

DELEGATED REPORT

Report by Helen Pressley	Date of report: 29/01/2025	Ref: 71391/FUL
Registration: 13/12/2024	LDfC: 10/01/2025	Expiry Date: 07/02/2025
Site Visit: 29/01/2025	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: MIOT

Proposal: Removal of condition 5 - The extensive works required to convert this property into two, part M4(2) compliant dwellings is not feasible and we are requesting that the condition is removed

Location: Bury Family Centre, 72-74 Tenters Street, Bury, BL9 0HL

Description

The application relates to an existing, two storey detached building on the junction of Tenters Street and Walshe Street. The premises is currently utilised as office space.

Planning permission has been granted to sub-divide the existing office space into 2 no. semi-detached dwellings. The proposal would include 1no. parking space to the rear of no. 74. Private amenity space, and bin storage is also proposed to the rear of the properties.

This application relates to the removal of condition 5 that requires the proposed dwellings to be compliant with part M4(2) of the Building Regulations.

Relevant Planning History

48197 - Change of use from community centre use class D1 to Solicitors Office Use Class A2 - Approve with Conditions 25/07/2007

59417 - Change of use from non-residential institution (Class D1) to design consultancy office (Class B1) - Approve with Conditions 04/12/2015

70748 - Prior approval for proposed change of use from offices (Class E) to 2 no. dwellings (Class C3) - Prior Approval Required and Refused 03/07/2024

70965 - Change of use from offices (Class E) to 2 no. dwellings (Class C3) Reinstating 1m high metal fence along boundary - Approve with Conditions 11/09/2024

Publicity

Letters sent to 6 neighbouring properties - 16/12/2024. No representations received.

Statutory/Non-Statutory Consultations

Planning Policy Manager - More information requested in relation to why the site can not comply.

Building Control - No response.

Pre-start Conditions - Not relevant

Development Plan and Policies

EN1/2 Townscape and Built Design

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EN6/3	Features of Ecological Value
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/3	Extensions and Alterations
HT2/4	Car Parking and New Development
JP-H1	Scale of New Housing Development
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-P1	Sustainable Places
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-S2	Carbon and Energy
JP-S4	Flood Risk and the Water Environment
JP-S1	Sustainable Development
JP-S5	Clean Air
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

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.

Part M4(2)

This part of the Building Regulations seeks to ensure that people are able to access and use buildings and their facilities. Part M4(2) only applies when secured by a planning condition.

PfE Policy JP-H3 states: All new dwellings must:

1. Comply with the nationally described space standards; and
2. Be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations unless specific site conditions make this impracticable

The applicant has submitted a supporting statement that confirms which parts of the above building regulations can and can't be complied with at the site.

The applicant has confirmed that Parts A, B and E can be accommodated within the site. Parts C and D can not be complied with in relation to the existing layout. This largely relates to the existing doors, and stairs. In order to meet parts C and D the applicant considers that they would need to undergo a complete redesign of the existing property that would lead to unfair costs to the client.

Whilst the LPA does not agree that the retention of the condition would lead to unfair costs it is accepted that on balance, in this specific case involving the subdivision of an existing property that appears to have previously been two dwellings, the works required would be substantial for a limited increase in width around the staircase and doors.

Given the context of the site it is considered that the condition can be removed, and that site specific conditions make it impracticable for the implementation of Part M4(2) of the Building Regulations.

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 11th September 2027.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered Location Plan, 002, 003 Rev 2, 004, 502 Rev 2 of application 70965 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 external finishing materials for the proposal hereby approved shall match those of the existing building.
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 development hereby approved shall be carried out in accordance with a Sustainable Drainage Scheme based on the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). The Scheme shall be implemented prior to first occupation and thereafter maintained.
Reason. To promote sustainable development and reduce flood risk pursuant to Development Plan Policies JP-S4 - Flood Risk and the Water Environment, EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.
- 5 The car parking indicated on the approved plans, providing a minimum hardstanding of 5 metres shall be surfaced and made available for use prior to the development hereby approved being brought into use.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 6 The refuse storage to be provided within the curtilage of the site shall be made available for use prior to the development hereby approved being brought into use and thereafter maintained at all times.
Reason. To ensure that adequate bin storage arrangements are provided within the curtilage of the site pursuant to Development Plan Policies EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.
- 7 The 1 metre high metal fence along the boundary with the adopted highway on Walshe Street shall be constructed prior to the development hereby approved being brought into use.
Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to Development Plan Policies EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 29.01.25		DM	29/01/2025