

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 29/05/2024	Ref: 70623/FUL
Registration: 05/04/2024	LDFC: 08/05/2024	Expiry Date: 31/05/2024
Site Visit: 30/04/2024	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 of ground floor from hot food takeaway (Sui Generis) to form additional residential accommodation to existing flat (Use Class C3) and office (Use Class E).

Location: 51 Walmersley Road, Bury, BL9 5AE

Description

The proposal relates to a mid-terrace commercial property occupied by a ground floor hot food takeaway (Sui Generis) and two bedroom first floor flat (Use Class C3). The property is flanked by properties occupied by commercial operations falling within the Class E use class. To the rear of the terraced row, beyond the rear alleyway, are vehicle related businesses. The site falls within a defined Local Shopping Centre as defined in the Bury Unitary Development Plan.

The subject property has been extended at the rear with a single storey extension that covers the entire rear yard area (such that there is no external amenity/storage space).

The proposal is for the change of use of ground floor from hot food takeaway (Sui Generis) to form additional residential accommodation to the existing flat (Use Class C3) and office (Use Class E). It would comprise the following:

- Creation of a dining/litchen and living room to form extended accommodation for the flat in the former kitchen and food preparation area to the former hot food takeaway. This would include the creation of an internal courtyard. Associated external works would comprise the installation of 2no. roof lights and the removal of a section of the single storey roof to serve the proposed courtyard.
- Change of use of the front ground floor room from hot food takeaway to office. No external alterations would be required.

Relevant Planning History

70387 - Prior approval for change of use of part of ground floor from retail unit (Use Class E) to 1 no. dwelling (Use Class C3) - Prior Approval Required and Refused 28/02/2024

Publicity

8 properties directly notified on 17/04/2024.
No representations received.

Statutory/Non-Statutory Consultations

Environmental Health - Pollution Control: This was recently refused and I can see no reason to alter this decision

There are issues from EH side especially with bin storage.
I understand that Urban Renewal also have certain issues

Waste Management: No comments received.

Planning Policy Manager: No comments received.

Pre-start Conditions - Not relevant.

Development Plan and Policies

JP-C6	Walking and Cycling
JP-C2	Digital Connectivity
JP-H3	Type, Size and Design of New Housing
S1/4	Local Shopping Centres
EN1/2	Townscape and Built Design
EC5/3	Other Office Locations

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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

The proposal relates to an existing two bedroom apartment 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 principle of residential development at the site is already established.

Commercial Use

The proposed Class E use constitutes a main town centre use that would replace another main town centre use. The principle is therefore acceptable.

Visual amenity

The external alterations would be minor in scale and nature, pertaining exclusively to the roof of the existing single storey rear extension, which backs onto the commercial businesses.

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

Neighbouring uses are commercial and the proposal would not therefore have any unacceptable impacts on neighbouring amenity.

As the relationship of the bedrooms with flanking uses would not change as a result of the proposed development and the proposed office (below the bedrooms) would replace a hot food takeaway that could potentially operate late nights, then the proposal would not have any unacceptable impacts upon neighbouring amenity.

Future occupants

Whilst the resultant flat (as extended) would not meet the nationally described space standard of 70 sq.m (it would be 66.23 sq.m.), the proposal would entail a significant increase in floor space from the current position.

Access, parking and servicing

The site (nor neighbouring commercial uses) provide off-street parking and the road fronting the full commercial row is subject to parking restrictions. However, the proposal would not have a materially greater impact on the road network given the existig situation.

The same is applicable to refuse provision.

PfE requirements

Given that the proposal relates to an existing apartment, the requirements relating to carbon and energy and 'accessible and adaptable' standard in Part M4(2) of the Building Regulations are not applicable.

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 is acceptable in principle given the existing established uses and would not have any unacceptable detrimental impacts on 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 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. PP-12917645v1)
Existing and Proposed Site Plans (Dwg No. WR 104)
Existing and Proposed Floor Plans (Dwg No. WR 102A)
Existing and Proposed Elevations (Dwg No. WR 103A)
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.

<u>Case Officer</u> DSC	<u>Date</u> 29/05/2024	<u>Sign off Officer</u>	<u>Date</u>
----------------------------	---------------------------	-------------------------	-------------