

## **DELEGATED REPORT**

|                                 |                                   |                                |
|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Helen Pressley | <b>Date of report:</b> 19/12/2024 | <b>Ref:</b> 70711/FUL          |
| <b>Registration:</b> 08/07/2024 | <b>LDFC:</b> 31/07/2024           | <b>Expiry Date:</b> 02/09/2024 |
| <b>Site Visit:</b> 05/12/2024   | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 1            | <b>Con Area:</b> N/A              | <b>Adv Type:</b> N/A           |
| <b>Reason for Delay:</b><br>N/A |                                   | <b>EIA:</b> NA                 |
|                                 |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> MIDW        |

**Proposal:** 2 no. additional flats and bin store at rear

**Location:** 201 Manchester Road, Bury, BL9 9HL

### **Description**

The application relates to building location on the corner of Parkhills Road and Manchester Road. The building is currently utilised for commercial uses on the ground floor and 4no. flats over first and second floor.

Planning permission is sought for 2 no. additional flats at the site. The proposal would require reconfiguration of the existing first, and second floor accommodation to provide 6no. flats in total, rather than the 4no. flats approved under application 53436. A bin store is also proposed to the rear of the site, to facilitate bins for all uses within the building.

### **Relevant Planning History**

53436 - Change of use and external alterations to former public house to form 3 retail shops (A1) and 1 cafe (A3) / hot food take away (A5) on ground floor and 4 flats above. - Refused, 16/02/2011 - Allowed on appeal- 03/08/2011.

53439 - Eight non-illuminated fascia signs - Withdrawn by Applicant, 18/02/2011

53742 - Installation of new shop fronts to include 'open mesh brick bond type' roller shutters - Approve with Conditions 26/05/2011

54678 - Application for non-material amendment following grant of planning permission 53742 - Withdrawn - Invalid, 13/01/2012

54796 - Non-material amendment following grant of planning permission 53742 for installation of new windows on Parkhills Road and Manchester Road - Approved, 16/02/2012

61091 - Variation of condition no. 2 (approved plans) of planning permission 53742 to install 2 no. doors to shop fronts - Approve with Conditions, 03/03/2017

61451 - First and second floor extension - Approved with Conditions, 06/07/2017

69514 - Variation of condition no. 6 (approved plans) of p/p 53436 (Change of use and external alterations to former public house to form 3 retail shops (A1) and 1 cafe (A3) / hot food take away (A5) on ground floor and 4 flats above): It is the intension to create a quality living accommodation by creating 6 apartments consisting of one and two bedroom apartments to 1st and 2nd Floors - Withdrawn - Invalid, 01/09/2023.

### **Relevant Planning History for 2 Parkhills Road**

44532 - Change of Use of First Floor from Shop/ Storage to 2 self-contained flats. Approved with Conditions, 07/07/2005

## **Publicity**

Neighbour letters sent to 16 adjacent properties on the 9th July 2024.

One objection received in relation to:

- Lack of bin storage
- Existing fly tipping to rear
- Lack of parking
- Emergency services will struggle to get to site.

## **Statutory/Non-Statutory Consultations**

**Traffic Section** - Condition requested to ensure the implementation of the bin storage area.

**Waste Management** - no formal response.

**Pre-start Conditions** - Not relevant

## **Development Plan and Policies**

|       |                                                             |
|-------|-------------------------------------------------------------|
| EN1/2 | Townscape and Built Design                                  |
| H1/2  | Further Housing Development                                 |
| H2/1  | The Form of New Residential Development                     |
| H2/2  | The Layout of New Residential Development                   |
| HT2/4 | Car Parking and New Development                             |
| S1/4  | Local Shopping Centres                                      |
| S2/6  | Food and Drink                                              |
| JP-H1 | Scale of New Housing Development                            |
| JP-H3 | Type, Size and Design of New Housing                        |
| JP-H4 | Density of New Housing                                      |
| JP-G8 | A Net Enhancement of Biodiversity and Geodiversity          |
| JP-P1 | Sustainable Places                                          |
| JP-C2 | Digital Connectivity                                        |
| JP-C5 | Streets For All                                             |
| JP-C6 | Walking and Cycling                                         |
| JP-S2 | Carbon and Energy                                           |
| JP-C8 | Transport Requirements of New Development                   |
| SPD6  | Supplementary Planning Document 6: Alterations & Extensions |
| SPD11 | Parking Standards in Bury                                   |
| 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 (Residential)**

The National Planning Policy Framework (NPPF) is a material planning consideration in planning decisions, and emphasises the Government's objective of significantly boosting the supply of homes. The Framework states that local planning authorities should identify and update annually a supply of specific deliverable sites to provide a minimum of five years' worth of housing, with either a 5% buffer to ensure choice and competition in the market for land, or a 20% buffer where there has been significant under delivery of housing over the previous three years. As set out in NPPF paragraph 78, the supply of housing must be assessed against the housing requirement set out in adopted strategic policies where these are less than five years old.

The joint Places for Everyone Plan was adopted with effect from 21 March 2024 and sets the up-to-date housing requirement for Bury against which the deliverable supply of housing land must be assessed. PfE Policy JP-H1 sets the following stepped targets for Bury:

- 246 homes per year from 2022-2025;
- 452 homes per year from 2025-2030; then
- 520 homes per year from 2030-2039.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the deliverable land supply calculations as many sites will take longer than five years to come forward and be fully developed. The joint Places for Everyone Plan allocates significant strategic sites for housing within Bury and will accelerate housing delivery within the Borough to meet housing

needs.

Following the adoption of Places for Everyone, the Council is able to demonstrate a deliverable 5 year supply of housing land with a 20% buffer (as currently required in Bury due to past under delivery) when assessed against the adopted PfE housing requirement.

The National Planning Policy Framework also sets out the Housing Delivery Test (HDT), which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government (the 2023 measurement published on 12 December 2024) show that Bury has a HDT result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, paragraph 11(d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provide a strong reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

As a result of the latest published HDT result the 'tilted balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

NPPF paragraph 80 requires the latest published HDT results to be used. However, the Government is currently operating to a delayed publication timetable for the HDT, and although the latest published results for 2023 are below 75%, based on the current HDT rulebook Bury's result for 2024 will be above 75% and the tilted balance will no longer be triggered by the housing delivery test result.

The site is considered to be in a sustainable location for housing within the urban area and sitting outside the Green Belt. The national requirement to significantly boost the supply of housing under the NPPF is a material consideration that would favour the residential development of this site in principle.

The site is located in an area allocated as a Local Shopping Centre. UDP Policy S1/4 requires the maintenance and enhancement of local shopping centres and encourages the provision of a range of shopping facilities. As the site is currently utilised for commercial use at ground floor the provision of residential units above is considered to be acceptable and would not conflict with this policy. In addition the NPPF states that decisions should support the role that town centres play by taking a positive approach to their growth, management and adaptation by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries and allows a suitable mix of uses (including housing) to reflect their distinctive characters.

### **Layout and Design**

PfE Policy JP-H4 requires new housing development to be delivered at a density appropriate to the location, reflecting the relative accessibility of the site by walking, cycling and public transport and the need to achieve efficient use of land and high quality design. PfE Policy JP-H4 sets out minimum densities that should be considered.

The minimum density for the site would be 70 dwellings per hectare. The submitted block

measures at approximately 335 square metres or 0.035 hectares. The proposal would therefore lead to a density of 171 dwellings per hectare. The proposal would therefore exceed the minimum density required. As such, it is considered that the proposal would achieve efficient use of land.

UDP Policies H2/1 and H2/2 provide the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finishing materials for new residential developments. PfE Policy JP-H3 - Seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build. Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. Policy JP-P1 Sustainable Places aims to promote a series of beautiful, healthy and varied places.

The application form, and submitted plans show no proposed changes to the external elevations of the site. A bin store is proposed within the existing yard, and a waste management plan has been shown showing sufficient bin storage for all the uses within the building. Internal alterations are proposed at first and second floor to accommodate the 2no. additional units at second floor. There are existing residential units at first and second floor with the existing second floor units having only rooflights for windows. It is proposed to maintain this. Given that this is an existing arrangement this is considered to be acceptable.

Flat 4 would have an internal lounge area, with no associated window. There are windows for the bedroom and kitchen on the rear elevation for this unit and as such it is considered acceptable as there would still be natural light into the unit.

PfE Policy JP-H3: states that all new dwelling must:

1. Comply with the nationally described space standards (NDSS); and
2. Be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations unless specific site conditions make this impracticable.

A space standards table has been provided confirming that each of the units would comply with space standards for 1 bed 1 person units, and that bedrooms are a minimum of 7.5 square metres and 2.15 metres wide complying with minimum standards for single occupancy rooms.

Apartments 5 and 6 would be located within the roofspace and as such there would be restricted headspace in some areas. Sections have been provided that indicate the majority of the GIA of this floor would be above 2.3 metres complying with space standards. Built in storage is indicated for each flat.

### **Amenity**

UDP Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

For clarity the following aspect standards would be applicable:

- 20 metres between directly facing habitable room windows;
- 13 metres between an existing habitable room window and a proposed two storey blank wall
- 6.5 metres between an existing habitable room window and a proposed single storey blank wall
- 7 metres between a proposed first floor habitable room window and a directly facing

boundary with a neighbouring property.

Any assessment will take into account significant change in levels or new accommodation to be provided at a higher storey. In this regard, there should be an extra 3 metres of separation for each 2.5m or one storey of height or level difference in each of the above cases.

Whilst the internal layout has been amended, there would be no additional habitable room windows at first floor or second floor facing towards Manchester Road. Similarly at first floor there would be no additional habitable room windows facing towards Parkhills Road. At second floor the existing kitchen window facing toward Parkhills Road would now become a kitchen/lounge for Flat 6. The window for this room would be separated from the directly facing site by a highway and as such no undue overlooking is foreseen.

There is an existing flue to the rear of existing takeaway that does not benefit from planning permission and has potential to impact on the amenities of the flats at first and second floor due to the proximity to habitable room windows. The applicant has been made aware of this and has confirmed that they are in the process of instructing a company to remove the flue and will be submitting an application for a new flue.

The proposed elevations show this flue being removed. It has been confirmed to the applicant/agent that any flue for this takeaway use would require planning permission and this will be re-affirmed in an informative. A condition will also be attached requiring the removal of the unauthorised flue within 3 months of the date of the decision. It is considered that this time frame is adequate as the applicant is already aware of the issue and has confirmed that they are in the process of actioning this process in any event.

### **Highways and Access**

UDP Policy EN1/2 requires the consideration of the design and appearance of access, parking and service provision. This is further supported by Policy H2/2 that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way. Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport.

The existing flats at first and second floor do not have allocated parking. The existing flats would require a maximum of 5no. parking spaces to comply with SPD 11. The proposed flats would require a maximum of 6no. parking spaces to comply with SPD 11. It is proposed that any parking needs for the proposed additional unit would be accommodated on street, as with the existing units and the proposal would only require the maximum of 1no. additional space. Given that the site is located within a highly accessible location, within walking distance to local amenities and Bury Town Centre as well as within walking distance to a bus route the proposal is considered to be acceptable and would comply with the intentions of the policies set out above.

### **Biodiversity Net Gain**

While every grant of planning permission in England is deemed to have been granted subject to the biodiversity gain condition, commencement and transitional arrangements, as well as exemptions, mean that certain permissions are not subject to biodiversity net gain.

The proposal is for the conversion of an existing building. As such the de minimis exemption applies as the development is below the threshold for habitat loss to require BNG.

### **Carbon and Energy**

PfE Policy JP-S2 - Carbon and Energy sets out the steps required to achieve net zero carbon emissions.

The proposal would require the internal reconfiguration of the site rather than new building work. The proposal would have to comply with Part L of building regs which is considered to be acceptable under the policy above.

### **Digital Connectivity**

JP-C2 - Digital Connectivity - this policy requires development to have full fibre to premises connections unless infeasible or unviable, with multiple-ducting. The policy supports the provision of free, secure, high-speed public wi-fi connections, particularly in the most frequented areas.

The site is located in an area that has access to full fibre.

### **Response to representations**

Parking and bin storage have been addressed within the main body of the report.

Fly tipping would be a matter beyond the control of the applicant for this proposal.

No objections have been raised by the Traffic section in terms of access. Access is to be retained as existing.

### **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 numbered Location Plan, 01B, 02D, 03, 04C, 05C, 06, 07B, 08, 09, 10 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 and Places for Everyone Joint Development Plan listed.
- 3      Notwithstanding the details shown on the approved plans, the unauthorised flue shown on the existing rear elevation drawing No. 10 shall be removed within 3 months of the date of the decision. A new application must be made for the installation of any proposed replacement flue thereafter.  
Reason. To maintain the residential amenities of nearby residential properties from impact upon from fumes, odour and noise pursuant to UDP Policy S2/6 - Food and Drink.
- 4      The development hereby approved shall not be brought into use unless and until the off-highway bin storage arrangements indicated on approved plan reference O5

Revision C incorporating inward opening doors have been implemented and thereafter maintained at all times.

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 EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.

- 5 The dwellings hereby approved shall be built in accordance with the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations.

Reason. To secure the satisfactory development of the site pursuant to Places for Everyone Joint Development Plan Policy JP-H3: Type, Size and Design of New Housing.

| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|---------------------|-------------|-------------------------|-------------|
| HP                  | 19/12/24    |                         | 20/12/2024  |