

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 19/05/2022	Ref: 67812/FUL
Registration: 21/02/2022	LDfC: 18/03/2022	Expiry Date: 18/04/2022
Site Visit: 03/03/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Conversion of first floor from storage (Use Class B8) to form 8 no. flats over two floors; including partial raising of wall heads, formation of new roof with the addition of new windows/brickwork to front/rear elevations

Location: 2 Cook Street, Bury, BL9 0RP

Description

The application relates to a supermarket (use Class E - Commercial, Business and Service) on Cook Street, south-east of Bury town centre. The retail element is on the ground floor with ancillary storage and offices on the upper floors. Planning permission has been implemented for the conversion of some of the space on the first floor to residential (HMO) under ref. 59333. There are industrial premises to the north and west and residential terraces to the rear/south east. The car park serving the supermarket is to the south west, across the intervening side street.

The proposal is for the conversion of the first floor from storage (Use Class B8) to form 8 no. flats over two floors (first and second); including partial raising of wall heads by approximately 1.4m, formation of new roof (to the same ridge height as existing) with the addition of new windows, brickwork to front and rear elevations.

The proposal would comprise five 1-bed, two 2-bed and a 4-bed unit with a total residential floorspace of approximately 630sqm. The communal bin store would be located internally at ground floor with access from Cook Street.

Six parking spaces would be allocated for residents within the existing car park to be served from a proposed secondary access from Back South Cross Street, leaving 12 spaces to serve the existing supermarket.

Relevant Planning History

66122 - Change of use of ground floor from shop (Class E) to hot food take away (Sui Generis) with flue at side. Approve with conditions 16/12/2020.

60788 - Conversion of first floor from storage to 8 no. flats with addition of new windows/brickwork to front/rear elevations and creation of 4 no. new car parking spaces. Approved with conditions 12/01/2017.

59543 - Change of use of part of ground floor from shop (Class A1) to hot food takeaway (Class A5); Canopy at rear. Approved with conditions 15/02/2016.

59333 - Change of use of second floor from offices to residential (HMO). Approve with conditions 20/11/2015

Publicity

Direct neighbour notification undertaken. No representations received.

Statutory/Non-Statutory Consultations

Highway Officer: No objection, subject to conditions relating to bin storage and car parking and new access.

Drainage Section: No comments received.

United Utilities (Water and waste): No comments received.

Environmental Health - Contaminated Land: No objection, subject to a condition requiring the provision of electric vehicle charging points.

Waste Management: No comments received.

Environmental Health - Pollution Control: No comments received.

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
HT2/4	Car Parking and New Development
EN7/2	Noise Pollution
SPD15	Residential Conversions
SPD11	Parking Standards in Bury
SPD16	Design and Layout of New Development in Bury
NPPF	National Planning Policy Framework
H2/3	Extensions and Alterations
SPD6	Supplementary Planning Document 6: Alterations & Extensions
H3/2	Existing Incompatible Uses

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 proposal relates to a development that was previously subject to planning permission for the same development under ref. 60788.

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 area, surrounded by a mix of established residential and commercial uses and close to routes well served by public transport and to facilities, goods and services.

As such, the site is the most sequentially preferable for the release of land for housing. Furthermore, the site falls in a sustainable location with regard to services and public transport. Thus, the principle of the development is acceptable, subject to consideration of the subsequent matters.

Visual amenity

The existing building is utilitarian in appearance, akin to other commercial buildings flanking the site and it contributes little to the attractiveness of the street scene. The proposal would comprise the removal of cladding and its replacement with brickwork and windows, which would result in a more domestic appearance to the upper floors akin to the residential use proposed. The proposal would not therefore have any unacceptable impacts upon visual amenity or on the street scene and would not conflict with UDP Policy EN1/2.

Residential amenity

The rear elevation of the terraces on Cross Street oppose the site to the south-west. The separation distances (habitable room window to habitable room window) is indicated as being approximately 20.33m between proposed first floor windows and the opposing rear windows. Proposed second floor bay windows, serving habitable rooms, would be obscure glazed, with clear glazed side lights.

This arrangement was considered to be acceptable in relation to the same proposal approved planning permission under 60788. Given that there has been no material change in circumstances at and adjacent to the site, to the proposal and the planning policy regime, this proposal is therefore considered to be acceptable. Equally, the raising of the wallheads was also deemed to be acceptable.

Due to the presence of industrial uses on Cook Street, the habitable room windows on the front elevation would need appropriate sound insulation. Triple glazed windows are proposed and as was the case in relation to the expired planning permission 60788 a suitable condition would be attached to protect the residential amenity of future occupiers. In such circumstances, the proposal would comply with UDP Policy EN7/2 - Noise Pollution and H3/2 Existing Incompatible Uses.

The proposed residential apartments would be compliant with the Technical housing standards – nationally described space standard in terms of minimum gross internal floor areas and minimum bedroom floor space and dimensions.

Parking and access

The proposed six dedicated spaces for residents within the existing car park are considered to be adequate for a scheme of this nature and so close to the town centre. The traffic section has no objections to the scheme, subject to the imposition of the conditions noted above.

Servicing

The arrangement for refuse storage is acceptable in general terms and the Highway Officer has recommended the imposition of a condition requiring the implementation of the proposed of bin storage arrangements at basement level.

CONCLUSION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposal would deliver much needed residential development in a highly sustainable location and without detriment to the character and appearance of the area, highway safety or amenity. As such, the proposal would comply with the above policies of the Local Plan and the NPPF. Therefore, in accordance with 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.
- 2 This decision relates to drawings Location and Block Plans (Dwg No. IPS/R/2/BL90RP SHT 1a of 7), Proposed Ground Floor Plan & Car Park Layout (Dwg No. IPS/R/2/BL90RP Rev. A SHT 4 of 7), Proposed First & Second Floor Plans (Dwg No. IPS/R/2/BL90RP SHT 5 of 7), Proposed Elevations & Sections (Dwg No. IPS/R/2/BL90RP SHT 6 of 7), Proposed Section (Dwg No. IPS/R/2/BL90RP SHT 7 of 7) 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 No development comprising the erection of any external walls shall take place until details of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details and the materials to be used throughout the development shall be consistent in terms of colour, size and texture with the approved details.
Reason. No material details are included in the application and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to Bury Unitary Development Plan Policy EN1/1.
- 4 Before the first occupation of any of the residential units hereby permitted, the

second floor windows in the square bays on the south-west elevation shall be obscure glazed in accordance with the approved drawing no. SHT5 and to a minimum of level 3 on the Pilkington scale and shall be permanently retained to that level thereafter.

Reason. To protect the privacy of adjoining occupiers and to accord with Bury Unitary Development Plan policy H2/3 - Extensions and Alterations and Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.

- 5 Full details of the in-curtilage basement bin storage arrangements for the approved development and existing uses of the building shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in full accordance with those details prior to the occupation of the first residential unit hereby approved. Thereafter, the in-curtilage bin storage arrangements shall be maintained available for use by the respective uses at all times.

Reason. To ensure adequate off-highway bin storage arrangements are provided within the curtilage of the site, in the interests of highway safety, pursuant to Bury Unitary Development Plan Policy EN1/2.

- 6 No residential unit hereby approved shall be first occupied unless and until the following works have been implemented in accordance with a scheme that shall have first been submitted to and agreed in writing with the Local Planning Authority:
- (i) the car park access and allocation alterations indicated on approved plan reference IPS/R/2/BL90RP 'SHT 4 of 7', incorporating the reinstatement of the redundant vehicular accesses onto Cook Street at the southerly end of the building and between the existing car park entrance and the un-named side street abutting the south-easterly site boundary;
 - (ii) removal of the existing gate;
 - (iii) relocation of the affected CCTV camera abutting the Back South Cross Street East boundary;
 - (iv) relocation/removal of the affected fenceline abutting the Back South Cross Street East boundary required to partially sub-divide the car park and provide a secondary access, and;
 - (v) all associated highway remedial works required to reinstate the adopted highway to its former condition prior to commencement of the development.

Reason. To ensure good highway design and to maintain the integrity of the adopted highway in the interests of highway safety, pursuant to Bury Unitary Development Plan policy EN1/2.

- 7 The car parking arrangements for use by the residential units hereby approved and the existing ground floor commercial premises indicated on approved plan reference IPS/R/2/BL90RP 'SHT 4 of 7' shall be surfaced, demarcated and made available for the intended respective uses prior to the first occupation of any residential unit hereby approved and thereafter maintained available for the intended respective uses at all times.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to Bury Unitary Development Plan policy HT2/4.

- 8 Prior to the first occupation of any residential unit hereby approved, at least one electric vehicle (EV) charging point (minimum 7kW*) shall be provided within the residents parking area, and shall be retained for that purpose thereafter.

*Mode 3, 7kW (32A) single phase, or 22kW (32A) three phase, and for 50kW Mode 4 rapid charging may be required. British Standard BS EN 61851-1:2011 to be used (note this version is due to be replaced by BS EN 61851-1:2019 on 5 July 2022).

Reason. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable, to safeguard residential amenity, public health and quality of life pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

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- 9 An acoustic attenuation scheme shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in full prior to the first occupation of any residential unit hereby approved. The approved scheme shall thereafter be retained.

Reason. Acoustic details have not been submitted and to protect the amenity of the future occupants pursuant to Bury Unitary Development Plan policies EN7/2 Noise Pollution and H3/2 Existing Incompatible Uses.

<u>Case Officer</u> DSC	<u>Date</u> 19/05/2022	<u>Sign off Officer</u>	<u>Date</u>
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