

**DELEGATED REPORT**

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|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Helen Pressley | <b>Date of report:</b> 10/01/2023 | <b>Ref:</b> 69075/FUL          |
| <b>Registration:</b> 14/11/2022 | <b>LDfC:</b> 06/01/2023           | <b>Expiry Date:</b> 09/01/2023 |
| <b>Site Visit:</b> 08/12/2022   | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 0            | <b>Con Area:</b> N/A              | <b>Adv Type:</b> NONE          |
| <b>Reason for Delay:</b><br>N/A |                                   | <b>EIA:</b> NA                 |
|                                 |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> MIDW        |

**Proposal:** Conversion of first floor from office to 1 no. flat; Erection of 2.1m high boundary wall with fencing infills and timber gate.

**Location:** 101A Chesham Fold Road, Bury, BL9 6JZ

**Description**

The application relates to a first floor unit located within a row of shops identified under UDP Policy S1/5 - Neighbourhood Centres and Local Shops. The ground floor is currently used as a shop, whilst first floor is utilised as office space.

Planning permission is sought for the change of use of the first floor to residential. The proposal seeks the provision for a 1 bedroom property, with separate lounge, kitchen and bathroom facilities. Access would be gained from an existing side door that is utilised for the existing office use, and that is separate from the entrance to the shop. A proposed 2.1 metre high boundary wall with fencing infills and a timber gate is also shown on the plans to enable the space to the side and rear of the site to be contained as an area of amenity space.

**Relevant Planning History**

None

**Publicity**

Neighbour letters sent 29/11/2022

Amended neighbour letters sent 16/12/2022

No representations received.

**Statutory/Non-Statutory Consultations**

**Waste Management** - no response

**Pre-start Conditions** - Not relevant

**Unitary Development Plan and Policies**

|       |                                                             |
|-------|-------------------------------------------------------------|
| S1/5  | Neighbourhood Centres and Local Shops                       |
| H2/1  | The Form of New Residential Development                     |
| H2/2  | The Layout of New Residential Development                   |
| H1/2  | Further Housing Development                                 |
| HT2/4 | Car Parking and New Development                             |
| HT6/2 | Pedestrian/Vehicular Conflict                               |
| EN1/2 | Townscape and Built Design                                  |
| EN5/1 | New Development and Flood Risk                              |
| EN7/3 | Water Pollution                                             |
| EN7/5 | Waste Water Management                                      |
| 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) 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.

## **Principle (Residential)**

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

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 five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, 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%) of 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 show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed dwelling, paragraph 11d) 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, provides a clear 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, taken as a whole.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

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.

The site is located within the urban boundary and there are residential properties directly facing the site, to the north of the site and at first floor within the row of shops. The proposed development would not conflict with the surrounding land uses and would be located in a sustainable location with regard to public transport and services. Therefore, the proposed development would be acceptable in principle and would be in accordance with Policy H1/2 of the Bury Unitary Development Plan.

### **Principle (Change of Use)**

Policy S1/5 - Neighbourhood Centres and Local Shops seeks to retain retailing, as the predominant use in small neighbourhood centres and in new or existing local shops, to cater primarily for the day to day needs of residents and businesses. The ground floor of the property would still retain the existing Class E use and as such it is considered that the change of use of the first floor, from office to residential would be acceptable.

### **Layout and Design**

Policy H2/1- The Form of New Residential Development requires all new residential development to make a positive contribution to the form and quality of the surrounding area. Policy H2/2 - The Layout of New Residential Development seeks to ensure that new residential development will be acceptable in terms of layout in order to provide a good quality residential environment. In addition to this, Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the

particular character and townscape of an area.

There are no proposed alterations to the existing elevations of the property to allow for the change of use. Existing window and door openings etc will be utilised.

The visible boundary treatments within the vicinity of the site are generally depicted by red brick walls, or fencing that fall within the remit of PD rights (1 metre in height). A stone wall is also visible at the adjacent property at Chesham Bank. Whilst the proposed boundary is higher than those within the immediate street scene, this is due to the need to secure an area of private amenity space, as opposed to depicting a front boundary to a dwelling. The scale of the proposed boundary treatment is therefore considered to be acceptable. The proposed wall would be constructed from red brick, to match the existing property, with fencing infills creating an element of interest. The proposed boundary will is therefore considered to be acceptable.

### **Residential 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. UDP Policy H2/1 also requires the consideration of the impact of developments on residential amenity and the position and proximity of neighbouring properties. 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.

The proposed first floor front lounge window would be separated from the directly facing dwellings by areas of highway, and a grass verge as such no overlooking foreseen. The proposed first floor rear bedroom window would be located approximately 21.5 m from the directly facing boundary exceeding the 7 metres required by SPD6. All other windows As such the proposal complies with aspect standards as set out within SPD6.

No additional footprint is proposed to be constructed.

### **Parking and Bin Storage**

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. This is further supported by UDP Policy H2/2 - The Layout of New Residential Development 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. In terms of parking standards UDP Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements . Supplementary Planning Document 11 provides parking standards for developments.

The proposal would be located within an established residential area with on street parking available for residents, which the proposal site intends to utilise. The site is located within a sustainable location with links to public transport and services. In this instance it is considered given the nature of the existing parking provision in the area the proposal is acceptable.

There is adequate space within the red edge of the site to store bin associated with both the existing, and proposed uses.

### **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

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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 22115-PJA-00-ZZ-A-DR-1103, 22115-PJA-00-ZZ-DR-A-1100, Parking and bin store locations received 14th November 2022, Block Plan received 14th November 2022, 22115-PJA-00-ZZ-DR-A-1102-A and 22115-PJA- 00-ZZ-DR-A-1101-A 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 external finishing materials for the proposed wall hereby approved shall match those of the existing building.  
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.
- 4      The bin storage facilities indicated on the approved plans shall be implemented 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 Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and H2/2 - The Layout of New Residential Development.

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|---------------------------------|-------------------------------------|
| <u>Case Officer</u> <u>Date</u> | <u>Sign off Officer</u> <u>Date</u> |
| Helen Pressley 10/01/2023       |                                     |