

DELEGATED REPORT

Report by Mark Kilby	Date of report: 19/05/2022	Ref: 68150/FUL
Registration: 25/03/2022	LDfC: 28/04/2022	Expiry Date: 20/05/2022
Site Visit: 06/04/2022	Site Notice: 06/04/2022	Press Date: 31/03/2022
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: MIOT

Proposal: Proposed roller shutters

Location: 3 The Rock, Bury, BL9 0JP

Description

The application site is former WoWComix shop on The Rock (no.3). The site is within Bury Town Centre Conservation Area. The building is also considered to be a Non-Designated Heritage Asset (NDHA).

The application is for a proposed solid steel roller shutter with associated frame and box.

The conservation area was designated in 1978 and currently is on the Historic Englands At Risk Register. An appraisal of the conservation area was published in 2007 which also included recommendations to protect the historic interest. The application site is part of a specified Character Area identified by the appraisal which says *"As the main road to Bury from the east, The Rock was one of the earliest areas in the town to be settled and developed. No pre-Victorian buildings survive, but, as a busy commercial street, the layers of Victorian, Edwardian, Art Deco and later architecture provide a varied and interesting streetscape. The scale is predominantly three or four storeys, with buildings hugging the street line and following the gentle curve eastwards from the Market Place.*

The appraisal has identified a number of issues that have caused harm to the conservation area: inappropriate alterations and additions to buildings including alarm boxes, aerials, satellite dishes. It recommends that original shop fronts contribute to the conservation area and as such they should be retained.

A review of the conservation area was presented to the Planning Control Committee in March 2019 and its content noted without further recommendations or amendments. It reported that since the 2007 appraisal, for various factors, the issues identified in that report were still current and said and the original recommendations were still valid. A number of additional recommendations were identified with regard to opportunities for HL funding and tighter controls on shop fronts, advertisements and street furniture.

Relevant Planning History

52487 - New shop front - Approve with Conditions 30/06/2010

Publicity

Letter dated 25/3/22 to nearby addresses, Site Notice 6/4/22, Press Notice 31/3/22. No objections or comments received.

Statutory/Non-Statutory Consultations - None.

Pre-start Conditions - None.

Unitary Development Plan and Policies

EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN1/1	Visual Amenity
EN1/8	Shop Fronts
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.

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 conservation areas.

EN1/8 - Shop Fronts - The Council will seek to ensure that proposals for new and altered shop fronts properly respect the architectural elements of the building and the character of the surrounding street scene. Proposals which are unsympathetic to the building or its surroundings or which break up a harmonious group of buildings will not be permitted.

Retention of Roller Shutter - Very few historic shop fronts have survived in this part of the conservation area. However this part of the conservation area is characterised at ground floor level by modern shop fronts with large display windows. Only two premises in that part of the conservation have installed a roller shutter, Cash Converters and Your Move, both without the benefit of planning permission, but now immune from planning enforcement.

The applicant in their heritage statement does not describe the significance of the conservation area, or the retention of the roller shutters' potential impact on it. As such it would not comply with paragraph 194 of the NPPF.

The roller shutter would represent less than substantial harm to the character and appearance of the conservation area. As such in accordance with paragraph 202 of the NPPF any harm should require clear and convincing justification and be weighed against the public benefits. No clear and convincing justification or public benefit has been advanced by the applicant.

The solid steel roller shutter would represent an alien and incongruous feature in the conservation area. It would not be harmonious in the street scene, would create a dead frontage when in the closed position and would give the shop a utilitarian character and even when open the shutter box and frame would have the same visual effect on the street scene. As such the the roller shutter would have a negative effect and therefore would not preserve or enhance the character and appearance of the conservation area.

Its poor design and utilitarian appearance would harm the overall appearance of the building not relating to its original architectural features and masking the display window at ground floor level causing severe harm to its architectural aesthetic. As such it would not preserve the significance of the NDHA.

The conservation area is on Historic England's At Risk Register and in danger of losing its designation and as such consideration of a proposal that incorporates further inappropriate development would further erode its special character and appearance, further increasing the risk of loss of designation.

As such it would be a negative feature in the conservation area and on the building itself contrary to the aims of the 2007 Appraisal and subsequent review. The retention of the roller shutter would be contrary to adopted UDP policies EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control, EN1/2 - Townscape and Built Design, EN1/8 - Shop Fronts and paragraphs 194, 199, 202, 203, 206 of the NPPF.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed roller shutter would be an incongruous and alien feature in that part of the conservation area and would represent a negative feature in it. The proposal would neither preserve or enhance the traditional character or appearance of the Conservation Area or bring any public benefit. The utilitarian appearance of the solid roller shutter would harm the overall appearance of the building not relating to its

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original architectural features and masking the display window at ground floor level causing severe harm to its architectural aesthetic. The proposal therefore conflicts with the following policies of the Unitary Development Plan: EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control, EN1/8 Shop Fronts, EN1/2 -Townscapeand Built Design, EN1/1 - Visual Amenity and paragraphs 194, 199, 202, 203, 206 of the National Planning Policy Framework

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Mark Kilby	19/5/22		