

DELEGATED REPORT

Report by Helen Pressley	Date of report: 07/02/2024	Ref: 70320/FUL
Registration: 15/12/2023	LDFC: 02/02/2024	Expiry Date: 09/02/2024
Site Visit: 08/01/2024	Site Notice: 08/01/2024	Press Date: 21/12/2023
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: MIOT

Proposal: Replace existing windows and doors - Removal of three doors and reinstatement of full length windows; Partial removal of bricked door with insertion of window; 3 no. windows with railings to be removed and replaced with larger windows

Location: 5 Crompton Street, Bury, BL9 0AD

Description

The application relates to a building which is located in the Bury Town Centre Conservation Area. The building was previously in use as a nursery but prior approval for 16no. apartments was granted in November 2023 and works appear to be underway internally in relation to this. The building is situated on Crompton Street with a row of shops opposite and pedestrian access to the Mill gate Centre. Immediately adjacent to the site is a paved area, Lion Gardens, Directly to the north is an access road which leads to a service yard area at the rear for some of the units in the Mil Gate.

The building is not listed but it is mentioned specifically in the Bury Town Centre Conservation Area Appraisal and it is also included within the draft local list of buildings of special architectural or historic interest.

The main building comprises 3 storey to the front with a 2 storey addition at the rear which extends the width of Lion Gardens. The majority of the property is brickwork, with stone sills and surrounds to the windows and doors, and horizontal stone coursing through the frontage. The gable facing Lion Gardens is rendered and painted to match the brick work and has the main entrance through a double doorway.

Planning permission is sought to replace all of the windows and doors within the property with grey UPVC. This includes the removal of three doors to the side elevation and reinstatement of full length windows; partial removal of bricked door with the insertion of window and 3 no. windows with railings to be removed and replaced with larger windows.

Relevant Planning History

49341 - Change of use from former post office to licensed food and drink operation (Class A4) - Approve with Conditions 20/02/2008

49406 - Change of use from former post office to licensed food and drink operation (Class A4) (Alternative scheme to ref 49341 - includes an external area - Approve with Conditions 19/03/2008

53996 - Change of Use from Sui Generis (Post Office with Sorting Office) to Shop (Class A1) and change of elevation to provide additional access and new windows - Withdrawn - Invalid 20/05/2011

54208 - Change of use from Sui Generis (post office with sorting office facilities) to mixed use comprising retail (Class A1) , financial and professional services (Class A2), restaurant

and cafe (Class A3), and drinking establishment (Class A4); Alterations to side elevation to provide canopy, additional access and new windows - Approve with Conditions 02/11/2011

55352 - Change of use of building from Sui Generis to D2 (Assembly & Leisure). - Approve with Conditions 03/09/2012

58302 - Two storey extension to side elevation to form additional internal staircase - Withdrawn by Applicant 06/02/2015

58453 - Change of use from ground floor children's play centre and first/second floor offices to creche/day nursery/children's play centre (Class D1) to the ground/first/second floors; New access to first floor flat roof area at rear and installation of 1.8 metre high railings to create outside play area - Approve with Conditions 23/04/2015

58472 - Two storey extension to side elevation to form additional internal staircase (resubmission) - Approve with Conditions 15/04/2015

59675 - Creation of car park and turning area/drop off point to serve existing nursery premises - Refused 19/04/2016

62907 - 1 No. non-illuminated fascia sign - Approve with Conditions 20/08/2018

69687 - First floor rear extension to form 1 no. lower first floor flat and loft conversion/roof alterations with dormers to form 2 no. second floor flats with external alterations and associated works - Refused 24/08/2023

70177 - Change of use from Class E to 16 no. apartments (Class C3). Application for a Non Material Amendment to Prior Approval 69480 to allow addition of stairs within some apartments. Apartments 1, 6, 7, 8, 12, 14 and 15 will include an additional floor in the apartment to increase living space and modifications to internal arrangement. - Approve with Conditions 20/11/2023

Publicity

Neighbour letters 19/12/2023

Site Notice 8/1/2024

Press Notice 21/12/2023

No representations received.

Statutory/Non-Statutory Consultations

Conservation Officer - The proposals would cause an unacceptable loss of architectural significance to the Non-Designated Heritage Asset and would not at least preserve the character or appearance of the conservation area Section 72(1) of the Planning (Listed Building & Conservation Areas) Act 1990.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN2	Conservation and Listed Buildings
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
S2/2	Prime Shopping Areas and Frontages
Area	Central Shopping Area
BY6	
S1/1	Shopping in Bury Town Centre
EN1/1	Visual Amenity
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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Heritage, Design and Layout

As the site is located within Bury Town Centre Conservation Area it is necessary to consider the proposal in terms of UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control of the UDP. 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.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 205 of the National Planning Policy Framework (NPPF) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 209 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 208 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The Bury Conservation Area Appraisal addresses replacement doors and windows directly, confirming that the replacement of such joinery is a major issue throughout the Conservation Area and highlights the damage that inappropriate replacements can cause.

5 Crompton Street is considered to be a Non-Designated Heritage Asset (NDHA) and is sited within Bury town centre conservation area. It is included within the draft local list of buildings of special architectural or historic interest and is included within the conservation area appraisal as a significant unlisted building that makes a positive contribution to the character of the conservation area which describes the buildings as " Built probably at the end of the 19th century, but certainly between 1893 and 1910. Red brick with stone dressings, in neo-Elizabethan style with stone mullioned windows, finials, blind-arch parapets, corner turret and tower over the main entrance. The large extension to the rear is late 20th century."

The Heritage Assessment submitted with the application acknowledges that the site is located within Bury Town Centre Conservation Area, and that the building is considered to be a Non-designated Heritage Asset. A brief description is given of the Conservation Area and it is acknowledged that the building does possess some architectural and historic value.

When assessing the impact on the Conservation Area, the Heritage Assessment notes that there are some newer additions to the building such as uPVC doors and windows that have no architectural merit. The Heritage Assessment also acknowledges that the front of the building is more prominent within the Conservation Area. Limited assessment is provided within the documentation submitted in relation to what the significance of the NDHA is, or the potential effect of the proposed alterations are on this significance.

The applicant considers that replacing the existing wooden windows with new grey UPVC windows will have minimal change and will enhance the overall appearance of the building. No front or rear elevation drawings have been provided, and limited information is provided within the Planning Statement in relation to the design of the windows. As such it is unclear how the applicant has come to this conclusion, as it has not been adequately demonstrated. No acknowledgement is made that UPVC windows by their very nature do

not replicate the design, proportion, set back and appearance of the existing timber windows. It is also unclear how when assessing the impact of the proposal the applicant can both consider that the existing white UPVC doors and windows on the side elevation have no architectural merit, but also state that the insertion of grey UPVC windows and doors on the front elevation would be sympathetic as these appear to be conflicting statements.

It should also be noted that when raising the LPAs reservations about the proposal with the applicant/agent the agent confirmed that they believed that planning permission was required because the grey appearance would be different to the existing appearance of the cream timber windows. The applicant/agent confirmed they would be happy to change the windows to wood effect, cream to retain a similar appearance. The LPA would contend however that despite this proposed change in colour the replacement of the wooden windows and doors, with white or cream UPVC would also require planning permission. UPVC windows have a different material appearance to wood even if they are cream, white or wood effect. They are generally bulkier in style but as very limited details of the design of the windows have been submitted the LPA are unable to make a full assessment of the harm. The extent and cumulative effects of the replacements required for this building would however materially affect the external appearance of the building and as such would need planning permission - Section 55(2)(a)(ii) of the Town and Country Planning Act 1990.

The applicant/agent also confirmed that they would be happy to accept a condition to agree the exact colours of the windows. As set out previously, no details of the proposed windows, outside of photographs of a non-descript grey UPVC window within the Planning, Design and Heritage Statement (Figure 3) have been provided. No front or rear elevation drawings have been provided. No details have been provided in relation to the design of the replacement UPVC door to the front elevation. As such it is considered that inadequate information has been submitted to enable this particular detail to be conditioned.

It is accepted that the windows within the side elevation, and their proposed replacement with UPVC are likely to have less impact on the Conservation Area and the NDHA. No objections are raised in principle to the changes to the openings on these side elevations. Externally however the building is in largely its unaltered original historic form and as such makes it a strong contributor to the special character and appearance of the Conservation Area. The proposed replacement windows and doors would therefore represent an erosion of the special character and appearance of the Conservation Area neither preserving or enhancing that special character and appearance. There has been a failure within the submitted documentation to acknowledge the harm that the cumulative effect of replacement UPVC windows present to the identified designated, and non-designated heritage asset.

As such, the proposal would represent less than substantial harm to the Conservation Area. The applicant has failed to provide any evidence of public benefit that would outweigh the harm identified or that the proposals are required to secure a viable optimum use for the building.

Visually many of the windows look to be in a reasonable condition and as such there may be scope for assessment and repair before defaulting to wholesale replacement. It is noted that one window within the front elevation has already been replaced with cream UPVC. The cill and rail of this window are not in keeping the general form of the existing timber windows and as such the style of this window should not be replicated. No information has been submitted with the application to suggest that an assessment in relation to repair has been undertaken to warrant the need for full UPVC replacement at this sensitive site.

It is noted, as raised by the applicant within their submission documentation, that there are other UPVC windows within the vicinity of the site. Appeal APP/T4210/W/16/3160333 should also be noted in relation to this. This appeal decision acknowledged modern glazing shop fronts on neighbouring properties but concluded that such alterations greatly

diminished their historic merits and agreed with the LPA that to allow replication of such features would be unduly harmful to the significance of the Conservation Area. A similar argument can be used for this site, in that the installation of other UPVC windows within the vicinity of the site without planning permission, should not warrant the introduction of further discordant features.

Through the limited information provided with the application it is considered that the proposed external alterations, replacement doors and replacement windows would by virtue of their design and materials introduce a discordant feature into the Bury Town Centre Conservation Area where it is the intention of the Local Planning Authority to secure a high standard of development in relation to alterations by requiring the use of sympathetic and compatible building forms and materials. The proposed external alterations would neither preserve nor enhance the Conservation Area within which the site is located. The proposal therefore conflicts with the following policies of the Unitary Development Plan: EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control, EN1/2 - Townscape and Built Design, Bury Town Centre Conservation Area Appraisal and the National Planning Policy Framework.

It should also be noted that as set out within the report above insufficient information has been provided to fully assess this impact.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority offered solutions to the applicant in order to make the development acceptable. The applicant was however unwilling to amend the plans. Without these amendments the development would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed external alterations, replacement UPVC doors and replacement UPVC windows would by virtue of their design and materials introduce a discordant feature into the Bury Town Centre Conservation Area where it is the intention of the Local Planning Authority to secure a high standard of development in relation to alterations by requiring the use of sympathetic and compatible building forms and materials. The proposed external alterations would neither preserve nor enhance the conservation area within which the site is located and would have an unacceptable impact on a Non-Designated Heritage Asset, that would lead to a development that is neither sympathetic to nor compatible with the historic significance of the building. The proposal therefore conflicts with the following policies of the Unitary Development Plan: EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control, EN1/2 - Townscape and Built Design, Bury Town Centre Conservation Area Appraisal and the National Planning Policy Framework.
- 2 The application and submitted plans fail to adequately assess the impacts of the proposal on the significance of the identified Non-designated Heritage Asset and Conservation Area through the submitted Heritage Assessment, and have failed to submit details of the proposed front and rear elevations and the design of the windows and doors proposed. The application and submitted plans therefore contain insufficient information to enable them to be properly assessed in relation to the impact of the proposal on a Non-Designated Heritage Asset and Conservation Area. The proposal therefore conflicts with the following policies of the Unitary

Development Plan: EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control, EN1/2 - Townscape and Built Design, Bury Town Centre Conservation Area Appraisal and the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	7/02/2024		