

# APPLICATION REPORT - PA/341119/17

Planning Committee, 6 June, 2018

**Registration Date:** 18/01/2018  
**Ward:** Saint Mary's

**Application Reference:** PA/341119/17  
**Type of Application:** Full Planning Permission

**Proposal:** Change of use of first and second floor from a night club (Sui Generis) and pub (A4 Drinking establishments) to 12 no. apartments (C3 Use Class) and self-storage units (B8 Storage or distribution)

**Location:** 87-89 Yorkshire Street, Oldham, OL1 3ST

**Case Officer:** Graham Dickman

**Applicant Agent :** Samrum investments Ltd  
Debtal Architecture Ltd

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## THE SITE

This application relates to conjoined buildings comprising a pair of three-storey mid-terrace properties fronting onto Yorkshire Street; a large flat roof single-storey structure to the rear containing a large roof terrace above, and a L-shaped two storey brick building which extends through to Bartlam Place at the rear.

Yorkshire Street at this point contains a mix of commercial uses with a hot food takeaway to one side and a vacant, derelict, property on the other. The area has a significant presence in Oldham's night-time economy with a number of late-night bars and clubs in the local vicinity.

There are commercial premises to the rear along with the Coliseum Theatre.

## THE PROPOSAL

It is proposed to retain the existing A4 drinking establishment use on the ground floor of the frontage building with an existing doorway on the right-hand side of the frontage segregated internally to provide a stairway access to the first and second floors. On each of these floors it is proposed to install three self-contained flats, two at the front of the building and one at the rear.

At present the ground floor rear elevation of this building is fully enclosed. In order to provide light to the new rear flats it is proposed to remove the existing link and form a private 2 metre wide open area to be used by the occupants of the future first floor flat.

Due to the rising site levels, the ground floor of the central section of the premises is set level with the first floor of the frontage building, with one usable floor and small basement area below. This floor will be used to provide waste bin storage and for a group of storage rooms which would be rented to nearby businesses. Access will be taken from Bartlam Place to the rear.

The rear section of the site will be accessed from Bartlam Place and will comprise an entrance stairway, a duplex unit and two, one-bed flats fronting Bartlam Place. The stairway will also provide access to a first floor flat, and to a shared terrace area from which two further flats will be accessed, one within the roofspace of the building.

The final unit will be accessed from the gated yard area which also serves as an access to the rear of the Coliseum.

## **RELEVANT HISTORY OF THE SITE:**

PA/036578/97 - Alterations to front elevation. Approved 12/03/98

PA/029325/90 - Proposed nightclub within existing bank and new extension on remaining land to link up to existing pub and nightclub. Approved 05/11/92

PA/026850/90 - Two storey rear extension. Approved 07/02/91

PA/023701/89 - Change of use to bar and solarium. Approved 25/05/89

## **CONSULTATIONS**

Environmental Health – There are concerns with the proposal on the grounds that the location within an area which late-night entertainment venues which are known to generate significant levels of noise and disturbance would not ensure a suitable standard of living for future residents. The concerns remain that noise mitigation requires passive ventilation which can only be achieved by residents keeping windows closed. Additional concerns relate to the impact on residents from odours from the adjacent hot food establishment, and air quality from Yorkshire Street.

Traffic Section – No objections

Greater Manchester Police Architectural Liaison Unit - Suggest incorporation of various security features and deletion of staircase adjacent to flat 10.

## **REPRESENTATIONS**

The occupiers of neighbouring properties have been notified and a site notice displayed.

An objection has been received from the Oldham Coliseum theatre on the grounds that, although the theatre is due to move to a new site, they will continue to operate from the existing premises until early 2020. The roller shutter on Bartlam Place is a point of access for scenery entering and leaving the building. This occurs approximately 30 times per year and takes place mostly on Saturday night from 11pm until 4am Sunday morning. At 9am on Sunday morning, the next show arrives and is unloaded from a trailer into the theatre. The bedroom windows of flats 5, 6 and 11 overlook the loading area. The nature of our business is such that the busy periods are during anti-social hours.

In addition, the main access door to the development on Bartlam Place is currently adjacent to the theatre's waste management area, which is also overlooked by the bedroom windows of flats 5, 6 and 11. The bottle recycling from the theatre bars takes place at the end of the shift, usually on Tuesday to Saturday. The housekeeping department are on site from 7am and need to dispose of waste from the theatre into the bins, and there is no alternative location for this.

## **PLANNING CONSIDERATIONS**

### **Principle of development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, to the extent that development plan policies are material to an application for planning permission, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. This requirement is reiterated in Paragraph 11 of the National Planning Policy Framework (NPPF).

In this case the 'development plan' is the Joint Development Plan Document (DPD) which forms part of the Local Development Framework for Oldham. (It contains the Core Strategies and Development Management policies used to assess and determine planning applications). The application site is allocated within the Town Centre boundary as indicated on the Proposals Map associated with the Joint Development Plan Document.

Therefore, the following policies are considered relevant:

Policy 2 - Communities  
Policy 3 - An address of choice  
Policy 9 - Local Environment  
Policy 11 - Housing  
Policy 15 – Centres  
Policy 20 – Design  
Policy 23 – Open Spaces and Sports  
Policy 25 – Developer Contributions

The NPPF requires that planning decisions have regard to the three dimensions of sustainable development – the economic role, the social role, and the environmental role.

### **Increased housing supply**

DPD Policy 3 seeks to ensure a balanced housing market which is sustainable to meet the needs and demands of urban and rural communities. This will include the provision of small and relatively affordable units by using land efficiently. Policy 11 requires all residential developments to deliver a mix of appropriate housing types, sizes and tenures to meet the borough's needs and demands, in locations where they are appropriate to the area, and accessible to public transport and key services.

NPPF paragraph 23 advises local planning authorities to recognise that residential development can play an important role in ensuring the vitality of centres and set policies to encourage residential development on appropriate sites. Furthermore, paragraph 51 states that local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies”.

In this context, the application relates to the re-use of an existing building in a highly sustainable location, which will make a small contribution towards the provision of, and will help to diversify the supply of housing in the borough. This weighs in favour of the proposal. However, this determination must also have regard to any other impacts on the surrounding area which will be discussed below.

### **Town centre impact**

DPD Policy 15 recognises the importance of town centres, an approach reflected in paragraph 23 of the NPPF which states that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres. Local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. In addition, it is recognised that residential development can play an important role in ensuring the vitality of centres, and policies should be set out to encourage residential development on appropriate sites.

Residential use is not incompatible with the economic requirements of a thriving town centre, and indeed the introduction of a resident population can itself enliven town centres and provide custom for local services. Nevertheless, it is necessary to ensure that the introduction of residential accommodation does not undermine the function of the centre.

The application site occupies a location close to establishments which offer a late night entertainment function, particularly at weekends, which can generate significant levels of noise and associated activity. As a consequence the premises will be subject to high levels of ambient noise at anti-social hours. Where conflict arises, powers exist under Environmental Health legislation to restrict the operation of noise generating businesses.

This could have serious implications for those businesses if they are no longer able to operate, an impact specifically identified in the representation from the Coliseum Theatre.

The draft replacement NPPF was published for consultation in March and government's response to that process is awaited. The document therefore carries limited overall weight, although it gives a clear indication of government's thinking.

In that regard at paragraph 80 it states that "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (including places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where an existing business or community facility has effects that could be deemed a statutory nuisance in the light of new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to secure suitable mitigation before the development has been completed".

It is vital therefore that due consideration is given to the impact of the development on both the amenity of future residents, and any implications for nearby businesses and community facilities.

### **Impact on amenity**

DPD Policy 9 seeks to ensure that the Council will protect and improve local environmental quality and amenity by ensuring development does not cause significant harm to the amenity of the occupants and future occupants of the development or to existing and future neighbouring occupants or users through impacts on privacy, safety, security, noise, pollution, visual appearance, access to daylight and other nuisances.

In this instance, there are a number of issues to consider, including the size and quality of the individual accommodation, access to light, security, and the impacts of noise from neighbouring uses.

Government published the "Technical housing standards – nationally described space standard" document in March 2015. Although the standards within the document are not mandatory in Oldham, they nevertheless provide a guide to the type and level of accommodation which would be deemed satisfactory.

In this respect, although each of the units indicate the provision of a double bed within the accommodation, none of those units would strictly comply with the minimum standards for two person accommodation, although they would meet the standards for single person accommodation. This would require a minimum of 50 square metres, whilst the proposed units vary between 37 and 46 square metres, with the duplex unit covering 55 square metres (58 square metres required).

In view of the non-adopted status of the standards, it may be possible to allow some deficiency where the overall benefit of the development could be justified. However, in this instance, having regard to other matters set out below, it is not considered that the deficiency could be justified.

Whilst the option of replacing with single beds would be available, this would be difficult to control under planning legislation and would be in effect unenforceable. It would therefore fail the necessary tests set out in paragraph 206 of the NPPF.

Whilst the outlook from a number of units has been improved during consideration of the application, such as to the units at the rear of the frontage building, and this would not of itself justify refusal; this must be considered in the wider context of the amenity standards afforded by these units.

In respect of noise nuisance from both external sources and the ground floor bar (A4) use, the applicant has undertaken an acoustic assessment which has provided a form of passive sound insulation to the flats. The report recommends good quality glazing to deal with the noise, but this glazing will only be effective if the windows are kept closed. To deal with this the report recommends installing passive acoustically treated vents. The Environmental

Health officer has commented that these would not provide enough ventilation to enable the windows to remain closed, especially in the summer as the area of ventilation is quite small.

If windows are to remain closed it is considered that some other form of ventilation is required. This could be something like whole building ventilation that doesn't just rely on passive ventilation from tiny vents in each apartment. This could also possibly deal with the potential odour and air quality problems that were raised in the original consultation response. The inlet for such a system could be drawn from an area away from cooking odours of adjacent takeaways and also away from the heavily trafficked road at the front of the development.

With regard to the impact from the ground floor bar use, no details have been submitted to date to demonstrate how suitable noise mitigation will be achieved. Reference has been made to controls which exist under the Building Regulations; however, these do not take into consideration to control over external noise from the use, such as noise from customers outside the premises, or external break-out of noise from open windows, or activities such as the disposal of waste, bottles etc.

Finally, the relationship with the Coliseum needs to be given due consideration. This is an important community facility. DPD Policy 2 supports proposals which contribute towards improved health and well-being for the people of Oldham, and encourage the continued use of existing community facilities. It is inevitable that some significant disturbance to those residents at the rear of the site will result from the activities associated with the Coliseum, in particular where set changes take place in the early hours at a weekend.

Whilst it is anticipated that the Coliseum will be relocated, and thus remove this particular noise source, this is not imminent, and implementation of the residential permission in the meantime would lead to potential conflict. However, given the infrequent nature of those activities, and the fact that there are other sources of external noise at that time raising the ambient noise level, this factor by itself would not justify refusal of the application. It does however add to the concerns regarding suitability of the use.

### **Traffic and parking**

Although no facilities are proposed for off-street parking associated with the use, it is noted that the site occupies a highly sustainable town centre location, and that such residential units have a tendency towards low levels of car ownership. Nevertheless, there are public parking facilities in the locality which would be available outside of the working day.

### **Design**

DPD Policy 20 seeks to ensure high quality of design in new development. Whilst no significant external alterations to the premises are proposed, the introduction of a new use will inevitably lead to improvements in the appearance and maintenance of the building leading to a positive benefit to the character of the area.

### **Developer contributions**

DPD Policy 23 requires that all residential developments should contribute towards the provision of new or enhanced open space. However, this is superseded by national Planning Practice Guidance which restricts such tariff style contributions to developments of over 10 units. In this instance, that threshold is exceeded and a contribution would normally be required. However, it is noted that the proposed re-use would involve considerable alteration to bring the building up to a decent standard, including damage resulting from the poor condition of the adjoining derelict unit which has led to water ingress problems. Additional costs would be encountered in ensuring that a satisfactory scheme of acoustic mitigation was installed to secure a decent standard of residential amenity.

Consequently, although no viability assessment has been submitted, it is considered that a contribution would not be required in this instance.

## **Conclusion**

This application requires a balanced judgement, taking into consideration the benefits of bringing into practical use a vacant building in a prominent location and the investment this would introduce. In addition, the provision of additional residential accommodation will in a small way assist the borough in bringing forward improved housing supply. The encouragement on local planning authorities to increase the supply of housing is recognised; however, this should not be at the expense of permitted poor standards of development.

However, this must be weighed against the standard of amenity which would be afforded to future residents, both in terms of potential nuisance from noise and smells, and the quality of the accommodation provided in terms of the space available, outlook, and restrictions, for instance on opening windows, consequent to the acoustic mitigation measures. In this regard it is concluded that the development would not provide a satisfactory level of accommodation and would therefore fail to satisfy DPD Policy 9 and the guidance within the National Planning Policy Framework.

1. The proposed development will involve the introduction of residential accommodation into an area which is subject to existing noise from neighbouring entertainment venues and activity associated with those uses. The applicant has failed to supply adequate information to demonstrate that future residents will not endure an unacceptable loss of amenity having regard to the impact from neighbouring activities and the limited internal space and outlook available from the proposed apartments. The proposal would therefore be contrary to Policy 9 of the Oldham Local Development Framework Joint Core Strategy and Development Management Policies DPD and the objectives of the National Planning Policy Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

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