

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 22/11/2022	Ref: 68757/FUL
Registration: 06/09/2022	LDfC: 03/10/2022	Expiry Date: 01/11/2022
Site Visit: 26/09/2022	Site Notice: 04/11/2022	Press Date: 15/09/2022
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: COUS

Proposal: Change of use from education centre (Class F1) to licensed dessert café/restaurant (Class Eb)

Location: 8 The Rock, Bury, BL9 0NT

Description

The application relates to a ground floor unit with basement (197sqm) with a lawful use as a training centre (Use Class F1), which forms a part of Derby Chambers (with 2, 4 & 6 The Rock), a Non-Designated Heritage Asset (NDHA) within Bury Town Centre Conservation Area. The block is comprised of a mix of commercial units with offices above and St Marys church opposes the site. There are public houses within the locality.

The proposal is for the Change of use from education centre (Class F1) to licensed dessert café/restaurant (Class Eb). No external alterations are proposed.

The intended operating hours would be 10:00 - 23:00 Sunday to Thursday and 10:00 - 00:00 Friday and Saturday. It would cater for up to 66 covers (26 in the basement area), although this would be flexible due to differing seating layouts.

Relevant Planning History

54698 - Change of use from public house (Class A4) to hot food takeaway (Class A5) - Approve with Conditions 03/02/2012

55688 - Change of shop front from one opening door into two opening doors. - Approve with Conditions 11/12/2012

64621 - Lawful development certificate for proposed change of use from A1 to D1 - the building will be used for training - Withdrawn - Invalid 13/11/2019

64879 - Change of use from retail (Class A1) to apprenticeship training centre (Class D1) - Approve with Conditions 21/01/2020

Publicity

Advertised by site notice and direct neighbour notification. No representations received.

Statutory/Non-Statutory Consultations

Conservation Officer: No objection.

Traffic Section: No objection, subject to a conditions relating to bin storage.

Environmental Health - Pollution Control: No comments received.

Waste Management: No comments received.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

Area	Bolton Street/Market Place
BY3	
S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
EN2/2	Conservation Area Control
EN2/1	Character of Conservation Areas
S2/6	Food and Drink
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.

ASSESSMENT

Principle of development

The site was most recently occupied by a training centre, which is not a main town centre use as defined in the glossary to the National Planning Policy Framework (NPPF). Thus, it represented a non-conforming use in Bury Town Centre. The proposed use would not therefore reduce the retail offer and comprises a defined town centre use within the building that would support the broad function of Bury town centre.

Visual amenity and Impact on Conservation Area

The proposal would not include any external or internal structural alterations and as such, would not have any detrimental impact on the character of the conservation area.

Amenity

The building is isolated from sensitive receptors, being bounded entirely by commercial uses and by strategic and busy gateways into Bury town centre. The proposed uses within the building would not therefore have any unacceptable impacts on amenity. It would not therefore be necessary or reasonable to limit operating hours (which would be subject to consideration in relation to the licensing regime).

Access, parking and highway safety

The site is positioned within a highly sustainable location within Bury town centre, which is well served by public transport and plentiful public parking. Access and servicing would continue as existing where the rear yard has access to Crompton Street..

Residential amenity

There are no immediate residential properties in the vicinity. The locality is commercial in nature and there are many public houses and restaurants in the immediate area.

Conclusion

The proposed use would support the role and function of Bury town centre without detriment to highway safety or amenity. Therefore, in accordance with the Section 38(6) of the Planning and Compulsory Purchase Act, the proposal merits approval.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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.

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- 2 This decision relates to drawings;
Location Plan dated 16/11/2022
Site Plan - Waste Management dated 15/11/2022
Proposed Lower/Ground Floor Plans dated 08/08/2022
Proposed Ground Floor Plan dated 08/08/2022
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 communal 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 Policy EN1/2 of the Bury Unitary Development Plan.

<u>Case Officer</u> DC	<u>Date</u> 25/11/2022	<u>Sign off Officer</u>	<u>Date</u>
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