

DELEGATED REPORT

Report by Mark Kilby	Date of report: 05/09/2023	Ref: 69914/FUL
Registration: 18/07/2023	LDfC: 08/09/2023	Expiry Date: 12/09/2023
Site Visit: 10/08/2023	Site Notice: 15/08/2023	Press Date: 17/08/2023
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: MIOT

Proposal: Modifications to existing window openings

Location: 10 Union Street and 40 The Rock, Bury, BL9 0NY

Description

The application site is within Bury Town Centre Conservation area and comprises the vacant former Royal Bank of Scotland (RBS) at 40 The Rock and the former solicitors offices at 10 Union Street which is attached to the former RBS building. The former solicitors offices now occupied by the applicant Specsart and the former RBS building have stone frontage to the ground floor with an ornate central entrance with detailed arched keystone windows either side and red brick to the first floor, stone string courses and swept parapets to the Union Street elevation. It adjoins the Millgate, a later addition and a covered shopping centre to the south side. The external fabric of the buildings, apart from some minor adaptations, are relatively intact. 40 The Rock has been included on Councils' draft local list of heritage assets and as such is a Non-Designated Heritage Asset (NDHA). 10 Union Street which was not included in the Councils' original draft local list of heritage assets is now considered to be and NDHA by virtue of its architectural merit and contribution to the special character and appearance of that part of the conservation area.

The building has been identified as a non-designated heritage asset in accordance with Annex 2 of the NPPF and is considered to be a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing). The 'Good Practice Advice Note 2: Managing Significance in Decision-Taking' published by Historic England (2015) clarifies non-designated assets as those "... that have been identified in a Historic Environment Record, in a local plan, through local listing or during the process of considering the application."

The applicant Specsart is a small, independent optician who provide ophthalmology services including eye testing and the dispensing of spectacles and have a showroom to display their frames at their site in Bury town centre. Specsart currently occupy a small section (No 10 Union Street) of the larger (former RBS) building (No 40 The Rock), which they purchased in September 2019 and where they have reportedly struggled to find a town centre site with enough floor space to display their spectacles on the high street, and to also manufacture their own lenses in order to keep their costs down and remain competitive within their sector of the market.

It is proposed to enlarge the two ground floor windows to No10 Union Street and three ground floor windows to the north elevation to No 40 The Rock (RBS) by lowering the cill heights to plinth level, which are currently above eye level to create shop front display windows. It is also proposed to carry out works to restore alterations carried out for the installations of two cash machines and a night safe. The proposed restorative works for the cash machines and night safe could be carried out without the requirement for planning permission as they would not materially affect the external appearance of the building and

in any event have not been included in the application description.

The proposed internal window displays shown on the submitted plan C-0544-20 Revision A would require advertisement regulation consent if sited within one metre of the window or otherwise would have deemed consent.

Relevant Planning History

64369 - Lawful Development Certificate for the proposed change of use from Use Class A2 (Financial and Professional Services) to an opticians retail showroom (Use Class A1) with ancillary consulting rooms, spectacle assembly and admin use. - Lawful Development 08/08/2019.

64422 - A: 1 no. halo illuminated lettering sign (Sign 2); 1 no. window sticker (Sign 4)
B: 2 No. externally illuminated projecting signs (Signs 1), 2 no. externally illuminated aluminium flat/tray signs (Signs 3), 1 no. non-illuminated vinyl banner sign (Sign 5) - Split Decision 20/08/2019.

Publicity

Press notice published 17/8/23, site notice posted 15/8/23 and letter dated 8/8/23 to nearby addresses. No objections or comments received.

Statutory/Non-Statutory Consultations - None

Pre-start Conditions - Not applicable.

Unitary Development Plan and Policies

EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
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.

Policy and legislation

The application site is considered to be a Non-Designated Heritage Asset (NDHA) and is sited within Bury town centre conservation area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 199 of the National Planning Policy Framework (NPPF) requires that 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 203 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 202 of the NPPF states 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.

It is considered that the building does possess architectural and historic value which makes it a strong contributor to the character and appearance of Bury town centre conservation area.

UDP Policies

EN2/1 - Character of Conservation Areas - The Council will take action as appropriate to

preserve or enhance the character or appearance of the Borough's Conservation Areas.

EN2/2 - Conservation Area Control - Development within a Conservation Area will only be acceptable if it preserves or enhances the special character or appearance of the area.

EN1/1 - Visual Amenity - Development will not be permitted where proposals would have a detrimental effect on:

- public views of prominent or important buildings, especially those in areas of architectural or historic interest;

- the visual amenity both within, or viewed from, areas of environmental interest such as the Green Belt, Special Landscape Areas or the river valleys.

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.

Impact on the Non-designated Heritage Asset

The application buildings possess architectural and historic value. The former RBS building is in the classical revival style. With fine architectural details comprising ashlar stone, plinth, rusticated courses, arches with mouldings at ground floor forming regular proportioned window openings to The Rock and Union Street and in gradation with the upper storeys window openings. Red brick, string band and stone dressings with pedimented windows at first floor with quoins, bracketed cornice and balustraded parapet. The former solicitors is in the classical revival style with ashlar at ground floor, brick and stone dressings at first floor and swept parapets. The buildings illustrate the evolution and development of Bury town centres' commercial and civic influence during the 19th century. As such these buildings possess local heritage significance and represent a strong contributor to the character and appearance of that part of the conservation area.

The proposal is an attempt to turn part of the ground floor of the former RBS and solicitors offices into a retail window display area by increasing the length of the windows from the cill downwards. This would cause visual harm to the proportions of the front elevation of the former RBS building fronting The Rock and would be highly visible in the street scene. It would cause a disharmonious visual rhythm in the fenestrations at the ground floor to The Rock and Union Street elevations. Similarly the proposed increase in the window openings to the ground floor of the former offices fronting Union Street would have the same effect in altering the architectural proportions of the front elevation. The proposed changes would cause harm to the architectural value of the buildings leading to an unacceptable loss of architectural significance to the Non-Designated Heritage Assets.

Conservation Area

The former RBS building and solicitors offices are NDHAs. By virtue of their architectural significance they make a strong contribution to the character and appearance of the conservation area. The harm caused by the proposed changes would not preserve the character or appearance of the conservation area. As such, this would represent less than substantial harm. Whilst there is a public benefit in the provision of eye care and lenses, this is already taking place in the part of the building the applicant currently occupies, also it is not considered that there would be any perceived significant increase in footfall than already exists by virtue of its adjacency to the entrance of the Mill Gate. It is therefore considered there is no public benefit that would outweigh the harm identified to the significance of the NDHAs and character and appearance of the conservation area.

The proposal would either be contrary to or not comply with adopted UDP policies;

EN1/1 - Visual Amenity, EN1/2 - Townscape and Built Design, EN2/1 - Character of

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Conservation Areas, EN2/2 - Conservation Area Control and paragraphs 199, 202, 203 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 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 proposed window alterations by virtue of their design would introduce a disharmonious feature into the Bury Town Centre Conservation Area where it is the intention of the Local Planning Authority to secure a high standard of development in relation to alterations. The proposed window alterations would neither preserve nor enhance the conservation area within which the site is located. The proposal would cause an unacceptable loss of architectural significance to Non-Designated Heritage Assets 40 The Rock and 10 Union Street. The proposal therefore conflicts with the following policies of the Unitary Development Plan: EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control, EN1/1 - Visual Amenity, EN1/2 - Townscape and Built Design and paragraphs 199, 202 and 203 of the NPPF

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Mark Kilby	5/9/23		