

**DELEGATED REPORT**

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| <b>Report by</b> Sam Summers    | <b>Date of report:</b> 07/02/2025 | <b>Ref:</b> 71395/P3JPA        |
| <b>Registration:</b> 27/11/2024 | <b>LDFC:</b> 20/12/2024           | <b>Expiry Date:</b> 22/01/2025 |
| <b>Site Visit:</b>              | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 2            | <b>Con Area:</b>                  | <b>Adv Type:</b> N/A           |
| <b>Reason for Delay:</b>        |                                   | <b>EIA:</b> NA                 |
| N/A                             |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> NREQ        |

**Proposal:** Prior approval for Change of use from Commercial, Business and Service (Use Class E) to 4 no. Dwellinghouses (Use Class C3)

**Location:** 1 Porter Street, Bury, BL9 5DZ

**Description**

This is an application for prior approval for proposed change of use of first and second floors and detached storage building from commercial (Use Class E) to 4 no. dwellinghouses (Use Class C3) under Part 3 Class MA of the General Permitted Development Order 2015(as amended). The property is a two storey building between a terraced row of shops with residential above located on Porter Street.

It is proposed to change the use of the shop into one self contained flat. There would be adequate natural light to all habitable rooms. The floor space would exceed the 37 square metres required under the national housing standards but would not exceed the limit of 1500 square metres allowed under the permitted development right.

**Relevant Planning History**

71023 - Part change of use of former showroom/laundrette and 1no. flat (Use Class E/Sui Generis/Class C3) to form 1no. 7 bedroom (single occupancy) HMO (Sui Generis) and 1no. 8 Bedroom (single occupancy) HMO (Sui Generis) with associated parking and refuse storage and external alterations

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70536 - Part change of use of former showroom/laundrette and 1no. flat (Use Class E/Sui Generis/Class C3) to form 1no. 7 bedroom (single occupancy) HMO (Sui Generis) and 1no. 8 Bedroom (single occupancy) HMO (Sui Generis) with associated parking and refuse storage and external alterations

- RefuseRefused 12/04/2024

70830 - Lawful development certificate for proposed change of use from 4 no. flats (Class C3) to 4no. HMO's (C4) - Lawful Development 30/07/2024

71023 - Part change of use of former showroom/laundrette and 1no. flat (Use Class E/Sui Generis/Class C3) to form 1no. 7 bedroom (single occupancy) HMO (Sui Generis) and 1no. 8 Bedroom (single occupancy) HMO (Sui Generis) with associated parking and refuse storage and external alterations

- RefuseRefused 07/10/2024

**Publicity**

Letters sent -

2 objection recieved - 1st objection - 'same reasons as before'

2nd objection - raised issues about parking, bins and drainage

**Statutory/Non-Statutory Consultations**

Traffic Section - No comment

Environmental Health - Contaminated Land - No comment  
Environmental Health - Pollution Control - No comment

**Pre-start Conditions - None**

**Development Plan and Policies**

**Issues and Analysis**

**Development is not permitted by Class MA—**

(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.

Advice was sought from the council's legal section regarding the current temporary unauthorised use of the building as a religious centre and they have confirmed that this would not affect the eligibility of the building for the prior approval as the lawful use of the building has always remained Class E.

The proposal would therefore comply with all the limitations and conditions set out above.

**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

(b) contamination risks in relation to the building;

Contaminated Land confirmed they have no comments to make

(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;

Pollution control have confirmed they have no comment to make. This is a residential area and the only nearby commercial properties are attached to the proposal and are subject to applications to also be changed into residential premises. Even if they were not converted the current authorised uses of the attached premises are a laundrette and a barbers and as such there will not be any unacceptable levels of noise.

(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 site is not in a conservation area

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

There is adequate natural light to all habitable rooms.

(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.

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- (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.

Response to neighbours - The 1st objector objected to the previous application on grounds of traffic and rubbish issues.

2nd objection - raised issues about parking, bins and drainage

Traffic issues have been addressed in the main body of the report, this prior approval process emphasises the safe site access rather than parking. Rubbish and drainage issues are not covered by this prior approval.

As such the Prior Approval of the Local Planning Authority is required and granted

**Recommendation:** Prior Approval Required and Granted

**Conditions and Reasons:**

| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|---------------------|-------------|-------------------------|-------------|
| SS                  | 07/02/2025  | DM                      | 07/02/2025  |