

# APPLICATION REPORT - PA/341119/17

Planning Committee, 18 July, 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 11 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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A decision on this application was deferred at the last Planning Committee meeting to allow the applicant to address concerns in the refusal recommendation in relation to room sizes and noise attenuation measures. Amendments have now been incorporated and additional information submitted, which is described below.

## 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 the first floor it is proposed to install two self-contained flats, one at the front and one at the rear of the building (replacing the three proposed on the previous scheme). On the second floor 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.

The layout of the units has been amended in order to ensure compliance with the 'Technical Housing Standards - Nationally Described Space Standards' produced by the Department for Housing, Communities and Local Government.

### **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 – Concerns have been expressed regarding the proposal on the grounds that the property is located within an area containing late-night entertainment venues which are known to generate significant levels of noise and disturbance, and this would not therefore ensure an acceptable standard of living for future residents. The applicant has submitted additional information to deal with these concerns. On this basis, the Environmental Health officer is now satisfied that suitable noise mitigation can be achieved, but would require details of the precise specification, and for testing to ensure the measures have been effectively installed.

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.

### Room sizes

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 reasoned guide to the type and level of accommodation which would be deemed satisfactory. 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.

With regard to the previous proposal which was presented to Planning Committee, the submitted layout proposed the creation of 12 self-contained flats. No indication was provided of the occupancy levels of these units, although it was noted that double beds were illustrated on the submitted plans within each unit. 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.

The applicant subsequently stated that it was always intended that the units would be occupied by single persons, and the layout was amended to demonstrate the use of single beds. In this form the units would (with one exception) satisfy the minimum standards for a one person, one bedroom flat in accordance with the national space standards. However, the layout continued to illustrate that within a number of units, the bedroom accommodation would continue to meet the standard for a two person flat and therefore facilitate occupancy by two persons.

The latest revision, for which approval is now sought, seeks to overcome these concerns. The first floor of the frontage building now illustrates two, one-bedroom flats each showing accommodation for two persons, and satisfying the technical standards for such a level of accommodation.

The remaining flats illustrate single person accommodation, and some amendments have been made to internal layouts to create more usable space. The bedroom spaces and overall unit sizes now accord with the specifications envisaged in the Technical Standards.

In the report to the last Planning Committee it was stated that whilst the option of replacing the accommodation with single beds would be available, this would be difficult to control, and therefore in effect unenforceable under planning legislation. Such a control therefore would fail the necessary tests set out in paragraph 206 of the NPPF. This remains the view of Officers in light of advice from the Council's Solicitor.

Nevertheless, taking into consideration the amendments introduced to the scheme, and the improvements in the internal layout of some units, it is considered that a refusal of permission on these grounds would now be difficult to sustain, and therefore the balance has moved in favour of the proposal for providing residential accommodation and allowing regeneration of this site.

### Noise mitigation

In respect of noise nuisance from both external sources and the ground floor bar (A4) use, an acoustic assessment was initially undertaken which would provide a form of passive sound insulation to the flats. The report recommended 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 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.

Further details have been submitted and the Environmental Health officer is now satisfied that the installation of a passive stack ventilation system (through acoustically treated vents in bedroom walls) with electronically boosted extraction in kitchens and bathrooms, will provide a means to ventilate the flats without having to open the windows. However, there is some detail lacking, i.e. which particular vents from the specified supplier are going to be used, and this would need to be agreed before development can commence. This requirement would be covered by means of a planning condition.

With regard to sound insulation from the ground floor bar, no details were available at the time of the last meeting, however, a scheme has now been submitted. The proposals appear to be substantial, however, it is recommended that a condition is imposed that prior to occupation the applicant carries out a sound insulation test that demonstrates that the floor achieves the minimum insulation standards.

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.

### **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. The revisions to the submission have sought to address those concerns, and taking into consideration the guidance in relation to space standards, and the additional information concerning noise attenuation, approval of the application is now considered appropriate subject to the recommended condition.

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission.

Reason - To comply with the provisions of the Town & Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be fully implemented in accordance with the following approved plans and specifications:

DA17100.001 Rev 1 received 18 January 2018

DA17100.003 Rev 12 received 5 July 2018

DA17100.005 Rev 3 received 19 March 2018

Reason - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.

3. Prior to the commencement of any development, a detailed scheme of acoustic insulation and a ventilation scheme for the flats shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to first occupation of any dwelling units hereby approved and retained thereafter.

Reason - To secure a satisfactory standard of amenity for future occupiers of the residential accommodation.

4. Any works to facilitate the creation of the first floor flats above the ground floor drinking establishment shall incorporate a scheme of acoustic insulation between the intervening floor/ceiling. A sound insulation test shall be undertaken to demonstrate that the floor achieves the following minimum insulation standards: 1. Impact L'nT,w 55dB, 2. Airborne DnT,w 55dB, 3. Airborne DnT,w + Ctr 49dB. Neither flat shall be

occupied until the results of the test have been submitted to and approved in writing by the Local Planning Authority. The sound control measures shall be retained thereafter.

Reason - To secure a satisfactory standard of amenity for future occupiers of the residential accommodation.

5. Flat 2 shall not be first occupied until (1) the outdoor amenity space and associated boundary treatment and (2) the boundary screen to the courtyard, as indicated on the approved plans, have been fully implemented, and shall be retained thereafter.

Reason - To ensure a satisfactory standard of privacy and amenity.

6. Flat 9 shall not be first occupied until the boundary screen to the courtyard, as indicated on the approved plans, has been fully implemented, and shall be retained thereafter.

Reason - To ensure a satisfactory standard of privacy and amenity.

..... **Case Officer**

..... **Date**

..... **Planning Officer**

..... **Date**





