

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 06/10/2025	Ref: 71927/FUL
Registration: 24/07/2025	LDfC: 22/08/2025	Expiry Date: 23/10/2025
Site Visit: 30/07/2025	Site Notice: 30/07/2025	Press Date: 31/07/2025
Objections: 0	Con Area: BURY	Adv Type: LBCA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: MADW

Proposal: Change of use of basement, rear of ground floor and 1st/2nd/3rd/4th floors from commercial (Class E) to 10 no. self-contained flats with external alterations

Location: 1 The Rock, Bury, BL9 0JP

Description

The site relates to a 4 storey Grade II Listed Building with room in the basement which is located at the end of a main pedestrianised shopping street within Bury Town centre and the Conservation Area.

The building is located on a corner plot and forms the first of a row of premises in a main shopping area which are in retail or commercial uses, some with office/storage or residential flats above. To the west across a cobbled side access street is St Mary's Church, also a Grade II Listed Building. At the rear are the gardens to the rectory which are separated from the site by the back access alley, North Back Rock, and a stone wall.

The building itself is a 4 storey dark red brick build, circa 1874, with distinctive mock timber framing. It is characterised by floor to ceiling window openings of varying designs to each floor including stained glass and oriel windows and an elaborately designed side entrance incorporating a dated coat of arms.

Planning permission and Listed Building consent were granted for the change of use of the basement, rear of ground floor, 1st/2nd/3rd floors from commercial (Class E) to 7 no. flats (5 x 1 bed flats, 1 x 2 bed flat, 1 x 3 bed flat) with external alterations in June 2022. The external alterations included refurbishment of windows, repairs to the roof lead and replacement of a small number of slate and brick walling. Blocked windows to the ground floor would be re-instated as would the lightwells to the basement level.

Subsequently, variation of condition applications to the planning consent and LBC were granted in April 2025 to re-glaze existing rooflights, add 4 no conservation rooflights and re-configure the internal accommodation to the 7 no flats to also change bedroom numbers to meet the requirements of Part B of Building regulations and improve the apartment layouts (4 x 1 bed, 1 x 2 bed and 2 x 3 bed).

This application seeks planning permission for change of use of the basement, rear of ground floor and 1st/2nd/3rd/4th floors from commercial (Class E) to 10 no. self-contained flats with internal and external alterations.

The external alterations include repairs to the render, repointing of brickwork, refurbishment of windows, new conservation roof lights and reinstatement of sealed conservation rooflights.

Internally, works comprise removal of sections of walls, new flooring, new ceilings, refurb of internal doors and staircases, new basement windows and pavement lights.

Relevant Planning History

59428 - Change of use of 1st/2nd/3rd floors from commercial (Class A2) to 5 no. flats; Repairs and refurbishment of external elevations and windows - Approved 17/2/2016
59429 - Listed building consent for change of use of 1st/2nd/3rd floors from commercial (Class A2) to 5 no. flats, refurbishment of external elevations and windows, associated internal works - Approved 17/2/2016
68111 - Change of use of basement, rear of ground floor, 1st/2nd/3rd floors from commercial (Class E) to 7 no. flats with external alterations - approved 17/6/22
68112 - Change of use of basement, rear of ground floor, 1st/2nd/3rd floors from commercial (Class E) to 7 no. flats with external alterations - 17/6/22
71523 - Variation of condition 2 (approved plans) for listed building consent ref. 68112 to re-glaze existing rooflights, addition of 4no. conservation rooflights and internal amendments to comply with fire regulations, show more of the historic fabric and create better layouts for future occupiers - approved 07/04/25
71533 - Variation of condition 2 (approved plans) on planning permission ref. 68111 to re-glaze existing rooflights, addition of 4no. conservation rooflights and internal amendments to comply with fire regulations, show more of the historic fabric and create better layouts for future occupiers - Approve with Conditions 07/04/2025
71928 - Listed building consent for change of use of basement, rear of ground floor and 1st/2nd/3rd/4th floors from commercial (Class E) to 10 no. self-contained flats with external alterations -
19/04/20 - Roller shutters to ground floor shop at front and side window and internal works - 20/01/2020

Publicity

Letters sent on 24/7/25 to 39 properties.
Site notice posted 30/7/25
Press advert 30/7/25

No responses received as a result of the publicity.

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal on lack of information

Waste Management - No response received

Environmental Health - Pollution Control - No response received

Conservation Officer - Objects on insufficient information.

Greater Manchester Police - designforsecurity - No response received

Planning & Building Regs consultation Fire Protection Dept Bury Fire Station (Part B)
- No response received

Pre-start Conditions - Not relevant

Development Plan and Policies

NPPF	National Planning Policy Framework
Area	Central Shopping Area
BY6	
S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN2/3	Listed Buildings
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
EN7/2	Noise Pollution

TC2/1	Upper Floors
TC2/2	Mixed Use Development
HT5/1	Access For Those with Special Needs
JP-P2	Heritage
JP-C2	Digital Connectivity
JP-S2	Carbon and Energy
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
SPD11	Parking Standards in Bury

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.

Principle

The principle of the development for conversion of the building and alteration has been established by the grant of permission for planning and Listed building Consent ref 68111 & 68112 and 71533 & 71523.

Internal layout

The new internal layout proposes to reconfigure the accommodation to provide 10 no flats in the following form -

7 x 1 bed flats, 1 x 2 bed flat and 2 x studio apartments.

Policy JP-H3 - Type, Size and Design of New Housing requires all dwellings to comply with nationally described space standards (NDSS) and be built to the 'accessible and adaptable standards' in Part M(2) of the Building Regulations unless site specific conditions make this impracticable.

In terms of space standards, the PfE Joint Plan was not adopted at the time of the original approval (ref 68111) but was considered for the subsequent variation of condition application ref 71533 for the 7 flats.

Two of the seven flats did not comply with the NDSS. However, this was accepted as the application was a variation to the original scheme and as such the principle already established.

This application would be for a full new permission and as such NDSS are a relevant and material consideration.

In this case, 4 of the 10 flats would be below the prescribed requirements as detailed below:

Proposed two bed flat

Flat 6 - According to NDSS, 1 of the 2 bedrooms should be a double room. Flat 6 proposes to provide two single bedrooms. As such the development fails this criteria. A 2 bed flat should also have a minimum gross internal floor area of 61 sqm. The flat would provide a floor area of 54.1sqm dwelling and as such the development would fail on this criteria.

Proposed single bed flats

According to NDSS, single bed flats should provide 37sqm minimum of floor area.

Flat 7 - Overall space is proposed as 35.1 sqm

Studio flat 9 - Overall space is proposed as 25.9 sqm

Studio flat 10 - Overall space is proposed as 21.5 sqm.

These flats would fail to meet the NDSS and would be contrary to Policy JP-H3.

In terms of accessibility, it is generally accepted that it would be too costly, impracticable or unachievable to fully comply with Part M(2) for flats at upper floors in old or established buildings, particularly listed building where internal arrangements are often quirky or unusual and would require too much in the way of adaptation. As such, it is accepted that the proposal would not fully meet the requirements of Part M(2).

External layout

The site is located in Bury Town Centre and designated as Zone 1 where SPD11 requires provision for disabled parking only, or 1 space per 10 dwellings where clear need can be demonstrated. Previous applications for this site, whilst for less flats have not proposed any parking and given the town centre's sustainable location and benefit of the investment into

the Listed Building within the Conservation Area, it is considered that parking for this particular development would not be necessary or justified.

The development would however need to fully comply with SPD11 for cycle parking which is 1 secure covered cycle space per unit and 1 visitor space.

The proposed plan shows that a cycle stand for 2 bikes would be located in the rear yard but does not indicate it would be a secured store.

As such, the proposed development would significantly under-provide for cycle parking and would be contrary to policy SPD11.

It is proposed to locate the bins in the rear yard but for the mixed residential and commercial use, it would be inadequate to serve both uses.

Bins are already left on the adopted highway causing an obstruction and the proposal to intensify the occupation and use of the building would require sufficient storage facilities without obstructing or cluttering the highway.

As such, the proposed development would be unacceptable and contrary to policies H2/4 and JP-C8.

Impact on the Conservation Area

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require decision makers to have special regard to the desirability of preserving a listed building or its setting or any feature of architectural or historic interest it possesses. The decision maker must also give considerable importance and weight to the desirability of preserving the setting of the listed building.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 202 of the National Planning Policy Framework (NPPF) states that heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 210 of the NPPF states in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 of the National Planning Policy Framework (NPPF) states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 213 of the NPPF states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 215 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The change of use of the building to 7 flats has previously been accepted in principle in heritage terms as the proposed development would bring back into use an important Listed Building within the Conservation area and as such preserve the character of the Conservation Area.

For this application which proposes to increase the number of flats to 10 , there is a lack of information to understand the extent of physical works which are proposed to allow an assessment with regard to the impact of external repairs and refurbishment on the character and appearance of the Conservation Area.

The proposed development would therefore fail on the grounds of insufficient information to understand if there would be harm caused to the Conservation area or whether or not the development would preserve or enhance the Conservation Area.

Conclusion

The site has the benefit of previous approvals where it was assessed that the development complied with planning policies.

In this case, the proposal to increase the number of units would result in non-compliance with planning policies for the reasons detailed above.

As such the proposal is considered to be over-development and would fail UDP, PfE and NPPF policies.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development would fail to meet Nationally Described Space standards (NDSS) for bedroom types to flat 6 and total floor area for flats 6,7,9 and 10. The proposal would therefore fail to comply with Places for Everyone Joint Development Plan Policy JP-H3: Type, Size and Design of New Housing.
- 2 The size of the site is inadequate to accommodate the development proposed whilst satisfying reasonable requirements for bin storage provision for the commercial and residential units and providing secure covered cycle storage in accordance with SPD11. The proposed development would therefore result in the over-development of the site and would be contrary to policies H2/4, JP-C8 and SPD11.

DELEGATED REPORT

- 3 The application and submitted plans contain insufficient information to properly assess the physical impact of the proposed development on the existing adopted highway or the adequacy of the off-highway bin storage and refuse collections arrangements. The proposed development would therefore be contrary to policies JP-C5, JP-C8 and H2/4.
- 4 The application contains insufficient information with regard to the extent of the external works and refurbishment of the building and therefore the impact of these works on the character and appearance of the Bury Town centre Conservation Area and whether the works would preserve or enhance the character of the Conservation area. The proposed development would therefore be contrary to policies EN2/1, EN2/2, JP-P2 and the principles of the NPPF.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	6/10/25		