

**DELEGATED REPORT**

|                                 |                                   |                                |
|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Mark Kilby     | <b>Date of report:</b> 05/09/2022 | <b>Ref:</b> 68246/LBC          |
| <b>Registration:</b> 01/07/2022 | <b>LDFC:</b> 12/08/2022           | <b>Expiry Date:</b> 26/08/2022 |
| <b>Site Visit:</b> 13/07/2022   | <b>Site Notice:</b> 13/07/2022    | <b>Press Date:</b> 21/07/2022  |
| <b>Objections:</b> 0            | <b>Con Area:</b> BURY             | <b>Adv Type:</b> ALB           |
| <b>Reason for Delay:</b><br>N/A |                                   | <b>EIA:</b> NA                 |
|                                 |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> LBAL        |

**Proposal:** Listed building consent for proposed replacement/refurbishment of windows and doors on the front and rear elevations, replacement/renovation of flat roof at rear and roof lights and removal of third floor internal wall

**Location:** 8 Market Street, Bury, BL9 0AJ

**Description**

The application site is a coffee shop at ground floor with offices above at 8 Market Street. The site is Grade II listed and part of the group listing of 8-10 Market Street. The building dates from between 1850 and 1860. The front elevation is ashlar in the classical style, three storey with sash windows with dentil cornice. The shop front at ground floor level is modern with a large display window.

This application for listed building consent is for a modest internal alteration to remove a 20th/21st century non-load bearing stud partition wall on the third floor in order to open up the space. The upper floors would remain in office use. The replacement of the existing timber door at ground floor level fronting Market Street with an aluminium door. The existing timber windows to the front elevation, which are not historic to be repaired. The existing upvc windows to the rear elevation would be replaced with new upvc windows. The flat roofed roof extension to the rear roof slope which is not original would be re-covered with elastomeric membrane. The existing upvc roof lights to the front main roof slope would be replaced with smaller upvc roof lights.

The proposal to replace the existing door with an aluminium door has been amended to a proposed replacement timber door - colour black.

**Relevant Planning History**

00466/E - CHANGE OF USE FROM CLASS A2 TO BAR - Approve with Conditions  
50109 - CHANGE OF USE FROM (A2) OFFICE TO HOT FOOD TAKE AWAY (CLASS A5)  
- Withdrawn - Invalid 11/09/2008  
60052 - Change of use from financial/professional services (Class A2) to coffee shop (Class A3) - Approve with Conditions 30/06/2016  
60159 - Listed building consent for change of use from financial/professional services (Class A2) to coffee shop (Class A3) with internal alterations - Approve with Conditions 30/06/2016.

**Publicity**

Press notice on 21/7/22, site notice on 13/7/22 and letter to nearby addresses dated 12/7/22. No objections or comments received.

**Statutory/Non-Statutory Consultations** - None.

**Pre-start Conditions** - None.

## **Unitary Development Plan and Policies**

|       |                                    |
|-------|------------------------------------|
| EN2/3 | Listed Buildings                   |
| EN1/1 | Visual Amenity                     |
| 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) 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.

## **Listed Building -**

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.

Paragraph 199 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 200 of the NPPF state 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 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 202 of the NPPF states that 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 significance of the listed building is derived in the main from its external architectural aesthetic and in the main only from its front elevation to Market Street. The rear of the building along with others in the row does not possess any architectural merit, being finished in stock red brick with evidence of additions and alterations, or therefore any heritage significance. The roof of the building is of a standard design and construction for the period and as such, its contribution to the significance of the building as a whole is very low. The flat roofed rear roof extension is not original.

The proposed replacement upvc windows to the rear elevation would not harm the architectural significance the building possesses by virtue of its front elevation. The addition of the waterproof membrane to a non-historic feature of the building would not harm or cause any loss of significance, but would enhance its longevity. The replacement sky light to the main roof would be smaller than the existing, would not be visible in the street scene and therefore would not harm or cause loss of significance. The replacement timber door

to the front elevation is acceptable by virtue of its design, appearance and colour. The repair of the timber windows to the front elevation is acceptable and would maintain the architectural aesthetic of the front elevation therefore preserving the buildings' significance. As the windows are not original and are to be repaired in situ it is not considered necessary impose a condition for their repair.

In conclusion the proposal would represent less than substantial harm and it is considered it would be at the very lowest end of that spectrum. The proposal would bring a public benefit enhancing the buildings' continued viability by reducing the energy costs of running the building. These benefits are considered to outweigh the limited and minimal harm the proposal would represent to the significance of the building. As such the special architectural and historic interest of the listed building would be preserved. The proposal would comply with adopted UDP policy EN2/3-Listed Buildings and paragraphs 199, 200, 201 and 202 of the National Planning Policy Framework.

**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 the expiration of three years beginning with the date of this permission.  
Reason - Required to be imposed pursuant to Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2 This decision relates to drawings numbered PL K1040/00, 01, 02, 03 Revision A, 04 Revision A 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.

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|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| MK                  | 5/9/22      | DM                      | 5/9/22      |