

DELEGATED REPORT

Report by Mark Kilby	Date of report: 24/05/2022	Ref: 68197/FUL
Registration: 30/03/2022	LDfC: 13/05/2022	Expiry Date: 25/05/2022
Site Visit: 06/04/2022	Site Notice: 06/04/2022	Press Date: 21/04/2022
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Proposed replacement of 3No dilapidated windows

Location: 16 Bolton Street, Bury, BL9 0LQ

Description

The application site is located within Bury Town Centre and Conservation Area. The application site consists of Nos 16 & 18 Bolton Street and No. 4 Cooper Street, which are in use as a single restaurant. These buildings are located within a terrace of red brick properties, which extend to the east of the site. The building is considered to be a Non-Designated Heritage Asset (NDHA). The archaeological remains of Bury Castle are located to the rear of the site and beyond is the Castle Armoury building, which is a Grade II listed building.

The application is for the replacement three timber sliding sash windows: two on the side elevation at ground floor level fronting Cooper Street and one on the front elevation facing Bolton Street. The replacement windows would be like for like and as such would match the design, construction and appearance of the existing windows, sliding sash constructed from hard wood timber coloured brown and would maintain the existing reveal set back.

Relevant Planning History

None relevant.

Publicity

Letter dated 5/4/22 to adjoining addresses, site notice 6/4/22, press notice 21/4/22. No objections or comments received.

Statutory/Non-Statutory Consultations - None.

Pre-start Conditions - None.

Unitary Development Plan and Policies

EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
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. 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.

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 203 of the National Planning Policy Framework 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.

The building has been identified as a non-designated heritage asset in accordance with Annex 2 of the NPPF and is considered to be a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing). The 'Good Practice Advice Note 2: Managing Significance in Decision-Taking' published by Historic England (2015) clarifies non-designated assets as those "...that have been identified in a Historic

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Environment Record, in a local plan, through local listing or during the process of considering the application."

Conservation Area - The proposed replacement windows would be like for like replacements of the existing windows which are not original. By virtue of their design, construction, materials, colour and the maintaining of the existing window reveal set back the proposal would have a neutral impact on the character and appearance of the conservation area and street scene and as such would at least preserve it.

Details of the proposed windows have been submitted and as such it is not considered necessary to impose a condition for sample window(s) to be submitted prior to commencement.

NDHA - The building itself is considered to be an NDHA and for the same reasons as above and as a constituent part of the conservation area the proposal would not cause harm to or loss of significance of the building as an NDHA.

The proposal would therefore comply with adopted UDP policies EN1/1-Visual Amenity, EN2/1-Character of Conservation Areas, EN2/2-Conservation Area Control and paragraphs 194, 195, 199, 202, 203, 206 of the NPPF.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 001, 002, 100 Revision 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.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Mark Kilby	24/5/22		