

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 28/10/2022	Ref: 68639/FUL
Registration: 11/08/2022	LDFC: 05/09/2022	Expiry Date: 06/10/2022
Site Visit: 28/08/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of first and second floors from Office/Storage (Class E) to 1no. Apartment (Class C3)

Location: 40 Topping Fold Road, Bury, BL9 7NG

Description

The site relates to offices/storage at the first and second floors above a community centre which is located on a row of shops within a Neighbourhood shopping Centre under policy S1/5.

There is a wide forecourt pedestrianised frontage and a communal entrance at the front of the premises which is shared by occupiers of the ground and upper floors.

There is a passageway at the rear which is gated and a rear garden area which the applicant states has been taken over by a community group and in essence is a 'communal garden' which is no longer apportioned to individual residencies.

The surrounding area is residential in character.

The application seeks consent for the change of use of the 1st and 2nd floors to 1 no.x 3 bed apartment. Living accommodation would be at 1st floor with 3 beds and bathroom at 2nd floor.

The existing communal entrance would be utilised. Bins would be stored in the passageway at the side.

Relevant Planning History

41117 - change of use to form community centre at ground floor and conversion of one maisonette (No 36) to offices - Approved 2003.

Publicity

Letters sent to 14 properties on 16/8/22.
No responses received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection
Waste Management - No response received.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
S1/5	Neighbourhood Centres and Local Shops

HT2/4 Car Parking and New Development

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.

Use - Residential units above shops and commercial premises are an accepted principle subject to considerations of amenity issues, access and servicing requirements. The proposed residential use would provide an accepted standard of living accommodation. The existing communal entrance at the front would be utilised and bin storage area secured at the side of the building.

The proposed plan demonstrates that there is parking at the side and there is on-street

parking on Topping Fold Road and the adjacent side streets. The proposed use for a residential unit would not add to parking pressures in the area compatible to the existing offices use.

The upper floors of the adjacent premises also appear to have residential uses and as such amenity issues for existing and future occupiers would not be significant.

The proposed development is therefore considered to comply with H2/1, H2/2 and EN1/2.

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.
- 2 This decision relates to drawings - Location plan dated 28/6/22 received 5/7/22; Revised proposed site plan and bin store location received 29/9/22; Communal entrance plan received 30/8/22; Existing 1st floor plan received 5/7/22; Existing 2nd floor plan received 5/7/22; Proposed 1st floor plan received 5/7/22; proposed 2nd floor plan received 5/7/22 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 bin storage facilities indicated on the approved plans shall be implemented to the satisfaction of the Local Planning Authority 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 UDP Policies H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	28/10/22		