

DELEGATED REPORT

Report by Helen Leach	Date of report: 20/11/2025	Ref: 72415/P3JPA
Registration: 25/09/2025	LDFC: 21/10/2025	Expiry Date: 20/11/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: BURY	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 of first floor from commercial (Class E) to 1 no. flat (Class C3)

Location: First floor, 62 Bolton Street, Bury, BL9 0LL

Description

The application site relates to two storey terraced property, which is in commercial use. The building is constructed from red brick with a slate and flat roofed.

It should be noted that the property has been extended at first floor level and was substantially complete in April 2025. Whilst there is no planning consent in place, the Council considers that the extension is immune from enforcement action.

The applicant seeks prior approval for the change of use of first floor from commercial (class E) to 1 flat (Class C3).

Relevant Planning History

Adjacent site

60806 - Change of use from solicitors office (Class A2) to private hire taxi booking office (Sui Generis) at 60 Bolton Street, Bury. Refused - 12 January 2017

61300 - Change of use from solicitors office (Class A2) to private hire taxi booking office (sui generis) at 60 Bolton Street, Bury. Approved with conditions - 23 May 2017

65381 - Change of use from sui generis to A2 office at 60 Bolton Street, Bury. Approved with conditions - 25 May 2020.

65509 - 1 non illuminated fascia sign at 60 Bolton Street, Bury. Approved with conditions - 8 July 2020

72169 - Prior approval for proposed change of use from first floor office (Class E) to 1 no. flat (Class C3) at First floor, 60 Bolton Street, Bury. Prior approval required and granted - 8 September 2025.

Publicity

The neighbouring properties were notified by means of a letter on 29 September 2025. There has been no response.

Statutory/Non-Statutory Consultations

Traffic Section - Need confirmation that Waste Management are happy with the bin storage/collection arrangements.

Environmental Health - Pollution Control - No objections, subject to the inclusion of a condition relating to noise mitigation measures.

Conservation Officer - No response.

Land & Property - No response.

Pre-start Conditions -Not relevant.

Development Plan and Policies

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PfE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Legislative framework -

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

(a) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

(b) if land covered by, or within the curtilage of, the building—

- (i) is or forms part of a site of special scientific interest;
- (ii) is or forms part of a listed building or land within its curtilage;
- (iii) is or forms part of a scheduled monument or land within its curtilage;
- (iv) is or forms part of a safety hazard area; or
- (v) is or forms part of a military explosives storage area;

(c) if the building is within—

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

(d) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

(e) before 1 August 2022, if—

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

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

(a) the following classes of the Schedule as it had effect before 1st September 2020—

- (i) Class A1 (shops);
- (ii) Class A2 (financial and professional services);
- (iii) Class A3 (food and drink);
- (iv) Class B1 (business);
- (v) Class D1(a) (non-residential institutions – medical or health services);
- (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
- (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Article 3 (5) states that a building cannot benefit from permitted development rights if, in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful.

Whilst the proposal would comply with all the limitations and conditions set out above, the

building has been extended without the benefit of planning permission. The first floor, flat roofed extension connects the rear of the pitched roof to the outbuildings. Without this extension, rooms 1E3 and 1E4 on the existing floor plans would not be present. Aerial photographs on google earth indicate that this extension was substantially complete in April 2021 and as such, would be immune from enforcement action and lawful. Therefore, despite there being no planning consent in place, the first floor extension would be considered as lawful and the building would benefit from permitted development rights.

The submitted plans indicate that the external staircase would be changed and rotated as shown on the lawfully submitted plans as part of the initially submitted scheme. The regulations do not allow for any external alterations and as such, the proposed development would not comply with the limitations of Class MA.

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

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

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

There is no vehicular access to the site and there is therefore no issue with the site access. The proposed use of 4 flats would not be expected to generate large enough amounts of traffic to cause access issues when compared to the possible class E uses which could occur if the building was to be brought back into use

The proposed flat would be accessed via an external staircase, which is located in the rear yard. The rear yard can only be accessed through the adjacent property (No. 60) and this land is outside of the red edge. As such, it is not clear how access could be obtained to the proposed flat.

Similarly, the bin storage would take place in the rear yard. The Traffic Section have raised concerns about the bin storage/collection arrangements. Whilst it is not clear from the proposed plans how access would be obtained to move the bins on collection day, this is not an issue that is covered by the transport impacts of the development.

(b) contamination risks in relation to the building;

Whilst there has been no response from the Contaminated Land section, as the conversion relates to an existing building, it is unlikely that the proposal would have any adverse impacts upon contamination issues.

(c) flooding risks in relation to the building;

The site is not in a flood zone.

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

Although a noise survey has not been carried out at the premises, the properties below and to the side are not noise generating and the agent has stated that the premises would be insulated in accordance with current building regulations. Environmental Health - Pollution Control has no objections, subject to the inclusion of a condition relating to noise. Given the nature of the proposal, its scale and siting, this is considered to be acceptable.

(e) where—

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

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

area;

The building is located within the Conservation Area but would not involve the conversion of the ground floor. As such, the proposed development would not be impacted by this clause.

(f) Provision of adequate natural light in all habitable rooms

The proposed living room would not have any natural light. The proposed roof plan shows two rectangles on the roof. But as there are no roof lights on the proposed rear elevation, it is assumed that these are not rooflights. As such, the proposed development would not provide an adequate level of natural light in this habitable room.

Nationally Described Space Standards - The floor space of the proposed flat would be 59 square metres, which would exceed the 50 square metres threshold for a 1 bedroom, 2 person dwelling. The proposed bedroom would have 15 square metres and would be 4.5 metres wide, which would exceed the relevant standards. However, the proposed floor plan does not include any storage and 1.5 square metres would be required. As such, the proposed development would not comply with the Nationally Described Space Standards.

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

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

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

(i) a registered nursery, or

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

There would be no loss of such provisions.

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

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

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The proposal requires operational development which is not permitted under Class MA i.e. the relocated external staircase.
- 2 The proposed development would not provide adequate level of natural light to the lounge, which is a habitable room.
- 3 The proposed development would not comply with the Nationally Described Space Standards.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 20/11/2025		DM - 20/11/2025	

