

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 07/06/2022	Ref: 68147/FUL
Registration: 14/03/2022	LDFC: 07/04/2022	Expiry Date: 09/05/2022
Site Visit: 24/03/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Change of use of first floor store to form self-contained flat at 36 Walmersley Road; new shop front and roller shutters to 40 Walmersley Road and single storey extension at rear (38/40 Walmersley Road); provision of bike store and waste bin area at rear of 40 Walmersley Road

Location: 36-40 Walmersley Road, Bury, BL9 6DP

Description

The proposal relates to a cluster of mid-terrace commercial properties containing a mix of uses at ground floor including a hair salon (Use Class E) at no. 36, restaurant at no. 38 (Use Class E) and hot food takeaway at no. 40 (Sui Generis). At first floor there is associated storage aside from above no. 38, which contains a flat. To the rear beyond the yard area is a funeral directors and Conservative Club with a flat at first floor.

The proposal is for the change of use of first floor store to form self-contained flat at 36 Walmersley Road; new shop front and roller shutters to 40 Walmersley Road and single storey extension at rear (38/40 Walmersley Road); provision of bike store and waste bin area at rear of 40 Walmersley Road.

Relevant Planning History

46201 - CHANGE OF USE FROM A1 SHOP TO HOT FOOD TAKEAWAY (CLASS USE A5) - Approve with Conditions 13/06/2006 (This relates to no. 36)

Publicity

Direct neighbour notification undertaken. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section: No objection, subject to condition relating to bin storage.

Environmental Health - Pollution Control: No comments provided.

Waste Management: No comments provided.

Environmental Health - Contaminated Land: No objection

Borough Engineer - Drainage Section: No comments provided.

Unitary Development Plan and Policies

S1/4	Local Shopping Centres
EN1/2	Townscape and Built Design
H1/2	Further Housing Development
H2/4	Conversions

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.

ASSESSMENT

Principle of development (residential)

Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

The site is located within the urban area on the edge of Bury town centre, surrounded by established commercial and residential uses and close to routes well served by public

transport and to facilities, goods and services.

As such, the site is the most sequentially preferable for the release of land for housing. Furthermore, the site falls in a sustainable location with regard to services and public transport. Thus, the principle of the development is acceptable, subject to consideration of the subsequent matters.

Visual amenity (new shop front and rear extension)

The existing shopfront at no. 40 is rather anomalous as it does not feature a full width glazed shop front akin to flanking commercial properties. Other neighbouring properties also feature roller shutters (nos 36, 38 and 46). Given this context, the proposed new shop front would be acceptable. The proposed rear extension would constitute a very minor extension to the existing single storey external store and would not feature outside of the immediate locality.

Given the above, the proposal would not therefore have any unacceptable impacts upon visual amenity or on the street scene and would not conflict with UDP Policy EN1/2.

Residential amenity

The only potential conflict would be with the first floor flat at the property to the rear. However, the proposed bedroom opposing this would be served by roof lights and there is a neighbouring flat above no. 38 that has a habitable room window in the rear elevation.

No other properties would be potentially unacceptably impacted.

The proposed single bedroom and overall floor space would be compliant with the Technical housing standards – nationally described space standard in terms of minimum gross internal floor areas and minimum bedroom floor space and dimensions.

The proposed flat would be above a hot food takeaway with late night operating hours. However, the Environmental Health Officer has not objected to the proposal. Furthermore, under the Building Regulation regime, noise insulation will be a consideration.

Parking and access

The site is located in a sustainable location and does not offer any private off-street parking. The Highway Officer does not object to the proposal.

Servicing

There would be adequate storage space in the rear yard area for refuse and recycling bins and the Highway Officer has recommended the imposition of a condition requiring the implementation of such.

CONCLUSION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposal would deliver much needed residential development in a highly sustainable location and without detriment to the character and appearance of the area, highway safety or amenity. As such, the proposal would comply with the above policies of the Local Plan and the NPPF. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act, the proposal merits approval.

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

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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 (Dwg no. C403-06), Proposed Site Plan (Dwg no. C403-05), Proposed Floor Plans (Dwg no. C403-02/a), Proposed Elevations/Sections (Dwg no. C403-03) 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 No materials shall be used on the external elevations or roof of the proposed development other than those referred to on the approved plans / supporting documentation.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.
- 4 The in-curtilage bin storage facilities indicated on the approved plans shall be implemented prior to the use hereby approved commencing and maintained available for use 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 Policy EN1/2.

<u>Case Officer</u> DSC	<u>Date</u> 06/06/2022	<u>Sign off Officer</u>	<u>Date</u>
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