

DELEGATED REPORT

Report by Steven Gunn
Russell

Date of report: 01/04/2022

Ref:67960/FUL

Registration: 25/01/2022

LDfC: 24/02/2022

Expiry Date: 22/03/2022

Site Visit: 11/02/2022

Site Notice: N/A

Press Date: N/A

Objections: 0

Con Area: N/A

Adv Type: NONE

Reason for Delay:

EIA: NA

N/A

Dec Level: DEL

Stat Class: COUS

Proposal: Change of use from education centre (F1) to 1 no. dwelling (C3)

Location: 51 Dorset Drive, Bury, BL9 9DN

Description

The site is occupied by a two-storey detached building, which is the end unit of the Neighbourhood Shopping Centre which has several functioning shopping units, with residential properties to the front and rear. The building comprises two units and has an unusual layout in that although the shop occupies most of the ground floor, the upstairs unit also occupies part of the ground floor. This application concerns that part of the building which is currently a vacant education centre formerly occupied by "Kip McGrath", an education facility providing additional help for children struggling at school with maths and English. There is no direct connection between the two units.

The existing area to the front of the property is paved with no distinct boundary to the public footway on Dorset Drive with parking for the local shops adjacent. The north side boundary has an existing fence and there is an enclosed garden area to the rear of the property. This group of shops was originally built as dwellings with space for parking in between.

Planning permission is sought to change the use of the education centre (F1) to one dwelling (C3) with separate parking provision and the rear yard would be a domestic garden. The education centre has been vacant since March 2020 (approximately 2 years).

There are no proposals to change the external appearance of the building with the exception of moving the big side gate back by 1m for the purpose of providing a parking space at the front of the building. There would be a separation of 7.1m to the rear boundary which has limited shrubbery.

Relevant Planning History

60304 - Change of use of part of property from residential (Class C3) to educational centre (Class D1) – Approved Sept 2016

Publicity

Immediate neighbours notified by letter dated 02/02/2022 sent to 16 neighbours. No representations were received.

Statutory/Non-Statutory Consultations

Traffic Section – No objection subject to condition relating to parking arrangements and main gates.

Waste - No response

Planning Policy – No response

Pre-start Conditions

N/A

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
S1/5	Neighbourhood Centres and Local Shops
CF2	Education Land and Buildings
EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
EN7/2	Noise Pollution
EN5/1	New Development and Flood Risk
EN7/3	Water Pollution
EN7/5	Waste Water Management
EN6	Conservation of the Natural Environment
EC4/1	Small Businesses
H1/2	Further Housing Development
H2/2	The Layout of New Residential Development
H2/1	The Form of New Residential Development
H2/3	Extensions and Alterations
SPD6	Supplementary Planning Document 6: Alterations & Extensions
HT2/4	Car Parking and New Development
SPD11	Parking Standards in Bury
HT6/2	Pedestrian/Vehicular Conflict

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 of Development

The main consideration of the application is the impact of the proposal on the Neighbourhood Shopping Centre. The current policy for the area, S1/5 - Neighbourhood Centres and Local Shops, seeks to retain retailing (Class A1) as the predominant use in small neighbourhood centres to cater for the needs of local residents.

Policy CF2 highlights the need to support the provision of additional facilities. However, this educational provision and first floor unit has been vacant for approximately 2 years. The ground floor shop would remain unchanged (not part of this application) with a total of 3 retail units remaining in this neighbourhood centre, and it is considered there is adequate provision for residents from the other local shops in the centre. The scheme in principle complies with policy and is considered acceptable.

There are existing adjacent residential dwellings to the side and rear of the site. As such a change of use to residential for 1 flat is considered to be acceptable and the mixed use would also help to provide natural surveillance of the retail area which supports policy on crime prevention.

The proposed development is therefore considered to be acceptable and comply with UDP Policy S1/5, and CF2.

Amenity

The other main considerations of the application are the visual and residential amenities of the area with particular regard to occupants and neighbours.

The proposed change of use from education centre (opening hours 0900 hrs to 2100 hrs Monday to Saturday), to a dwelling is considered not to be seriously detrimental to the neighbours or visual amenity of the streetscene as the immediate area occupies both residential dwellings and small-scale retail.

The proposed scheme would not incur a loss of light, privacy, or outlook as there are no major extensions proposed to the building, therefore it is considered not to harm residential amenity.

A rear garden is available within the curtilage of the site providing private outdoor amenity space for the occupiers of the flat. Ideally a front garden and boundary wall would be preferable in terms of visual amenity but it is accepted that the hardstanding at the front of

the property is appropriate for parking provision for the residential occupant, the adjacent shop owner, and associated customers.

Highways - The proposal would require a separate parking space for the residential occupant, and the applicant has provided a space at the front via the existing dropped kerb. The existing driveway is too short to meet current standards, however the applicant has agreed to set the gates back to ensure there is a minimum driveway length of 5m which will be conditioned. The proposed development is therefore considered to be acceptable and comply with UDP Policy HT2/4 and associated guidance in SPD11.

Conclusion – In consideration of the above, it is considered that the proposed development would be acceptable in terms of the sitting, scale, and design, of this development. As such, the proposed development is therefore considered to be acceptable and complies with UDP Policies S1/5 - Neighbourhood Centres and Local Shops, CF2 Education Land and Buildings, H2/3 - Extensions and Alterations, and HT2/4 Car Parking and New Development.

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 MK2-01E and MK2-02, 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 proposal 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 H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.
- 4 Before the first occupation of the development hereby permitted the toilet/ bathroom windows shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter.
Reason. To protect the privacy of adjoining occupiers and to accord with Policy H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.

- 5 The car parking alterations and bin storage arrangements indicated on approved plan reference MK2-01 Revision E, incorporating the retention of the existing footway crossing and setting back of the existing/provision of new gates to ensure a minimum driveway length of 5.0m will be provided, shall be implemented to the written satisfaction of the Local Planning Authority before the use hereby approved is commenced and thereafter maintained available for use at all times.
Reason. To enable a vehicle to stand clear of the highway whilst the garage doors are opened and to allow adequate space to maintain a vehicle clear of the highway in the interests of road safety pursuant to Policy H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and associated Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Steven Gunn-Russell	01/04/2022		