

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 25/08/2022	Ref: 68347/FUL
Registration: 04/07/2022	LDfC: 27/07/2022	Expiry Date: 29/08/2022
Site Visit: 29/07/2022	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: COUS

Proposal: Change of use (Sui Generis) to (Class E) First floor extension above existing building

Location: 36 Tottington Road, Bury, BL8 1LL

Description

The application relates to a small vacant single storey building located on a main road and throughroute to Bury Town centre. There are residential terrace properties opposite and the nearest built development on the same side as the site are flats to the north west approx 40m away. To the rear the land drops away significantly and accommodates several storage containers and workshops. The planting along this rear boundary screens the rear of this site. There are double yellow lines on the road outside the application site, with on street parking on the opposite side of the road.

The building was granted planning permission in 2006 for a taxi booking office but it is not clear whether the use was implemented as the building has been vacant for a number of years.

This application seeks a change of use to a class E use with a first floor extension to the existing building.

The proposed layout plans show the building would have an office use at ground and first floor. The footprint of the building covers 16.5 sqm.

The proposed 1st floor extension would increase the height from 3.9m to 5.9m.

There would also be alterations to the front elevation for new windows and door entrance.

Relevant Planning History

47030 - Change of use from disused hut to private hire booking office - Approve with Conditions 23/11/2006

Publicity

Letters sent on 6/7/22 to 9 properties on Tottington Road.

One representation received:

May it be confirmed what the intended use of the building is and, if commercial, the specific goods or services which it will be used for.

Primary concerns are:

Additional traffic on the road.

Additional cars being parked on the side of the road, narrowing it, increasing traffic and likelihood of accidents.

Additional foot traffic.

Potential smells from a take-away food establishment.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions

Waste Management - No response received

Borough Engineer - Drainage Section - No response received

Pre-start Conditions - Applicant/Agent not confirmed agreement to pre-start conditions

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EC5/3	Other Office Locations
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict

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.

Principle - UDP Policy EC5/3 - Other Office Locations states that development for further offices uses will not be permitted except for -

- small scale development providing a local or direct service;
- refurbishment or conversion proposals which will result in retention of buildings or those of historic or architectural importance;
- proposals for office type home working where existing residential amenity would not be adversely affected.

Local planning policy and the principles of the NPPF supports offices located within sustainable or town centre areas which are close to existing infrastructure and to support the role town centres play to providing a diverse range of facilities and services. That said, there are instances when small scale office use in local areas may be acceptable.

In this case, the building has an internal floor area of approx 23.4 sqm over the two floors with much of this space taken up by a staircase, WC facilities and bin store and as such limited room would remain for office use. It is therefore considered that as the proposed use would be relatively small scale and localised, in this instance an office use in this locality is considered acceptable.

The principle of such a use is considered to be acceptable subject to it satisfying particular criteria related to highway issues, parking and amenity.

It is considered that given the limited size of the premise, it would be difficult to implement any of the other uses which fall within Class E, such as a cafe, clinic or health centre. A shop also falls within Class E but again, the size of premise would restrict the type of good sold and how the building could be serviced, so in effect, the type and scale of use would be self-regulated by the size of the building.

A condition to restrict the use to office only is therefore considered unnecessary in this instance.

Amenity - The nearest residents are those who live opposite the site in terraced houses which front Tottington Road. Offices are not uses which tend to create significant activity or noise, and particularly one of such a small scale and as such it is considered impacts on local amenity would not be significant.

The proposed extension would not impact on outlook or privacy of any neighbours.

As such the proposed development is considered acceptable and would comply with EN1/2 and EC5/3.

Appearance - The building has been vacant for a long period of time, poorly maintained and neglected. The proposed development would involve an additional floor and a new frontage. Given the scale of development the proposed extension and alterations are considered acceptable for this building and set within this locality.

A condition for the submission of samples of materials would be included.

As such the proposed development is considered acceptable and would comply with EN1/2.

Highways - There is no parking associated with the site and none would be provided for the development. There are parking restrictions along the road in front of the building but there is on street parking opposite and on nearby side streets.

The site is located in a high access area close to public transport and a regular bus service and as such considered a relatively sustainable area.

As a small office unit, there would only be scope for a very limited number of employees

and whilst it is acknowledged that there would be no dedicated parking for the proposal, given the scale of development and location it is considered that the proposed use of the building would be acceptable.

Bin storage - The site comprises only the building itself and no other outside space or land. It is proposed to accommodate bin storage within the building which for a development of this scale is considered to be acceptable. On collection day the bin would be collected from the public highway which would be the same as the existing arrangement and similar to other properties in the vicinity.

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 - Location plan and section dwg A3/04 rev A; Existing and proposed plans and elevations A1/01 rev B 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 bin storage facilities indicated on approved plan reference A1/01 Revision B shall be implemented prior to the use hereby approved commencing/development hereby approved being brought into use and maintained thereafter.
Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to Bury Unitary Development Plan Policies EN1/2.
- 4 The development hereby approved shall not be commenced unless and until facilities for the storage of construction materials have been provided on land within the applicant's control. The facilities shall be retained for the intended purpose and the area identified shall not be used for any other purposes other than the storage of construction materials for the duration of the construction period.
Reason. To ensure adequate off highway materials storage arrangements for the duration of the construction period pursuant to Bury UDP Policies EN1/2 and HT6/2 - Pedestrian/vehicular Conflict.
- 5 Following works to commence the build of the extension hereby approved, details/samples of the materials to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved by the Local Planning Authority prior to the . Only the approved materials shall be used for the construction of the development.
Reason. No material samples have been submitted and are required in the interests

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of visual amenity and to ensure a satisfactory development 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>
JT 25/8/22			