

DELEGATED REPORT

Report by Mark Kilby	Date of report: 21/03/2022	Ref: 67341/P3JPA
Registration: 23/07/2021	LDFC: 18/08/2021	Expiry Date: 17/09/2021
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for proposed change of use from upper floor office space to 5 no. residential apartments

Location: 69-87 Bolton Road, Bury, BL8 2AH

Description

An application for prior approval for the conversion of offices in use class B1(a) of the use classes order at the time the application was made before 31st July 2021 to 5 residential units (class C3(a)) of the use classes order under Part 3, Class O of the General Permitted Development Order. The 5 residential units would comprise two 2 bed apartments and three 1 bed apartments. The application site are the first floor offices of approximately 288 square metres above an existing retail unit (former Blockbuster). There are 8 demarcated parking spaces within the application site. The site is bounded to the north west by Bolton Street and beyond a retail/commercial site, to the south and west by commercial uses including Albion Mill and Bury Royal Mail delivery Office.

Development is not permitted by Class O if -

0.1

(a) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—

(i) on 29th May 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

(b) the site is, or forms part of, a safety hazard area;

(c) the site is, or forms part of, a military explosives storage area;

(d) the building is a listed building or is within the curtilage of a listed building; or

(e) the site is, or contains, a scheduled monument.

(1) Development under Class O is permitted subject to the condition that before beginning the development, 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 and highways impacts of the development,

(b) contamination risks on the site,

(c) flooding risks on the site, and

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

(e) the provision of adequate natural light in all habitable rooms of the dwellinghouses. and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date following conditions—

(a) the development must be completed within a period of 3 years starting with the prior approval date; and

(b) the developer must apply for a determination under sub-paragraph (1) on or before 31st July 2021.

Relevant Planning History

21/0405 - Private parking signs -

Publicity

Letter dated 28/7/21 to nearby addresses. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal due to insufficient information regarding adequate parking and bin storage facilities.

Environmental Health - Pollution Control - Required an acoustic noise assessment to be submitted in order to assess the impact of noise from the nearby main road and commercial activities on the potential occupiers of the site.

Pre-start Conditions - None.

Unitary Development Plan and Policies

EN7	Pollution Control
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
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.

The proposed scheme would comply with the permitted development limitations (a) to (e) under paragraph **0.1 above**.

Class O Conditions -

(1) Development under Class O is permitted subject to the condition that before beginning the development, 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 and highways impacts of the development,

The Traffic Team has recommended refusal based on insufficient information as to the adequacy of parking on site and bin storage provision. The parking provision within the application site is demarcated for 8 spaces. Supplementary Planning Guidance 11 - Parking Standards in Bury (SPG 11) guides that parking provision for the existing first floor offices in a high access area as denoted by Appendix 1 of SPG 11 at 1 space per 35m² of floor space would equate to a maximum parking requirement of 8 spaces. The proposal would require as guidance, in a high access area, one parking space per 1 bed unit and 1.5 parking spaces per 2 bed unit equating to a maximum requirement of 6 spaces in total. As such there would an over provision with regard to the guidance set out and would leave sufficient space for bin storage as indicated on the submitted proposed site plan. Therefore it is considered there would no more impact on highway safety or parking provision from the proposed change of use than there would be from the existing use of the site. As such prior approval with regard to transport and highways impacts of the development should not be refused.

(b) contamination risks on the site,

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There would be no ground contamination risks to the proposed development as a first floor location.

(c) flooding risks on the site,

There would be no flood risk to the proposed development as a first floor location.

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

The application site is located in a busy commercial area on a busy main road. The land use context is such that busy commercial activity around the site could have an adverse impact on the living standards of potential occupiers. Environmental Health Services have asked that the applicant submits an acoustic report in order to assess the potential impact on the potential occupiers of the scheme from nearby commercial activities and potential mitigation measures. As a prior approval application the assessment of the impacts of noise from commercial premises on the intended occupiers of the development is required to be assessed as part of the prior approval process, that is, whether or not the prior approval of the local planning authority is required or not with regard to the 5 criteria to be assessed. Therefore such a requirement cannot be set by the imposition of a condition.

The applicant was requested to submit an acoustic report as the local planning authority gave notice of its requirement to give its prior approval. The applicant agreed to the request, but after 6 agreed extensions of time the acoustic report has not been submitted. It was suggested the applicant should withdraw the application until such time the acoustic report could be submitted as part of a re-submission or it would be refused. The applicant was offered the opportunity to discuss further or seek further clarification. At the time of writing the applicant has not responded.

Therefore it is recommended the application should be determined as prior approval is required and refused with regard to insufficient information regarding the potential impacts of noise from commercial premises on the intended occupiers of the development.

(e) the provision of adequate natural light in all habitable rooms of the dwellinghouses. and the provisions of paragraph W (prior approval) apply in relation to that application.

There would be adequate natural light to all habitable rooms of the proposal.

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The prior approval of the local planning authority is required and refused with regard to insufficient information regarding the potential impacts of noise from commercial premises on the intended occupiers of the development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Mark Kilby	21/3/22		