

DELEGATED REPORT

Report by Helen Pressley	Date of report: 04/10/2024	Ref: 70787/FUL
Registration: 09/08/2024	LDFC: 17/09/2024	Expiry Date: 04/10/2024
Site Visit: 04/09/2024	Site Notice: 27/08/2024	Press Date: 22/08/2024
Objections: 2	Con Area: BROO	Adv Type: LBCA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: COUS

Proposal: Change of use from light industrial to restaurant (Use Class E) to include a mezzanine floor, 2 no. extractor fans; replacement and refurbishment of windows and doors; reduce height of part retaining wall and erection of bin store with associated car parking

Location: The Engine Shed, Rowlands Road, Summerseat, Bury, BL9 5QY

Description

The property is a stone building originally used as a warehouse for the transfer of goods to and from the railway with access from the main track via a siding. The rails were removed many years ago and the building was previously used as an engineering workshop. There are large openings at either end of the building and windows in the west elevation. The rear of the building is built into a wooded banking to the rear. The land to the other 3 sides of the building is generally level with vehicular access from Rowlands Road which slopes downwards to pass under the railway bridge with a stone retaining wall to the site boundary. The building is a Grade II listed building and part of the application site is located within the Brooksbottoms/Rowlands Conservation Area.

Permission was granted in March 2009 and renewed in May 2012 for the change of use of the building to a restaurant and associated works. In August 2013 an additional mezzanine floor along the internal eastern elevation was also granted permission.

Planning permission is sought for the change of use from light industrial to restaurant, with a mezzanine floor, replicating the now extant previous applications at the site. The proposal seeks to retain the existing internal crane, as well as the platform. The existing single glazed timber windows would also be retained, with secondary glazing fitted internally.

The proposed development would be accessed from the existing access on Rowlands Road and a car park would be located to the south and west of the building. The proposal involves the lowering of the retaining wall along Rowlands Road.

The application is partially retrospective with internal works to facilitate the works undertaken.

Relevant Planning History

45949 - Conversion of building to two dwelling houses (option 1) at former Railway Goods Shed, Rowlands Road, Summerseat. Refused - 31 March 2006.

The application was refused as there would have been a loss of employment premises in conflict with UDP Policy EC2/2 and loss of historic character of the building contrary to Policy EN2.

45950 - Conversion of building to dwelling house (option 2) at former Railway Goods Shed, Rowlands Road, Summerseat. Refused - 31 March 2006

The application was refused for the same reasons as above.

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45951 - Conversion of building to four dwelling houses (option 3) at former Railway Goods Shed, Rowlands Road, Summerseat. Refused - 31 March 2006.

The application was refused for the same reasons as above.

48322 - Refurbishment, modification and conversion of existing former railway goods shed to provide live/work units comprising 2no. workshops at ground floor level and 2 no. 3 bed apartments at first and second floor levels; associated site works at former Railway Goods Shed, Rowlands Road, Summerseat. Withdrawn - 15 November 2007

48332 - Refurbishment, modification and conversion of an existing former railway goods shed to provide live/work and residential units, comprising 1 no. workshop at ground floor level with 1no. 3 bedroom apartment over at first/second floor level and 2 no. 3 bedroom dwellings; associated site works at former Railway Goods Yard, Rowlands Road, Summerseat. Withdrawn - 15 November 2007

50794 - Change of use from industrial to restaurant (use class A3) at Former Railway Goods Yard, Rowlands Road, Summerseat. Approved with conditions - 25 March 2009

50795 - Listed building consent - change of use from industrial to restaurant (use class A3) at Former Railway Goods Yard, Rowlands Road, Summerseat. Approved with conditions - 25 March 2009

50968 - Removal of operational crane and re-installation in Castlecroft Warehouse (Grade II listed building), Bury at Former Railway Goods Yard, Rowlands Road, Summerseat. Refused - 23 March 2009.

54956 - Application to extend the time limit of planning permission 50794 for change of use from industrial to restaurant (use class A3) at Former Railway Goods Yard, Rowlands Road, Summerseat. Approved with conditions - 22 May 2012

54957 - Listed building consent - to extend the time limit of planning permission 50795 for change of use from industrial to restaurant (use class A3) at Former Railway Goods Yard, Rowlands Road, Summerseat. Approved with conditions - 22 May 2012

55824 - Change of use from light industrial (Class B1) to restaurant (Class A3) to include a mezzanine floor at Former railway goods yard, Rowlands Road, Summerseat. Withdrawn - 1 February 2013.

55825 - Listed building consent - change of use from light industrial (Class B1) to restaurant (Class A3) to include a mezzanine floor at Former railway goods yard, Rowlands Road, Summerseat. Withdrawn - 1 February 2013.

56397 - Change of use from light industrial (Class B1) to restaurant (Class A3) to include a mezzanine floor (resubmission) - Approve with Conditions 21/08/2013

56398 - Listed building consent - change of use from light industrial (Class B1) to restaurant (Class A3) to include a mezzanine floor (resubmission) at the Engine Shed, Rowlands Road, Summerseat.- Approve with Conditions 21/08/2013

70788 - Listed building consent for change of use from light industrial to restaurant (Use Class E) to include a mezzanine floor, 2 no. extractor fans; replacement and refurbishment of windows and doors; reduce height of part retaining wall and erection of bin store with associated car parking - Pending

Publicity

Letters sent to neighbouring properties on the 15th August 2024.

Site Notice 27/08/2024

Press Notice in the Bury Times 22/08/2024

2 objections received in relation to:

- Listed Building and Conservation Area.
- Village already well served with restaurants, pubs, cricket club and garden centre.
- Indian restaurant has no place in this setting.
- Signage, Lighting, cooks smells, car park, increased traffic is not beneficial to village.
- Bin store placed on roadside will create litter and attract rodents.
- Already drainage problems on site. What will be done to car park causing flooding?
- Applicant did not progress previously due to building costs. Will no double be back in a few years for resubmission.
- Fabric of Engine Shed deteriorating.
- There needs to be an additional plan to show, or a clear statement made, that drainage within and through the site must be maintained, as it forms an element of the natural drainage of about 120,000 square metres of the cricket ground and farmland at higher level, to the east of the site, discharging into a culvert under the site and into the River Irwell. This drainage is not included in the plans submitted.

1 comment received in relation to:

- Where are the Conservation Officer's comments
- Can I also point out that this building which dates back to around 1850 was never an engine shed. Is this historical inaccuracy something that the conservation officer might be concerned about?

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions in relation to implementation of the visibility splay improvements, turning facilities and car parking.

Waste Management - no response

Environment Section - conditions requested in relation to the submission of a remediation strategy and verification plan, and EV chargepoints

Environmental Health - Pollution Control - request for condition in relation to the installation of an appropriate flue.

Conservation Officer - The proposal would have a neutral impact on the Conservation Area and would preserve the historic and architectural interest of the Listed Building.

Listed buildings - National Amenity Societies - no response

Greater Manchester Ecology Unit - Potential ecological issues include bats, nesting birds, invasive species and biodiversity net gain.

Borough Engineer - Drainage Section - no response

United Utilities (Water and waste) - no response

Pre-start Conditions - Agent has agreed with pre-start conditions

Development Plan and Policies

EC2/2	Employment Land and Premises
EN1/2	Townscape and Built Design
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN2/3	Listed Buildings
EN6/3	Features of Ecological Value
H3/1	Assessing Non-Conforming Uses

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EN7/2	Noise Pollution
OL1/4	Conversion and Re-use of Buildings in the Green Belt
OL5/2	Development in River Valleys
RT4/1	Tourism Development
RT4/6	East Lancashire Railway
S2/6	Food and Drink
HT2/4	Car Parking and New Development
SPD 9	Conversion and Re-use of Buildings in the Green Belt
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework
JP-P1	Sustainable Places
JP-P2	Heritage
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-S2	Carbon and Energy
JP-S4	Flood Risk and the Water Environment
JP-G9	The Green Belt

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.

Principle (Green Belt)

Paragraphs 152 and 153 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the NPPF states that the construction of new buildings in the Green Belt should be regarded as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

Paragraph 155 of the NPPF states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order

Policy OL1/4 states that the conversion and re-use of buildings in the Green Belt is not inappropriate development and will be permitted providing that it would not have a materially greater impact upon the openness of the Green Belt, the buildings are permanent and capable of conversion without major reconstruction and the form, bulk and general design are in keeping with their surroundings.

PfE Policy JP-G9 - The Green Belt confirms the extent of the Green Belt within the

Borough and confirms the five purposes of including land within the Green Belt. The beneficial use of the Green Belt will be enhanced where this can be achieved without harm to its openness, permanence or ability to serve its five purposes. In particular, the enhancement of its green infrastructure functions will be encouraged, such as improved public access and habitat restoration, helping to deliver environmental and social benefits for our residents and providing the high quality green spaces that will support economic growth.

The proposed development would not involve any additions or external alterations to the building and the bulk, form and design of the building would be acceptable. The building is structurally sound and is capable of conversion with some minor construction works, including the proposed mezzanine level. The likely traffic generation will be discussed later in the report. The principle of development was established with the grant of planning consent in 2009, 2012 and 2013 and the external appearance would be the same. Therefore, the proposed development would have no greater an impact upon the openness of the Green Belt and would be in accordance with Policy OL1/4 and the NPPF.

Principle (Employment)

UDP Policy EC2/2 states that the Council will seek to retain existing employment land and premises except where it can be clearly demonstrated that the site or premises is no longer suitable in land use terms. In such circumstances consideration will be given to alternative uses, providing it does not conflict with the surrounding area and other policies.

The building is currently vacant and was previously used as a workshop, which employed one person some years ago.

This site has been previously assessed in relation to inclusion within an Employment Land Review. The result of this assessment shows that the application site is no longer suitable from a land use perspective for continued employment use and if it had been included within the review, this site would have been identified as one that could be released for other uses. Therefore, the proposed development would not conflict with the aims of Policy EC2/2 of the adopted Unitary Development Plan.

Use

UDP Policy S2/6 states that the Council will assess any proposal involving restaurants with regard to the following:

- the amenity of nearby residents by reason of noise, smell and opening hours;
- whether the proposal would lead to a over concentration of uses, which could change the character of the area as a whole;
- parking and servicing provision;
- the environmental impact of any flues or ducting

The proposed development would be the only restaurant use within the immediate locality. It is acknowledged that there are other establishments within the Summerseat area. However, these are over 500 metres away point to point and the proposed development would not lead to an over concentration of such uses. Given the distance involved, the proposal would not have an adverse impact upon the amenity of neighbouring residents; would provide adequate on-site refuse disposal and the proposed ducting and flues would be located on the western elevation, which is least visible. The issues relating to parking and servicing arrangements is discussed below. Therefore, the proposed development would be in accordance with Policy S2/6 of the adopted Unitary Development Plan.

UDP Policy RT4/1 states that the Council will encourage the proposals for the development of appropriate visitor related attractions and facilities throughout the borough and UDP Policy RT4/6 states that the Council will encourage and support proposals for the further development and enhancement of the facilities associated with East Lancashire Railway.

The agent has submitted information in the Design & Access Statement that it is proposed

to have links between the proposed restaurant and the East Lancashire Railway. It is hoped that the proposed restaurant would contain railway memorabilia, including the crane, which is part of the listing of the building and it is considered that the proposed development would provide a visitor related facility, which would enhance the facilities associated with the East Lancashire Railway. Therefore it is considered that the proposed development would be in accordance with Policies RT4/1 and RT4/6 of the adopted Unitary Development Plan.

Design, Layout and Heritage

UDP Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. PfE Policy JP-P1 Sustainable Places aims to promote a series of beautiful, healthy and varied places.

As the site is located within Brooksbottoms, Rowlands Conservation Area it is necessary to consider the proposal in terms of UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control that seek to preserve and enhance the special character or appearance of an area. Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The application building is also a 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.

This is further supported by UDP Policy EN2/3 Listed Buildings requires the Council to actively safeguard the character and setting of Listed Buildings, not permitting works, alterations or changes of use which would have a detrimental impact on the historical character or features of the building.

The proposed development would lead to the re-use of the building as a restaurant and would retain the historic platform and the crane, which are important to the historic character of the building. The external openings would remain unchanged in terms of size and as such, the proposed development represents a viable re-use of an existing building, which would be consistent with their conservation. The proposed kitchen, toilets and storage areas would be located over three floors in the northern quarter of the building. The proposed addition has been carefully designed so that purlins and trusses within the roof structure would still be visible to customers. The proposed flues would be located within the roof of the eastern elevation, which would be the least visible elevation.

The engine shed door would be replaced with two doors fixed within a timber frame. The proposed doors within the timber frame would be partially screened by the trees and the topography of the land and would not be unduly prominent. The remaining two doors would incorporate glazed doors, a glazed section at the top with signage in between. The internal sliding door on the south elevation would be retained in a permanently open position to allow this feature to be viewed in relation to the original building. It is considered that the materials and approach would preserve the special character and historic character of the listed building or the conservation area.

The remaining existing timber windows on the west, south and north elevation will be retained as existing, with single glazing. Secondary glazing is proposed to be fitted internally which would maintain the appearance of the windows externally.

The proposed mezzanine level would be located along the eastern elevation above the platform and would be some 1 metre from the crane. The proposed mezzanine has been sited so as to allow the crane and full height of the building to be viewed.

The existing chain link fence, which runs along the boundary with the railway line is to be retained. There is a stone retaining wall, which forms the boundary of the site with Rowlands Road varies from 1.2 metres to 4.2 metres in height. It is proposed to reduce the height of the wall to 0.1 metres above ground level, to create a better visibility splay along Rowlands Road. The existing castellated coping stones would be retained and reused on the lowered wall.

The existing curved stone wall to the north elevation of the building would be retained, and partially utilised to provide a bin store, with an area of timber boarding to the front to enclose the bins from public view.

Externally the proposed carparking would be located to the south and west of the building, utilising the former yard area. Disabled parking would be located to the north and south of the building closest to the proposed entrance doors. Trees are proposed to be retained along the embankment to the north and south of the building as existing. The stone setts to the north of the building are to be retained and extended adjacent to Rowlands Road.

External alterations to the building and landscaping including boundary treatment are considered to be neutral in impact on the character and appearance of the conservation area and as such this would be preserved.

The proposed internal alterations and change of use are considered acceptable as they would preserve the historic and architectural interest of the building and its legibility as an engine shed. In so doing it would bring a nationally significant heritage building back into a sustainable and viable use compatible with its conservation.

It is therefore considered that the proposal would comply with the Policy considerations set out above.

Amenity

UDP Policy EN1/2 seeks to ensure that proposals for development are considered in relation to their relationship to the surrounding area, and the use of lighting. This is further supported by UDP Policy EN7/2 that restricts development that would lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users. UDP Policy H3/1 confirms that the council will assess non-conforming uses and will take into consideration noise, vibration, smell, fumes, smoke, soot, ash, grit, dust, visual intrusion, hours of operation and traffic generation and parking.

The proposed flues for the kitchen and toilets would be located on the roof of the eastern elevation. The land to the east of the application site banks up quite steeply and is approximately 3.5 metres higher than the building. Any fumes would be likely to be dispersed into the banking. In addition to this Environmental Health have requested conditions in relation to the specification of the installation of the flue to prevent noise and smells.

The nearest residential property is 115 metres away. It is considered that the noise levels from the proposed development would not be significantly higher than that previously approved. Therefore, the proposed development would not have an adverse impact upon the amenity of the neighbouring properties, subject to the inclusion of a condition restricting the opening hours. Therefore, the proposed development is in accordance with Policies EN7/2 and H3/1 of the adopted Unitary Development Plan.

Highways and Parking

Policy EN1/2 requires the consideration of the design and appearance of access, parking and service provision. PfE Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport.

The current access to the site is off Rowlands Road, which is to the north of the railway bridge. The existing retaining wall would be reduced in height from 1.2 metres to 0.1 metres above the ground level of the goods shed, which will greatly increase visibility at the junction with Rowlands Road. Therefore, it is considered that the proposed development would increase visibility at the junction of the access with Rowlands Road and would not have a detrimental impact upon highway safety.

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.

SPD11 states that the maximum parking standard for a restaurant use is 1 space per 7 square metres of public floor area, which equates to 38 parking spaces.

The proposed development would provide 34 spaces, including 3 disabled parking bays adjacent to the building. It is considered that the proposed development would provide an acceptable level of parking provision and the proposed development would not be detrimental to highway safety. Therefore, the proposed development would be in accordance with Policy HT2/4 of the Bury Unitary Development Plan and SPD11.

Ecology and BNG

Policy JP-G8 states that through local planning and associated activities a net enhancement of biodiversity resources will be sought. This is supported by Policy EN6/3 that seeks to retain, protect and enhance the natural environment and seeks to retain features of ecological or wildlife value. Paragraph 180 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. Policy EN8/2 supports and encourages new woodland and tree planting within the borough. This is further supported by Policy JP-G7 that aims to significantly increase tree cover and requires 2no. replacement trees for each tree lost or other measures that would also result in a net enhancement in the character and quality of the treescape and biodiversity value in the local area.

Bats

A valid bat report has been provided. There has now been a long history of bat surveys for this building, with low numbers of bats recorded roosting on most occasions. The presence of bats using the building as a roost was again confirmed, with a common pipistelle day roost identified. Given the species identified, low number of bats and previous site history, GMEU have confirmed that the conservation status of this bat species in the locality can be maintained and mitigated.

Other Protected Species

Badger are likely present in the locality but given the nature of the development GMEU considered that the badger are unlikely to be harmed. It is very unlikely that any other protected species are present within the zone of influence of the development. A precautionary informative is therefore proposed.

Nesting Birds

No evidence of birds having nested in the building was recorded. Trees and shrubs are however present along the eastern boundary and Ivy also appears to be present on the building potential bird nesting habitat. A condition to restrict tree works within nesting season is therefore proposed.

Other Wildlife

The vegetation around the building provides potential cover for species such as hedgehog. The site is however, small with vegetation apparently restricted to early successional vegetation, google earth indicating periodic clearance around the building down to bare ground and hard standing. I am therefore satisfied that the risk of harm is low and can be

dealt with via an informative along the following lines.

Himalayan Balsam

This species listed under schedule 9 part 2 of the Wildlife & Countryside Act 1981 (as amended) is located on the site and in the adjacent woodland. It is an offence to cause species such as Himalayan balsam to spread in to the wild. Permanent eradication is unreasonable given the seed source on the adjacent land. Measures should however be put in place to control the species on the site so as to reduce the risk of seed being carried off-site by contractors and any future customers and this can be secured via condition.

Protection of Trees and Woodland During Construction

The woodland to the east is recorded as priority habitat. GMEU are satisfied that the measures to protect the woodland in the arboricultural method statement are adequate to prevent damage to the woodland, given the nature of the development. Implementation of this statement can be secured via condition.

The proposed parking is to be located on existing hard standing which is heavily compacted to the sites previous use. The submitted arboricultural report considers that the proposed car parking will therefore have no detrimental impact on the adjacent woodland belts. No trees are proposed to be removed as part of the development.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)

While every grant of planning permission in England is deemed to have been granted subject to the biodiversity gain condition, commencement and transitional arrangements, as well as exemptions, mean that certain permissions are not subject to biodiversity net gain.

Biodiversity net gain does not apply to retrospective applications made under section 73A of the town and country planning act as a pre-commencement condition cannot be applied to an application that has already commenced. The Planning practice guidance on biodiversity net gain also confirms that it would be inappropriate for decision makers to continue to give weight to aspects of existing local policies related to biodiversity gains which are inconsistent with the statutory framework for biodiversity net gain.

The development will however result in the loss of early successional habitats, to be replaced with a car park, with soft landscaping proposed between the woodland and the car park.

A biodiversity net gain assessment has been provided that indicates 10% BNG is achievable on the site. With regards the post development habitat, the development is reliant on the existing woodland on the site being enhanced to good condition from moderate. This is relatively high risk proposal, though not impossible given the that mature trees are already present. Given that BNG is not mandatory on this site a condition to ensure that landscaping at the site is undertaken in accordance with the submitted BNG assessment is proposed.

Mitigation for bats and nesting birds should also be provided.

Drainage

PfE Policy JP-S4 and UDP Policies EN7/3 and EN7/5 seek to protect the water courses and other water features within the Borough, and limit surface water pollution. A condition has therefore been proposed to submit details of a surface water drainage scheme and a foul water drainage scheme prior to commencement of any further development.

Permitted Development

Due to the sensitive nature of the site, and the considerations set out above in relation to the proposed use it is considered that permitted development rights should be removed for permitted changes of use, and extensions to the building to ensure that the historic interest and character of the site is maintained.

Carbon and Energy

Policy JP-S2 sets out the steps required to achieve net zero carbon emissions. Listed buildings or buildings in conservation areas are not exempt from complying with building regulations. However, the special needs of historic buildings are recognised in some of the building regulations' approved documents. The proposed conversion works could therefore comply with Part L and as such it is considered that the application complies with the intentions of JP-S2.

Due to the sensitive nature of the site, no EV chargepoints have been conditioned as part of this application. It is considered that they would be an overly urban and contemporising addition and detrimental to the historic character and setting of the Listed Building.

Digital Connectivity

Policy JP-C2 requires all new development to have full fibre to premises connections unless technically infeasible and / or unviable.

It appears fibre is available within the vicinity of the site, and can be installed at the site should the applicant require it.

Response to representation

It is considered that the material planning considerations have been addressed within the main body of the report.

The proposal would bring a vacant building back into use and prevent further deterioration of a Listed Building. The proposal is considered to be acceptable in land use and Conservation terms and is therefore being recommended for approval.

The Conservation Officer's were published online once received by the Case Officer.

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 This decision relates to drawings numbered PM10-00, PM10-01A, PM10-02A, PM10-03, PM10-04A, PM10-05, PM20-06B, PM10-07B, PM10-08, PM10-09A, PM10-10B 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 and Places for Everyone Joint Development Plan listed.
- 2 No development hereby permitted (except demolition and site clearance) within any approved phase shall take place until the works relating to land contamination detailed below are fully completed:
In accordance with the findings of site characterisation and risk assessment as

previously approved, documents from the following shall be submitted to the Local Planning Authority for approval:

- I. Remedial Options Appraisal.
- II. Remediation Strategy.
- III. Verification Plan.

Reason. To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims and Paragraphs 180(f), 189 and 190 of the National Planning Policy Framework (December 2023).

- 3 The development hereby permitted within any approved phase shall not be occupied/brought into use until the works relating to land contamination detailed below are fully completed:
Where remediation is required, it shall be carried out in full accordance with the approved Remediation Strategy.
A Verification Report must be submitted to the Local Planning Authority for approval upon completion of remediation works. The Verification Report must include information validating all remediation works carried out; details of imported materials (source/quantity/suitability); details of exported materials; and details of any unexpected contamination.

Reason. To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims and Paragraphs 180(f), 189 and 190 of the National Planning Policy Framework (December 2023).

- 4 No further development shall commence unless and until a scheme for treating, diluting and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements.

The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

- 5 Following the provisions of Condition 4 of this planning permission, the installation shall be so designed such that the maximum noise emitted does not exceed NR25 (Noise Rating) in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.

The scheme as approved shall be fully implemented and all equipment installed shall be used and maintained in accordance with the manufacturers and installers instructions.

Reason. To protect the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

- 6 The conversion of the building is likely to cause harm common pipistrelle bats as identified in the Dusk Survey Results, Tyrer Ecological Consultants Ref: PR-0247-24 , and shall not in any circumstances commence unless the local planning authority has been provided with either:

1. a license issued by Natural England pursuant to Regulation 55, of the Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development go ahead: or
2. a statement in writing form the relevant licensing body or LPA to the effect that it does not consider that the specified development will require a license

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value of the Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 7 No works to trees or shrubs shall occur or demolition commence between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value of the Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 8 No further development, or vegetation clearance shall commence unless and until measures to control himalayan balsam during and post construction is submitted to and approved in writing by the Local Planning Authority. The approved management plan shall include a timetable for implementation.

Reason. The scheme does not provide full details of the actual extent of Himalayan Balsam in the interest of Development Plan Policy JP-G1 - Landscape Character and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 9 All trees to be retained on site shall be protected in accordance with the approved Arboricultural Method Statement TRE/TOES/RevA and BS 5837:2012 "Trees in relation to design, demolition and construction". The development shall not commence unless and until the measures required by the British Standard are implemented and all measures required shall remain in situ until the development has been completed.

Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design, JP-G7 - Trees and Woodland and EN8/2 – Woodland and Tree Planting of the Development Plan.

- 10 The post development habitat plan contained within the Biodiversity Net Gain Assessment dated August 2024 hereby approved shall be implemented not later than 12 months from the date the building is first occupied. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 11 A bat and nesting bird mitigation scheme that includes bat and bird boxes shall be submitted to, and approved by the Local Planning Authority prior to the commencement of further development. The contents of the plan should include the details of the bat mitigation licence requirements from Natural England. The approved scheme shall thereafter be implemented not later than 12 months from the date the building is first occupied.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 – Features of Ecological Value of the Development Plan and Section 11 of the National Planning Policy Framework.
- 12 The development hereby approved shall not be commenced unless and until the visibility improvements indicated on the approved plan reference PM10-02 Revision A have been implemented and subsequently maintained free of obstruction above the height of 0.1m above upper ground level in perpetuity.
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to Development Plan Policies EN1/2 - Townscape and Built Design, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.
- 13 The servicing and turning facilities indicated on approved plan reference PM10-02 Revision A shall be provided before the use hereby approved is commenced and subsequently maintained free of obstruction at all times.
Reason. To ensure adequate turning movements of vehicles within the site on the highway in the interests of highway safety pursuant to Development Plan Policies EN1/2 - Townscape and Built Design, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.
- 14 The car parking indicated on approved plan reference PM10-02 Revision A shall be surfaced, demarcated in a form suitable for use in a gravel surfaced car park and made available for use prior to the development hereby approved being occupied and thereafter maintained at all times
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 15 No further development shall commence unless and until surface water drainage proposals have been submitted to and approved in writing by the Local Planning Authority. The scheme should be in accordance with the submitted Surface Water Sustainable Drainage Assessment and must be based on the hierarchy 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). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. Details of proposed maintenance arrangements should also be provided. The approved scheme only shall be implemented prior to first occupation and thereafter maintained.
Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution pursuant to Development Plan Policies JP-S4 - Flood Risk and the Water Environment, 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.
- 16 A plan indicating the full extent of the proposed setts, including details/samples of

the setts and the materials for the hardstanding areas, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before further development is commenced. All existing setts shall be retained in their original position.

Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policies EN1/2 - Townscape and Built Design, EN2/1 Character of Conservation Areas EN2/2 - Conservation Area Control and EN2/3- Listed Buildings of Bury Unitary Development Plan..

- 17 The premises shall be used for Class E(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises, only and for no other purposes, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or as subsequently amended.

Reason. To preserve the Character of the Conservation Area and the historic and architectural interest of the Listed Building pursuant to policies of the Unitary Development Plan listed below:

EN2/1 - Character of Conservation Areas

EN2/2 - Conservation Area Control

EN2/3 - Listed Buildings

- 18 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Class A of Part 7 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.

Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed:

EN2/1 - Character of Conservation Areas

EN2/2 - Conservation Area Control

EN2/3 - Listed Buildings

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	04/10/2024	HL	04/10/24