

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 24/07/2024	Ref: 70721/FUL
Registration: 12/06/2024	LDfC: 04/07/2024	Expiry Date: 07/08/2024
Site Visit: 14/06/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from 2 no. flats (Class C3) to office and storage space (Class E)

Location: 40 Birch Street, Bury, BL9 5AL

Description

The site relates to an end residential terraced property which comprises two flats on a short row of 2 other dwellings. Directly adjacent to the site is a yard area which is in the ownership of the applicant and used for parking.

The area is mixed in character with some residential to the north and east and the majority of the other properties opposite to the south and to the west in commercial and industrial uses.

The application seeks the change of use of the terraced property from 2 no flats to office and storage space.

The applicant owns the adjacent commercial building and yard and the offices would be in association with the existing business.

Bins would be located in the yard area.

Relevant Planning History

53244 - Change of use from office to ground floor flat. - Approve with Conditions
09/12/2010

Publicity

Letters sent to 9 adjacent properties on 13/6/24.
No responses received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection

Environmental Health - Pollution Control - No comments

Waste Management - No response received.

Pre-start Conditions - Not relevant

Development Plan and Policies

EC4/1	Small Businesses
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
JP-C2	Digital Connectivity
JP-S2	Carbon and Energy
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), 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

The site is located in an area comprising a mix of residential, commercial and industrial uses.

The proposed change of use to offices would be used in ancillary to the applicant's current business.

The proposal is therefore considered to be acceptable and comply with EC4/1.

Impact on residential amenity

The property is located at the end of a row of terraced houses.

The use for offices and scale of development would not introduce a use which would cause significant noise issues or activity which would be harmful to adjacent occupiers more so than a residential dwelling.

The proposed development is therefore considered to be acceptable and would comply with policies EC4/1 and EN1/2.

Highways

The applicant has ownership of the adjacent yard area which is used for parking for the associated commercial unit.

There are no proposals to provide parking for the offices.

SPD11 states that the proposals would require 2 spaces to be provided for the size of office spaces which would be the same as parking requirement for 2 no flats and as such there would be no further impact on parking in the area than could already exist.

Bins would be stored in the yard area (shown within the red edge site plan) and as such there would be no obstruction to the highway.

The proposal would therefore accord with policies EC4/1 and HT2/4.

Digital connectivity

The applicant states the intention to provide high speed internet connections to both of the proposed office spaces which will be operational and immediately available when occupied. The proposed development would therefore comply with JP-C2

Carbon and energy

The existing building is poorly insulated particularly in comparison to the high levels of insulation required in new build construction. The applicant intends to focus on retrofitting the existing building with measures to improve energy efficiency. These include but are not limited to :

- replacing all the existing windows with new uPVC frames with double glazed units which would be of a standard which meets the current building regulation requirements.
- replacing all external doors with new to a standard which meets the current building regulation requirements.
- insulating the existing empty loft space to a standard which meets the current building regulation requirements.

The proposed development would therefore comply with JP-S2.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings - Existing plans and elevations 2431-01 rev A; Proposed plan and elevations 2413-02 rev B; Energy and Digital Connectivity Statement 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 listed.
- 3 The in-curtilage bin storage facilities indicated on the approved plans shall be made available prior to the use hereby approved commencing and maintained thereafter.
Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to Development Plan Policies EC4/1 and EN1/2.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	24/7/24	DM	25/07/2024