

DELEGATED REPORT

Report by Tom Beirne	Date of report: 04/05/2022	Ref: 68172/FUL
Registration: 04/03/2022	LDFC: 14/04/2022	Expiry Date: 29/04/2022
Site Visit: 03/04/2022	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Variation of condition 5 following approval of planning permission ref. 65456; to allow the property to be used on Saturdays and religious festival days for prayer

Location: 45 Bury Old Road, Prestwich, Manchester, M25 0EY

Description

The application relates to the recently constructed study centre on the corner of Bury Old Road and Kings Road. It was approved with a number of conditions, including one that restricts the use of the property as follows:

The of property shall be used for educational study purposes only and not for community worship or any other use within the D1 use class.

Reason. In the interests of residential amenity pursuant to UDP Policy EN7/2 Noise Pollution.

The applicant has requested that this condition be amended to allow the property to be used for community worship on Saturdays and Festival days. In support of the proposal, the applicant has included a planning statement. This states:

"In most synagogues there are various prayer gatherings for each of the three daily services. For example, for the morning service, most synagogues in Prestwich in the immediate vicinity of this site have three services. There would be an early morning fathering at 6:30am, another at 7:15 and then another at 8:15am. Similarly for afternoon and similarly for evening prayers.

On Saturday however there is only one gathering for each service. The reason for this is that the service is longer so it is simply not practical to use the same space for two consecutive gatherings. The start time for services on Saturday is usually 09:00 and the end time is 11:15. It is not appropriate to start a gathering after this service concludes because this would extend into the afternoon. Similarly as Saturday is a non-working day, there is no appetite for a service at 06:45 to be finished in time for the main service at 09:00.

As a result of the fact that there is only one prayer gathering per synagogue on Saturday as opposed to several during the week, there is a severe shortage of space for local people wishing to attend synagogue on Saturday. The proposal therefore is to allow the property to hold prayer services on Saturday and religious festivals only."

The religious festival days that are referred to are all the days in the Jewish calendar that are effectively observed by orthodox Jews as the Sabbath is observed by orthodox Jews. i.e. no work, no driving cars, no use of electric items etc.

The days are as follows.

Rosh Hashanah - Jewish New Year.

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Yom Kippur - day of Atonement.
Succoth - tabernacles.
Peasach - Passover.
Shavuot - Weeks.

Hours of opening for the study centre are:

0930 - 1930 Monday to Friday and Sundays and Bank Holidays

0900 - 1300 Saturday

These hours would not change for any periods of worship.

The applicant has agreed to the change in condition for a limited period of 12 months to allow for the situation to be monitored.

Relevant Planning History

01927/E - Conversion of semi detached dwelling to ground floor study hall and first floor flat - Enquiry completed 13/12/2016

60323 - Extension to existing dwelling to form ground floor self contained flat for 3 persons and first floors to be used as post - graduate study centre - Refused 24/08/2016

61022 - Extension and change of use to existing dwelling to form a mixed use comprising first floor self contained flat (Class C3) with post graduate study centre on ground floor (Class D1); Formation of new vehicular access from Kings Road. - Refused 28/03/2017

62557 - Extensions and change of use to existing dwelling to form a post graduate study centre (Class D1); Formation of new vehicular access from Kings Road - Approve with Conditions 23/05/2018

64493 - Variation of conditions no.2 (approved plans) and no.3 (materials) of planning permission 62557 for extensions and change of use to existing dwelling to form a post graduate study centre (Class D1) and formation of new vehicular access from Kings Road. Changes are:

External alterations to include a render finish to front, render and coursed stone to side and part of rear, changes to windows on front and side elevations and minor internal layout modifications - Approve with Conditions 13/11/2019

65456 - Demolition of existing dwelling and erection of a post graduate study centre (Class D1) and formation of new vehicular access from Kings Road - Approve with Conditions 24/06/2020

Publicity

Immediate neighbours notified by letter dated 24/03/2022. Three comments received:

Two in support of the proposal and one concerned about noise, particularly when windows are open.

Statutory/Non-Statutory Consultations

Traffic Section - No objection.

Environmental Health - No comment.

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN1/2 Townscape and Built Design

H2/3 Extensions and Alterations

CF2 Education Land and Buildings

HT2/4 Car Parking and New Development

SPD11 Parking Standards in Bury

SPD6 Supplementary Planning Document 6: Alterations & Extensions

NPPF National Planning Policy Framework

CF1/1 Location of New Community Facilities

EN7/2 Noise Pollution

H3/1 Assessing Non-Conforming Uses

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.

Community Impact and residential amenity - The applicant has indicated there is a shortage of space within existing synagogues for worship and as such a facility such as this could be used to relieve the situation. Should this be the case, the proposal would constitute a limited community benefit subject to the impact on the residential amenity of immediate neighbours.

In terms of size, the property is a relatively modest building which would limit the amount of potential worshippers attending and by association, the noise levels generated.

The part walls to the property, when it was rebuilt, were insulated to an appropriate standard and as such it is considered that, at least for a temporary period to allow activities to be monitored, limited services could be undertaken without serious detriment to the amenity of surrounding neighbours particularly as the additional worship would be undertaken during the day on Saturdays and the occasional festival days. It is noted that worshippers on the given religious holidays would not use vehicles and the approved hours of opening would not change.

Given the scale of activities, existing insulation and its position on a busy junction, the additional worship within the premises would be acceptable and comply with UDP policies EN7/2 Noise Pollution and CF1/1 Community Facilities.

Access and Parking - Given the nature and scale of the existing and proposed uses, there is unlikely to be any serious increase in traffic over and above the existing situation. The traffic engineer does not object to the proposal.

It is considered that the proposal to amend condition 5, relating to the restricted use of the premises, could be acceptable for an initial temporary period of 12 months to allow the use to be monitored. Only after this initial 'test period' could a further permanent change be considered.

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:

- 2 This decision relates to location plan and drawings RBS-20/1979/001, DA1964.001/3, DA1964.401/A, DA1964.402/ DA1964.403, DA1964.1.018, DA1964.003/6 and DA1964.002 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.
- 4 No noise shall be audible above existing background noise levels in the habitable rooms of the adjacent property, No.43 Bury Old Road, when measured against the operational hours of the premises. All activities shall be carried out in accordance with criteria set out in the Acoustic Report from Braiden Acoustics Ltd. The approved noise control mitigation measures within the report shall be maintained in situ.
Reason. To safeguard the amenities of the occupiers of the adjacent property, No.43 Bury Old Road, pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, CF1/1 - Location of New Community Facilities, EN1/2 - Townscape and Built Design and EN7/2 - Noise Pollution.
- 5 The of property shall be used predominantly for educational study purposes and only for community worship on Saturdays and religious festival days, as set out in email received 04/05/2022, and for a limited period of 12 months from the date of this decision notice.

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Reason. In the interests of residential amenity pursuant to UDP Policy EN7/2 Noise Pollution.

- 6 The centre hereby approved shall not be used outside the following times:
0900hrs to 1930hrs daily

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to UDP Policies EN7/2 Noise Pollution, H3/1 Assessing Non-Conforming Uses.

- 7 In relation to the use hereby approved, the measures set out in the Travel Plan to promote more sustainable travel to and from the site by staff and students/visitors and reduce the reliance on private vehicle use, shall be implemented in full and thereafter maintained whilst the study centre is in operation.

Reason. In order to encourage sustainable travel pursuant to the NPPF and UDP Policy HT4 New Development.

- 8 The development hereby approved shall not be brought into use unless and until the vehicular access alterations indicated on approved plan reference DA19064/001.3, incorporating the formation of the proposed footway crossing off Kings Road and reinstatement of the redundant footway crossing to adjacent footway levels at the junction with Bury Old Road, have been implemented to an agreed specification and to the written satisfaction of the Local Planning Authority.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, in the interests of highway safety pursuant to UDP Policy HT2 Highway Network.

- 9 The turning facilities within the proposed car parking area indicated on approved plan reference DA19064/001.3 shall be provided before the development is brought into use and shall subsequently be maintained free of obstruction at all times.

Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to UDP Policy HT2/4 Car Parking and New Development.

- 10 The car and cycle parking indicated on approved plan reference DA19064/001.3 shall be surfaced, demarcated and made available for use to the written satisfaction of the Local Planning Authority prior to the development hereby approved being brought into use and thereafter maintained at all times.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to UDP Policy HT2/4 Car Parking and New Development.

- 11 The proposed boundary railings and gates shall be powder coated black.

Reason. In the interests of visual amenity pursuant to UDP Policy EN1/2 Townscape and Built Design.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	04/05/2022		