

DELEGATED REPORT

Report by Helen Pressley	Date of report: 06/01/2023	Ref: 69019/FUL
Registration: 24/10/2022	LDFC: 28/12/2022	Expiry Date: 19/12/2022
Site Visit: 01/12/2022	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: Change of use of ground floor from café (Class E) to 1 no.self contained flat (Class C3) with changes and a new entrance to the front elevation

Location: 6 Colville Drive, Bury, BL8 2DX

Description

The application relates to a ground floor unit located within a row of shops identified under UDP Policy S1/5 - Neighbourhood Centres and Local Shops. The unit is currently used as a cafe. A flat, with dormers to front and rear is located at first floor that is accessed from the arrear of the site.

Planning permission is sought for the change of use of the ground floor unit to residential. The proposal seeks the provision for a 1 bedroom property. This would require the removal of the existing shop front, and the introduction of a smaller window. A new access door would also be introduced to the front elevation, providing access to both properties. Internal alterations to the layout of the first floor flat have also been included within the plans.

Relevant Planning History

66651 - Demolish asbestos clad garage to be replaced with new garage; Single storey rear extension - Approve with Conditions 08/06/2021

Publicity

Neighbour letters sent 8/11/2022, 28/11/2022 and 5/12/2022.

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - No objections raised subject to a condition in relation to bin storage.

Waste Management - No objections raised subject to the condition above.

Planning Policy Manager - No response.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

S1/5	Neighbourhood Centres and Local Shops
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H1/2	Further Housing Development
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk

EN7/3	Water Pollution
EN7/5	Waste Water Management
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
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.

Principle (Residential)

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply

of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) of the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed dwelling, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

The site is located within the urban boundary and there are residential properties directly facing the site, and at first floor within the row of shops. The proposed development would not conflict with the surrounding land uses and would be located in a sustainable location with regard to public transport and services. Therefore, the proposed development would be acceptable in principle and would be in accordance with Policy H1/2 of the Bury Unitary Development Plan.

Principle (Change of Use)

Policy S1/5 - Neighbourhood Centres and Local Shops seeks to retain retailing, as the predominant use in small neighbourhood centres and in new or existing local shops, to cater primarily for the day to day needs of residents and businesses. The sites last use was as a cafe which is considered to fall under use class E(b) Sale of food and drink for consumption (mostly) on the premises.

In this instance, it is considered that the fall back position of what could be built under permitted development rights is a material planning consideration. Change of use of any building within Class E into residential use is permissible under Class MA - 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.

In this instance therefore, whilst UDP Policy S1/5 seeks to retain retail use, the applicant could change the use of this unit under permitted development. As such, the change of use of the unit is considered to be acceptable in principle.

Layout and Design

Policy H2/1- The Form of New Residential Development requires all new residential development to make a positive contribution to the form and quality of the surrounding area. Policy H2/2 - The Layout of New Residential Development seeks to ensure that new residential development will be acceptable in terms of layout in order to provide a good quality residential environment. In addition to this, Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

The proposed new window and door arrangement at ground floor would be suitably aligned when viewed in relation to the existing first and second floors. The window and door arrangement to the rear would be altered slightly from the existing but would utilise a similar configuration. The use of matching materials for the new windows and facing brick work elements is considered to be acceptable.

The applicant would have access to an area of amenity space to the rear, that can also be utilised for the storage of bins.

The proposed development therefore complies with the following policies of the Bury Unitary Development Plan - H2/1- The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and the National Planning Policy Framework.

Residential Amenity

UDP Policy H1/2 states that the council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses. UDP Policy H2/1 also requires the consideration of the impact of developments on residential amenity and the position and proximity of neighbouring properties. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

The proposed rear bedroom window would be screened from the school at the rear of the site by the existing rear boundary treatments, and existing detached garage. The proposed front ground floor window relate to an open plan kitchen, living room area. This window would be separated from the nearest residential property (No.1 Colville Drive) by the shop forecourt area, and a highway with an onward view of the open front garden of this property rather than private amenity space. As such no overlooking is foreseen from the habitable room windows associated with the ground floor.

The plans do show some alterations to the layout of the first floor flat, but habitable room windows would remain as habitable room windows.

Parking and Bin Storage

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. This is further supported by UDP Policy H2/2 - The Layout of New Residential Development that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way. In terms of

parking standards UDP Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements . Supplementary Planning Document 11 provides parking standards for developments.

Bin storage for the 4 bins associated with the new flat can be provided within the curtilage of the site. Waste management and Traffic have confirmed they are happy with this arrangement subject to a condition in relation to implementation.

The proposed plan indicates that parking can be provided for the flats within the existing garage to the rear of the site. It should be noted that garages are excluded from the residential standards set out within SPD 11.

SPD 11 requires a maximum of 1 parking space to be provided for the new flat. The proposal would be located within an established residential area with on street parking available for residents, which the proposal site could utilise if required. The site is located within a sustainable location with links to public transport and local amenities. In this instance it is considered given the nature of the existing parking provision in the area the proposal is acceptable.

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: 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 SHT 1 of 2 and SHT 2 of 2 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 The external finishing materials for the proposal hereby approved shall match those of the existing building.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.
- 4 The bin storage facilities indicated on the approved plans shall be implemented prior to the use hereby approved commencing and maintained thereafter.
Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and H2/2 - The Layout of New Residential Development.
- 5 The drainage for the development hereby approved must be based on the hierarchy

DELEGATED REPORT

of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). The drainage scheme shall be implemented prior to first occupation and thereafter maintained.

Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Helen Pressley	06/01/2023		