

DELEGATED REPORT

Report by Mo Warsame	Date of report: 01/02/2023	Ref: 69068/FUL
Registration: 10/11/2022	LDfC: 21/12/2022	Expiry Date: 05/01/2023
Site Visit:	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: Conversion of party venue to 2no. commercial units (Class E) at ground floor and 2no. studio flats (Class C3) at first floor.

Location: 32 Kershaw Street, Pimhole, Bury, BL9 7HH

Description

The application relates to a commercial property in Kershaw Street off Heywood street and Rochdale road within the Pimhole area. The building was previously used as a party venue and there are number of small businesses nearby. There is also a public car park adjacent to the site.

Planning permission is sought for the conversion of party venue to 2no. commercial units (Class E) at ground floor and 2no. studio flats (Class C3) at first floor. The venue appears to have formerly been a party venue and has been vacant for some time.

Relevant Planning History

05/0055 - UNAUTHORISED CHANGE OF USE - 21/04/2005

Publicity

Neighbour lettes sent on 28/11/2022. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section

Comments:The entrances for the commercial units shall be used for pedestrian only. No objections was raised.

Waste Management

No objections raised.

Environmental Health - Pollution Control

Comment: If the commercial unit is for a food establishment ventilation will be needed and therefore a condition should be included.

Pre-start Conditions

N/A

Unitary Development Plan and Policies

S1/2	Shopping in Other Town Centres
S2/3	Secondary Shopping Areas and Frontages
EN1/2	Townscape and Built Design
H1/2	Further Housing Development
H2/4	Conversions
TC2/1	Upper Floors

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.

Use

Conversion of party venue (Sui Generis) to 2no. commercial units (Class E) at ground floor and 2no. studio flats (Class C3) at first floor, particularly as it has been vacant for a number of years, is welcomed as it not only creates 2no. additional living spaces but brings vacant space back into active use. The ground floor would be split into 2 commercial units and they are proposed to be Class E.

There would be separate access on the side leading upstairs to the proposed 2no. flats

(C3). This access would also accommodate a bin storage for each of the flats. On the opposite side the existing party venue would be divided to two equal sized commercial units (Class E). The proposal would generally be acceptable subject to condition No. 4 which relates to the use of the premise as a food establishment saying should any of the commercial units be converted into a food establishment then a ventilation system would be required. Overall, the proposal complies with UDP Shopping Policies S1/2 and S2/3, housing policy H1/2 and TC2/1.

Visual amenity

The only external alterations would be the installation of the new doors in the front elevation for each proposed commercial unit. The double doors would substitute the existing windows and would be positioned on the exact location of the existing windows. This would be somewhat unconventional as the units would not have any formal shop front. Notwithstanding this, the proposed doors would be in line with the other existing front windows. This would be considered acceptable and would not have a seriously detrimental impact on the character of the building or streetscape. As such, the proposal complies with UDP Policy EN1/2 Townscape and Built Design.

Residential amenity

Given the building is located near a town centre location, there are always going to be some noise pollution. However, with a condition requiring an assessment of the party wall between the ground floor business units and the proposed flats above, with regard to any possible noise attenuation measures, the amenity of any future occupiers of the flats should be protected. It is also noted that the change of use would require building regulations approval including any insulation measures required. Subject to a noise attenuation condition, there are no residential amenity issues arising from the proposal which complies with UDP Policy H2/4 and EN7/2.

Access and Parking

Adjacent to the site is a free public car park which is available for the tenants/customers, as well as on-street parking in the area. Furthermore, there is also provision in the building to store bicycles. The proposal therefore complies with the NPPF and UDP Policy HT2/4 with regard to parking and access.

Refuse

There is provision in the building to store bins. The bins are currently collected from the front as there is no yard area and this is the case with the proposed flats. It is not ideal but the situation would be no worse than existing.

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 numbered RAD/2739/22/1 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 development shall take place unless and until a scheme to soundproof the floor/ceiling between the ground floor and the first floor flat, which shall be in accordance with standards of construction specified in current Building Regulations, has been submitted to and approved by the Local Planning Authority. Such works that form the approved scheme shall be completed before the development is brought into use.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policy EN7/2 Noise Pollution.

- 4 Where any of the ground floor units hereby approved are to be used as food establishment then no development in relation to these units shall commence unless and until a scheme for treating, diluting, and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development). The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements. The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. To protect the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

- 5 In implementing any part of this permission, the development shall incorporate appropriate soundproofing to the floor/ceiling between the ground floor Class E. Such measures shall be in place before any part of the the development is brought into use.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policy EN7/2 Noise Pollution.

<u>Case Officer</u> MW 1/2/23	<u>Date</u>	<u>Sign off Officer</u> DM 1/2/23	<u>Date</u>
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