views by a louvered enclosure. This solution enabled a relatively low level flue to be erected as opposed to the bulky and rather ungainly equipment which was first proposed on the rear elevation and which would have been an eyesore and strident feature on the rear, especially as it would be overlooked by the flats at the rear.

At the rear, there is also a high boundary wall and trees which already screens a large part of the rear of the premises.

As the flue would be mostly hidden from residents and from public views, this solution is considered to be a betterment and a less visually intrusive feature to the street scene and the local residents.

It is therefore considered that the proposed development would comply with policies EN1/2, S2/3 and S2/6.

Impact on residential amenity - The nearest residential properties would be the flat above the shop unit, which is a separate unit and accessed via an external rear staircase and the flats to the rear which are part of Sherbourne Court.

Comparative to a shop use, the character of a restaurant would bring about higher levels of activity and noise, as it would be more likely that more customers would visit the premises at one given time. Plus the restaurant would be open until later hours of the day.

That said, the premises are located within a busy town centre, where there is frequent, regular activity not only from people visiting the centre, but those living nearby, plus traffic which travels along this main through route at all times of the day and night.

It is considered that the proposed use would not significantly add to the existing noise and activity in the area which would cause unacceptable levels of disturbance to the local residents. The residents at Sherbourne Court are located behind the main shopping street and arguably would expect this area to be quieter than the main shopping area. There is a high brick boundary wall which separates the back of the property from the flats, plus there is tree planting and a large part, if not all of the ground floor is screened from views.

Hours are proposed as Monday to Friday and Sundays 9am to 10pm, and Saturdays 9am to midnight and these would seem reasonable and for a town centre location.

It is now proposed to locate the flue on the side elevation as opposed to the rear elevation and this would be a better solution for both the first floor residential flat and residents of Sherbourne Court. In addition, the flue would be screened and enclosed by a louvered cover which would further reduce impacts.

The Pollution Control Section have been consulted and have raised no objections to the proposed use subject to a condition for the submission of details of the extraction system.

As such, it is considered the proposed development would not have a significant;y harmful impact on residential amenity and would comply with policies EN1/2, EN7/1, EN7/2, S2/3 and S2/6.

Heritage - The premises are located on a main shopping frontage within a town centre. There is a garden and burial ground, a Non-Designated Heritage Asset which is sited in between the application property and No 421 which is also a shop premises which forms part of the shopping frontage and area.

Given the setting of the site within a shopping centre, in a mix of different uses, it is considered there would not be any further harmful impact on the NDHA.

In terms of visual appearance, the flue would be located on the side elevation and above a small and narrow outrigger. This outrigger is of no particular design or note and appears fairly shabby and poorly maintained. It is proposed to build the wall to half way up the side elevation and screen the flue by a louvered enclosure which would be a fairly modest and simple structure which is considered would not be unduly prominent or an alien feature given the assortment of canopies, shop frontages and adverts which are located in the area.

The side elevation would only be visible directly facing and on approaching the premises from the south. However, views would be fleeting and short term and given the flue and

louver would be a minimal addition, it is considered impacts of the visual appearance and NDHA would be minimal.

As such, it is considered the proposed development would not have a detrimental impact on the character or visual amenity of the area or have a harmful impact on the status of the NDHA.

The proposed development would therefore comply with the principles of the NPPF.

Bin storage - There is a rear yard and ample space for the storage of bins for both the proposed use and the existing residential flat above. The bins would be collected from Albion Place, the side street, to the North which is the same as the existing arrangement and as such considered acceptable.

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 this permission.
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 A 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 Prior to the installation of the extraction system/flue, details of the equipment and a scheme for treating, diluting and dispersing fumes and odours shall be submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by 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).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements.

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. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policies 7/1 - Atmospheric Pollution, EN7/2 - Noise Pollution and S2/6 - Food and Drink.

- 4 The ventilation/flue installation shall be so designed 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 scheme as approved shall be fully implemented and all 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..

- 5 The use hereby permitted shall not be open to customers outside the following times:
09.00 to 22.00 Monday to Fridays and Sundays and Bank Holidays
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 4/1/22		DM	04/01/2022