

DELEGATED REPORT

Report by Helen Leach	Date of report: 16/02/2026	Ref: 72693/P3JPA
Registration: 24/12/2025	LDfC: 20/01/2026	Expiry Date: 18/02/2026
Site Visit: 16/02/2026	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: BURY	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for change of use of first, second and third floor from Class E to 9 no. apartments (Class C3)

Location: 8-12 Silver Street, Bury, BL9 0EX

Description

The application site relates to Nos. 8, 8A and 10 - 12 Silver Street, which are located within the Bury Conservation Area. No 8 is currently empty but was in use as a wine shop (Class E), known as Kwoff. No. 8A is currently empty but was last used as a sandwich shop (Class E). Nos 10 - 12 relate to the same unit and has been in use as a bar since 2008. Based on google streetview, the unit appears to have been empty since 2020.

There are numerous bars (The Old White Lion, Wyldes, The Clarence, Stanleys, Society, Forbidden Bar, Murphy's, the Monkey House Brewery) in the vicinity. There are retail units and a restaurant (Verona) on the same street.

This is an application under Part 3 of Class MA of the General Permitted Development Order 2015 (as amended). The applicant seeks the prior approval for the change of use of the first, second and third floor from Class E to 9 apartments.

Relevant Planning History

34487 - Change of use from shop to restaurant/bar at 10 Silver Street, Bury. Approved with conditions - 10 September 1998.

35319 - New shop front at 10 Silver Street, Bury. Approved with conditions - 1 June 1999.

47118 - Replacement of bar frontage (retrospective) at Lily's Bar, 10 Silver Street, Bury. Refused - 9 March 2007.

47443 - Externally illuminated advertisement sign (retrospective) at Lily's Bar, 10 Silver Street, Bury. Refused - 9 March 2007.

47738 - Externally illuminated non-projecting sign (retrospective) at Lily's Bar, 10 Silver Street, Bury. Approved - 25 May 2007.

Publicity

The neighbouring properties were notified by means of a letter on 5 January 2026.

1 letter has been received, which has raised the following issues:

- As a local business owner, I strongly object to the proposed plans.
- The parking in and around Silver Street is horrific without the additional apartments.
- Surrounding streets, including Back Silver Street, suffer massively from parking and people dumping their cars there for hours. Emergency services would struggle to access the properties.

- More households will generate more waste/recycling in an area that has constraints on waste storage. Bins are already overflowing resulting in rats and litter.

Statutory/Non-Statutory Consultations

Traffic Section - Concerns relating to bin storage.

Environmental Health - Pollution Control - Insufficient information in relation to existing glazing and proposed mitigation.

Conservation Officer - No objections.

Environmental Health - Contaminated Land - No comments.

Pre-start Conditions - Not relevant.

Development Plan and Policies

S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
EN1/2	Townscape and Built Design
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN7/2	Noise Pollution
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
H1/2	Further Housing Development
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-P1	Sustainable Places
JP-P2	Heritage
JP-C1	Our Integrated Network
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
SPD6	Supplementary Planning Document 6: Alterations & Extensions
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.

Legislative framework - Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

- a. *
- b. unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;
- c. *
- d. if land covered by, or within the curtilage of, the building -
 - i. is or forms part of a site of special scientific interest
 - ii. is or forms part of a listed building or land within its curtilage;
 - iii. is or forms part of a scheduled monument or land within its curtilage;
 - iv. is or forms part of a safety hazard area; or
 - v. is or forms part of a military explosives storage area;
- e. if the building is within
 - i. an area of outstanding natural beauty;
 - ii. an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;
 - iii. the Broads;
 - iv. a National Park; or
 - v. a World Heritage Site;
- f. if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

- g. before 1 August 2022, if—
 - i. the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
 - ii. the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

- a. the following classes of the Schedule as it had effect before 1st September 2020—
 - i. Class A1 (shops);
 - ii. Class A2 (financial and professional services);
 - iii. Class A3 (food and drink);
 - iv. Class B1 (business);
 - v. Class D1(a) (non-residential institutions – medical or health services);
 - vi. Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- b. on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

* Para a. and c. omitted by virtue of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 (S.I. 2024/141), arts. 1(1), 3(2)(b)

The proposal would comply with all the limitations and conditions set out above.

The application relates to three units - Nos 8, 8A, 10 - 12 Silver Street. Nos 8 and 8A were last used as retail units, which is a Class E use. Unit 10 - 12 has been in use as a bar since 2008 but appears to have been vacant since 2020.

As required by the GDPO, the applicant would have been required to submit a notification to the Council of a change of use from a bar to a retail unit and from September 2020, planning permission would have been required for the change of use from a bar (sui generis) to a retail unit. There is no record of either a notification or a planning permission for this unit. As such, the lawful use remains as a bar, which does not fall within Class E.

The applicant states that this unit was used by the adjacent retailer (Kwoff) since 2020 for storage. However, no evidence, such as dated photographs, lease details) has been provided to support this claim. With the exception of the addition of Kwoff to the lower section of the shop front, no external signage has been erected. As such, there is no evidence to support the claim that the unit has been in retail use.

There is a question mark as to whether storage would be a Class E use or a Class B8 use. A recent appeal decision (appeal reference 3367078) confirmed that the whole unit needs to be in Class E use to benefit from the prior approval under Class MA.

A site visit on 16 February confirmed that signage for Flight and Greens has been erected and a sign for the application for a premises licence was on display in the window. The premises licence seeks permission for music, singing, live performers, playing of recorded sound and the sale of alcohol, which indicates that the unit will be in use as a bar and not a retail unit.

In any case, there is no planning permission in place and the unit would not be immune from enforcement action. Therefore, the proposed development would not comply with the limitations and conditions set out above (section b) and prior approval should be refused.

Development under Class MA is permitted subject to the following conditions.

Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport impacts of the development, particularly to ensure safe site access;

The building is located within Bury town centre with good transport links. There is currently no vehicular access to the site. The proposed use of 9 flats would not be expected to generate large enough amounts of traffic to cause access issues when compared with the possible Class E uses which could occur if the building was brought back into use.

The proposed flats would be accessed via an entrance on Silver Street and an entrance on Parks Yard.

The proposed bin storage would take place internally on the ground floor and the bins would measure 0.88 metres wide. The doors leading to the bin store are 0.82 metres wide and as such, the bins would not fit through the doorways. In addition there are several 90 degree turns internally and an external staircase outside the rear door and it is not clear whether the bins could be manoeuvred into the proposed bin storage area. The Traffic Section have raised concerns about the bin storage/collection arrangements as the back street is heavily used. However, bin storage is not something that can be considered as part of this application and an informative would be added to a decision notice that highways regulations require bins to not be stored on the public highway.

(b) contamination risks in relation to the building;

Environmental Health - Contaminated Land Section has confirmed they have no comments to make on the proposal.

(c) flooding risks in relation to the building;

The site is not in a Flood Risk Zone.

(d) impacts of noise from commercial premises on the intended occupiers of the development;

The site is located within the town centre, with a busy night time economy located within the vicinity of the site that has not been addressed or assessed within the submitted noise assessment.

Paragraph 3.6 of this assessment states "There are several restaurants close to the site but there is no outside drinking or dining associated with them and most do not operate after approximately 10pm." The only public house or late night establishment identified within the report is the Monkey House Brewery (No. 18 Silver St) which is approximately 12 metres from the site.

The assessment has failed to note the following bar /licensed premises which clearly operate beyond 10pm:

- 2 Silver Street (The Clarence) - Open from 10.00 - 02.00 - Monday - Sunday. 19 metres from the site with access to outdoor space.
- 3 Silver Street (Stanleys) - Open from - 12.00 - 03.20 - Monday - Sunday. 26 metres from the site.
- 10 Silver Street - Monday - Sunday - 12.00 - 02.30. Part of the application site.
- 14 - 16 Silver Street (Murphys) - Open from 10.00 - 00.30 - Monday to Wednesday, 10.00 - 01.30 - Thursday, 10.00 - 02.30 - Friday - Saturday, 10.00 - 01.00 - Sunday. . Adjacent to the application site
- 11-13 Silver Street (Society) - open from 12.00 - 03.30 - Monday - Thursday, 12.00 - 04.30 - Friday - Sunday. Directly opposite the site.

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- 15 - 17 Silver Street (Factory nightclub) - Monday - Sunday - 10.00 - 02.30. Opposite the site.
- 18 Silver Street (Monkey House Brewery) - Open from 15.00 - 01.00 - Wednesday, 15.00 - 02.00 - Thursday, 15.00 - 03.00 - Friday, 12.00 - 03.00 - Saturday, 12.00 - 00.00 - Sunday. 12 metres from the site.
- 19 Silver Street (Verona) - Open from 12.00 - 00.30 - Monday - Thursday, 12.00 - 01.30 - Friday - Sunday. 16 metres from the site.

Elton Bullit 24 Hour taxi rank is also located on Parks Yard which is adjacent to the application site and taxis are known to queue here in busy periods.

Access to the Clarence for servicing and deliveries is located to the rear of their site and is accessed via Parks Yard. The implications of this in terms of noise generated by deliveries have also not been addressed within the submitted assessment.

The list above is limited to licensed premises located on Silver Street. Wyldes and The Old White Lion located on Bolton Street and Broad Street Social on Broad Street are also in close proximity to the site and all contribute to the night time economy.

It is therefore considered that the submitted Environmental Noise Assessment has failed to adequately assess, and highlight the potential noise sources and impacts from the surrounding commercial units.

Whilst acknowledged that the noise survey undertaken may have picked up noises from these uses, it is also unclear if the noise assessment has also been undertaken with the windows to the proposed residential units open although paragraph 4.4 confirms that the sound level metre was not positioned as for an outdoor free field measurement. Given that the intended use is for residential it is highly likely that in the summer months. The noise assessment also requires mitigation which includes upgrading the glazing of the windows within the site. It is noted within the report however that glass performance alone is not an acceptable means of demonstrating compliance with the specification for window performance. The rating of the existing window units has not been included within the assessment. It is considered that given the location of the site, and the potential requirements to also upgrade panels, frames and seals to meet the required sound reduction this mitigation could not be adequately conditioned as details of the replacement glazing have not been included within the prior approval.

The windows within the building are a mixture of timber sliding sash, timber windows and Elton Bullit 24 Hour taxi rank is also located on Parks Yard which runs along the southern boundary of the site.

Access to the Clarence for servicing and deliveries also appears to be located to the rear of the site, accessed via Parks Yard and implications of this in terms of noise have also not been addressed within the submitted assessment.

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The windows within the building are predominantly timber, with some being sliding sash and some are uPVC. The timber windows all appear to be single glazed. As the site is located within Bury Town Centre Conservation Area, these existing windows contribute to the visual amenity of the building and the wider Conservation Area. It is considered that the changes in glazing, to accommodate any required mitigation may lead to external changes to the building that can not be approved under Class MA prior approval. Depending on the proposed glazing and any replacement windows required, the extent and cumulative effects of the replacements required for this building could materially affect the external appearance of the building and as such would need planning permission - Section 55(2)(a)(ii) of the Town and Country Planning Act 1990.

In this respect recent appeal decision APP/T4210/D/25/3374183 also needs to be reviewed the same style but differing materials would " introduce contemporary materials into what is presently a largely intact historic property in terms of window form and detailing. The appeal scheme would consequently appear as a modern insertion and it would be sufficiently noticeable from the public realm to constitute harm to the character and appearance of the building."

Given the above it is considered that the applicant has failed to demonstrate that the proposal would adequately address the impacts of noise from commercial premises on the intended occupiers of the development. As such the proposal can not be supported.

(e) where—

(i) the building is located in a conservation area, and

(ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;

The proposed development is located within the Bury Conservation Area and would involve the change of use of part of No. 10 - 12 to a bin and bike store. As this would be an internal change, the proposal would not have an adverse impact upon the character or sustainability of the conservation area.

However, it should be noted that No. 10 - 12 is in use as a bar and as such, does not benefit from Class MA.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

The proposed bedrooms for apartments A and B would have windows that directly face each other in a lightwell. As these windows would be at first floor level, there should be a minimum of 13 metres to ensure adequate light can enter the rooms. As there would be a distance of 3.8 metres, it is considered that these habitable rooms would not have an acceptable level of natural light.

The proposed bedroom in Apartment I would only have access to 1 small window of 0.5 metres in width. It is considered that this would not be large enough to provide an adequate level of natural light in this habitable room.

Nationally Described Space Standards - The floor space of the proposed flats would exceed the relevant space standard and would comply with the national described space standards.

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and

Is not in an area important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

(h) where the development involves the loss of services provided by—

(i) a registered nursery, or

(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost; and

There would be no loss of such provisions.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The development does not consist of two or more dwellings whilst also exceeding seven storeys in height.

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 existing use of the site does not wholly fall within one of the uses falling within Class E of Schedule 2 to the Use Classes Order. Therefore, the proposal does not comply with the statutory limitation in paragraph MA.1 (1)(b) of Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 2 The applicant has failed to demonstrate that the proposed development would not be seriously detrimental to the residential amenities of future occupiers, by reason of the noise, disturbance and general activity associated with the existing neighbouring uses without the need for amendments to the building that would require planning permission. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan and Places for Everyone Joint Development Framework:
 - H2/1- The Form of New Residential Development
 - H2/2 - The Layout of New Residential Development
 - H2/4 - Conversions
 - EN7/2 - Noise Pollution
 - EN2/1 - Character of Conservation Areas
 - EN2/2 - Conservation Area Control
 - EN1/2 - Townscape and Built Design

JP-P1 - Sustainable Places

JP-P2 - Heritage

- 3 The proposed development would be detrimental to the amenities of the future occupiers by reason of substandard distances between proposed habitable room windows and surrounding buildings, leading to a reduction in natural light. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan:
H1/2 - Further Housing Development
H2/1 - The Form of New Residential Development
H2/4 - Conversions
and Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 4 The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the number of flats proposed, and the retained ground floor use within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins.
The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:
H2/2 - The Layout of New Residential Development
H2/4 - Conversions
EN1/2 - Townscape and Built Design
JP-P1 - Sustainable Places
JP-C5 - Streets for All
JP-C6 - Walking and Cycling
JP-C8 - Transport Requirements of New Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 16/02/2026			