

DELEGATED REPORT

Report by Tom Beirne	Date of report: 02/10/2025	Ref: 72167/PIAPA
Registration: 23/07/2025	LDFC: 15/08/2025	Expiry Date: 17/09/2025
Site Visit: 26/08/2025	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for change of use of existing first and second floors from (Class E) into residential use (Class C3) (7 no. apartments in total)

Location: 14-16 Bolton Street, Bury, BL9 0LQ

Description

The application relates to a vacant three storey terraced commercial property on the north side of Bolton Street. The property was a former restaurant at ground floor and there is a live music bar known as Blind Tiger in the basement. To the east side is a vacant bar with offices above.

The building is not listed but is situated within the Town Centre Conservation Area. There are no Article 4 directions in place to specifically prevent the proposed change of use.

Prior approval is sought for the change of use of the first and second floors of the building to seven apartments under the provision of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The application states that all flats comply with the National Space Standards.

Relevant Planning History

68197 - Proposed replacement of 3No dilapidated windows - Approve with Conditions
25/05/2022

Publicity

Immediate neighbours notified by letter dated 25/07/2025. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - Concern about bin storage.
Environmental Health - Noise assessment required.
Greater Manchester Ecology Unit -
United Utilities - No comment.
Conservation - No comment.

Pre-start Conditions - N/A

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 PpE 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 - Class MA 3.1 of the GDPO states:

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.

MA.1.—(1) Development is not permitted by Class MA—

(a) deleted

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

(c) deleted

(d) 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) it forms part of a safety hazard area; or
- (v) it forms part of a military explosives storage area.
- (e) 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(a); (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

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

(g) 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.

Conditions

MA.2.—(1) Development under Class MA is permitted subject to the following conditions.

(2) 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;

(b) contamination risks in relation to the building;

(c) flooding risks in relation to the building;

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

(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;

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

(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

(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

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2006(a), the impact on the local provision of the type of services lost.

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

Assessment

The qualification criteria within the legislation and the relevance to this prior approval are set out below:

(a) - Deleted from legislation.

(b) The property has persisted within Class E for a substantial period, exceeding the 2-year limit set by the GDPO.

(c) Deleted from legislation.

(d) The site is not a listed building and is not any of the land affected by this clause.

Noise/Residential amenity - A noise survey was undertaken and the results have prompted recommendations for mitigation. Calculations demonstrated that it was possible to reduce the internal noise levels to achieve design criteria. With specialist mitigation, the external noise levels can be mitigated to achieve the acceptable internal criteria.

Internal noise levels and associated noise transfer from the neighbouring nightclub are to be carefully considered, while it is considered that further investigation and assessment is required at a detailed design stage, it is likely that a specialist acoustic wall system can be implemented to sufficiently reduce noise levels based on the claimed performance.

Parking - The site is within Bury Town Centre and highly sustainable. As such it is considered that there is no requirement for parking.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

- 1 Prior to first occupation, an acoustic ventilation scheme shall be implemented in accordance with the Noise Assessment by Amber Acoustics (report No.AA/25/09/RE/BS/NIA) September 2025.
Reason. In order to control noise pollution in the interests of residential amenity.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	02/10/2025		