

DELEGATED REPORT

Report by Tom Beirne	Date of report: 01/10/2025	Ref: 72203/LDCP
Registration: 28/08/2025	LDfC:	Expiry Date: 23/10/2025
Site Visit: 10/09/2025	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed change of use from 2 no. flats to 1 no. dwelling

Location: 23 Monmouth Avenue, Bury, BL9 5DU

Description

The application relates to a two storey terraced property on a residential row of similar terraces. The houses is currently made up of two flats, one at ground floor and one at first floor.

The appliaction seeks confirmation that the proposal to deconvert two flats into a single dwelling would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990. Changes are internal only with not external alterations proposed.

Relevant Planning History

N/A

Publicity

N/A

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

Development Plan and Policies

PPG Central Government Guidance

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.

Lawful Development - The deconversion of two flats to a single dwellinghouse, with no external alterations, is not considered to constitute operational development by virtue of the provisions of Section 55(2)(a)(i) and (ii) of the Town and Country Planning Act. Therefore the proposal is considered to be Lawful under current legislation.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: LAWFUL

Conditions and Reasons:

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>

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