

DELEGATED REPORT

Report by Helen Leach	Date of report: 21/07/2021	Ref: 65886/FUL
Registration: 10/09/2020	LDFC: 07/10/2020	Expiry Date: 05/11/2020
Site Visit: 21/10/2020	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Variation of condition 2 (approved plans) of planning permission ref. 65163-Minor internal alterations:

Shop front removed and window converted to entrance door on front elevation, 1 window relocated on side elevation, hipped roof over flat entrance, shop front door to unit 3 reduced in size and relocated to the centre, hipped roof over apartment entrance

Location: 173-175 The Rock, Bury, BL9 0NE

Description

The application relates to a three storey end terraced property on the north side of The Rock. The property is located across from the gardens at St Johns Square and is constructed from red brick. Originally the building contained a restaurant at ground floor with storage and residential properties above in the form of 3 apartments.

The site is located in Bury town centre with retail premises on either side and as such, the area is commercial in character, The attached premises to the north is a vacant shop unit. Across St John Street (to the south) there are offices.

Planning consent was granted in March 2020 for the creation of 3 units (A1, A2 and A3) at ground floor and 5 residential flats. Two of the commercial units would front The Rock and the other St John Street and the 5 residential units would all be 2 bed and would be on the first and second floor. Three parking spaces would be formed on the hardstanding at the back of the footway on John Street to serve the retail units and a cycle store would serve the apartments. Two separate bin stores would serve the retail units and apartments. Shopfronts would be provided for the retail units and some windows would be amended/installed and whole building would be rendered.

The proposed development involves the variation of condition 2 (approved plans) to allow for external changes to the elevations. These include:

- Shop front removed from front and side elevation;
- Window converted to door on front elevation;
- 1 window relocated on rear elevation;
- hipped roof over entrance to flats;
- shop front door to unit 3 reduced in size and relocated to the centre;
- render to first and second floors only.

Relevant Planning History

65163 - Change of use of existing ground floor restaurant (Class A3) to 3 no. retail/financial & professional services/cafe/restaurant units (Class A1/A2/A3) with external alterations including new shopfronts and bin/cycle stores and conversion of upper floors into 5 no. apartments at 173 - 175 The Rock, Bury. Approved with conditions - 12 March 2020.

Publicity

The neighbouring properties were notified by means of a letter on 15 September 2020.

There has been no response.

The neighbouring properties were notified of revised plans and revised description on 16 November 2020.

There has been no response.

Statutory/Non-Statutory Consultations

None required.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

Area	The Rock/Peel Way
BY5	
S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
EN7/2	Noise Pollution
H2/4	Conversions
NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/8	Shop Fronts
TC1	Town Centres
TC2	Town Centre Enhancement and Development
TC2/1	Upper Floors
TC2/2	Mixed Use Development

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.

Use - The principle of the proposed development was established with the grant of planning consent in March 2020. Therefore the proposed development would be acceptable and in accordance with Policies S1/1 and H2/4 of the Bury Unitary Development Plan.

Visual amenity and streetscape - The proposed changes would revert back to the existing building in the main. The existing windows to the front and side elevation would be retained with one on the front being converted into a door to access the retail units. This would not impact adversely upon the character of the building.

A window would be relocated on the rear elevation and would align with the window at first floor level and as such, would be acceptable.

The proposed first and second floors of the building would be rendered on the front and the whole side elevation would be rendered. There are a variety of materials in the immediate vicinity and as such, the proposed development would not be a prominent feature in the streetscene.

A hipped roof would be provided above the entrance to the flats, which would be acceptable. The shop front to unit 3 would be reduced in size and the door relocated to the middle of the shop front. The proposed amendment would retain a shop front, which is welcomed.

Overall, the proposed changes would be relatively minor and would not detract from the character of the building. Therefore, the proposed development would be in accordance with Policies EN1/2 and EN1/8 of the Bury Unitary Development Plan.

Highways issues - The proposed development would not intensify the use or change the approved parking and access arrangements. Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policies HT2/4 and H4/1 of the Bury Unitary Development plan and SPD11.

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 191005/01/01, 191005/01/02 A, 191005/01/03 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 The car and cycle parking indicated on approved plan reference 191005/01/02 shall be demarcated and provided in the positions shown and made available for use prior to the change of use hereby approved commencing and thereafter maintained at all times.
Reason. To ensure adequate off-street car parking provision and clear pedestrian access arrangements in the interests of highway safety pursuant to UDP Policy HT4/2 Car Parking and New Development.
- 4 The sound insulation of the party walls/ceilings shall be in accordance with the method outlined in the Building Research Establishment Digest 293 (or similar method) and implemented prior to the residential use commencing.
Reason. To reduce nuisance from noise to the occupiers of the adjoining dwelling pursuant to the NPPF and UDP Policy EN7/2 Noise Pollution.
- 5 The bin storage arrangements indicated on approved plan reference 191005/01/02 shall be implemented prior to the change of use hereby approved commencing and thereafter maintained at all times.
Reason. To ensure adequate bin storage arrangements within the curtilage of the site in the interests of pedestrian and road safety pursuant to UDP Policy EC4/1 Small Businesses.
- 6 The commercial units hereby permitted shall not be open to customers outside the following times: 0800hrs to 0000hrs daily
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy EN7/2 Noise Pollution.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 21/07/2021		DM	21/07/2021