

Appeal Statement

Albion Mill & Albion House

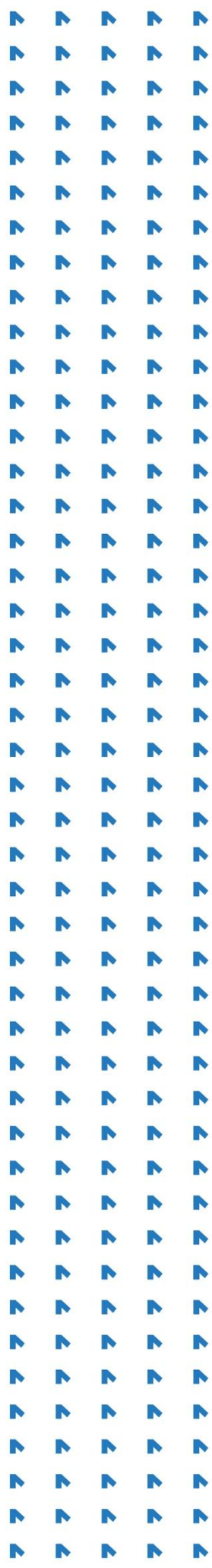
Albion Street, Bury

BL8 2AD

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May
2025

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1 INTRODUCTION

- 1.1 This Appeal Statement has been prepared on behalf of Bracknell Properties Limited following Bury Council's refusal of planning application **Ref 71587**, which sought prior approval from the Council for the proposed change of use from Commercial, Retail and Car Servicing (Use Class E) to dwellinghouses (Use Class C3) under Class MA.
- 1.2 The application was validated on 13th January 2025 and subsequently refused on 7th March 2025 under delegated powers (please refer to the Decision Notice and Delegated Officer Report enclosed at **Appendix 1 and 2**).
- 1.3 This Statement will set out why the Council's decision to refuse the application was unjustified in terms of local and national planning policy, and accordingly, why the appeal should be allowed.
- 1.4 The grounds of appeal are as follows:
- The existing use of part of the site is as a car servicing workshop with no significant repair work taking place on site. As a result, the use of the property falls within Use Class E Commercial, Business and Service and the property is therefore capable of benefitting from a change of use to residential (Use Class C3) under Class MA of the General Permitted Development Order 2015 (as amended);
 - The proposed scheme will not result in any unacceptable impact upon highway safety, either as a result of parking provision, refuse storage arrangements or any other transport related issue. As a result, it is appropriate for the property to change use to residential (Use Class C3) under Condition MA.2(2)(a) of Class MA, General Permitted Development Order 2015 (as amended);
 - The proposed development will not result in any unacceptable noise impact arising from any commercial premises (including the ground floor of the Mill building) on the intended future occupiers of the development. Accordingly, the property can change to residential (Use Class C3) under Condition MA.2(2)(d) of Class MA, General Permitted Development Order 2015 (as amended), and
 - The development proposal will not result in any unacceptable impact on future occupiers of the development from the introduction of a residential use in an area the authority considers to be important for general industry. Accordingly, it is appropriate for the property to change use to residential (Use Class C3) under Condition MA.2(2)(g) of Class MA, General Permitted Development Order 2015 (as amended).
- 1.5 In terms of structure, this Appeal Statement will provide a summary of the case background prior to examining the Council's reasons for refusal and demonstrating why these are unjustified and inappropriate in planning terms. The statement addresses the following:
- 1) Background;
 - 2) Site and surroundings;
 - 3) Planning history;

4) Planning policy; and

5) Planning considerations.

1.6 The statement concludes that the Council was unjustified in refusing the application, and as such, the appeal should be allowed.

2 BACKGROUND

2.1 Application **Ref 71587** was refused by the Council for the following reasons (as worded on the Decision Notice):

1. The proposal would result in the intensification of the use of site with inadequate off-street parking facilities, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a significant impact on access to and parking facilities for existing commercial businesses/operations located off Albion Street and would therefore be detrimental to the free flow of traffic and road safety. The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan: Policy H2/2 – The Layout of New Residential Development; Policy EN1/2 – Townscape and Built Design; Policy HT2/4 – Car Parking and New Development; Policy JP-P1 Sustainable Places; Policy JP-C5 Streets for All; Policy JP-C6 Walking and Cycling;
2. The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the number of flats proposed within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins. The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan: Policy H2/2 – The Layout of New Residential Development; Policy EN1/2 – Townscape and built Design; Policy JP-P1 Sustainable Places; Policy JP-C8 Transport Requirements of New Development;
3. The proposed development would introduce a non-conforming use within an Employment Generating Area which would be harmful to the future occupiers of the proposed development by virtue of the noise, activities, traffic and transport and servicing associated with the established EGA. The proposed development would therefore be contrary to the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan: EC2/1 – Employment Generating Areas; Policy H2/2 – The Layout of New Residential Development; Policy EN1/2 – Townscape of Built Design; Policy EN7/2 – Noise Pollution; Policy JP-P1 – Sustainable Places, and
4. The existing use of the site does not wholly fall within one of the uses falling within Class E of Schedule 2 to the Use Classes Order. Therefore, the proposal does not comply with the statutory limitation in paragraph MA.1 (1)(b) of Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2.2 In the context of the reason for refusal, it is considered that the key issues in respect of the proposed development can be summarised as follows:

1. Whether the existing use of the site falls within one of the uses identified within Schedule 2, Class E of the Use Classes Order (as amended) and therefore complies with the limitations set out within Class MA.1.(2) of the General Permitted Development Order 2015 (as amended);

2. Whether the proposal would have an unacceptable transport impact, taking particular account of safe access to the site, parking provision and also whether an acceptable refuse storage arrangement will be provided for occupiers of the proposed development in accordance with the provision of Condition MA.2(2)(a) of Class MA, General Permitted Development Order 2015 (as amended);
3. Whether there would be an unacceptable impact of noise from commercial premises on the intended occupiers of the development in accordance with the provision of Condition MA.2(2)(d) of Class MA, General Permitted Development Order 2015 (as amended), and
4. Whether there would be an unacceptable impact on intended occupiers of the development arising from the introduction of a residential use within an area the authority considers to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses in accordance with the provision of Condition MA.2(2)(d) of Class MA, General Permitted Development Order 2015 (as amended).

3 SITE AND SURROUNDINGS

- 3.1 The site comprises Albion House, Albion Mill and Albion Mill rear. Albion Mill is a rectangular four storey building (including basement) with a chimney feature to the southern elevation. It has previously been extended to the western side and displays a single storey addition to the northern elevation.
- 3.2 The mill building is constructed of red brick and displays symmetrical timber fenestration with stone heads and cills. It represents an early example of a brick industrial building with important detailing and is identified as a draft locally listed building.
- 3.3 Albion House was constructed later in the early 20th Century. It is of partial 3 storey accommodation to the north end, with the remainder of the building single storey with mezzanine level. Albion House is of slate over brick with steel roof construction and the southern bay has been rebuilt in recent years. It forms part of the overall locally listed Mill complex.
- 3.4 The site is located to the west of Bury Town Centre within a highly accessible, sustainable location and forms part of Bury Bridge/Daisyfield Employment Generating Area on the adopted Proposals Map. The immediate surrounding area comprises similar mill type buildings, commercial/industrial units and workshops.
- 3.5 Please refer to the extract of the site layout plan below.

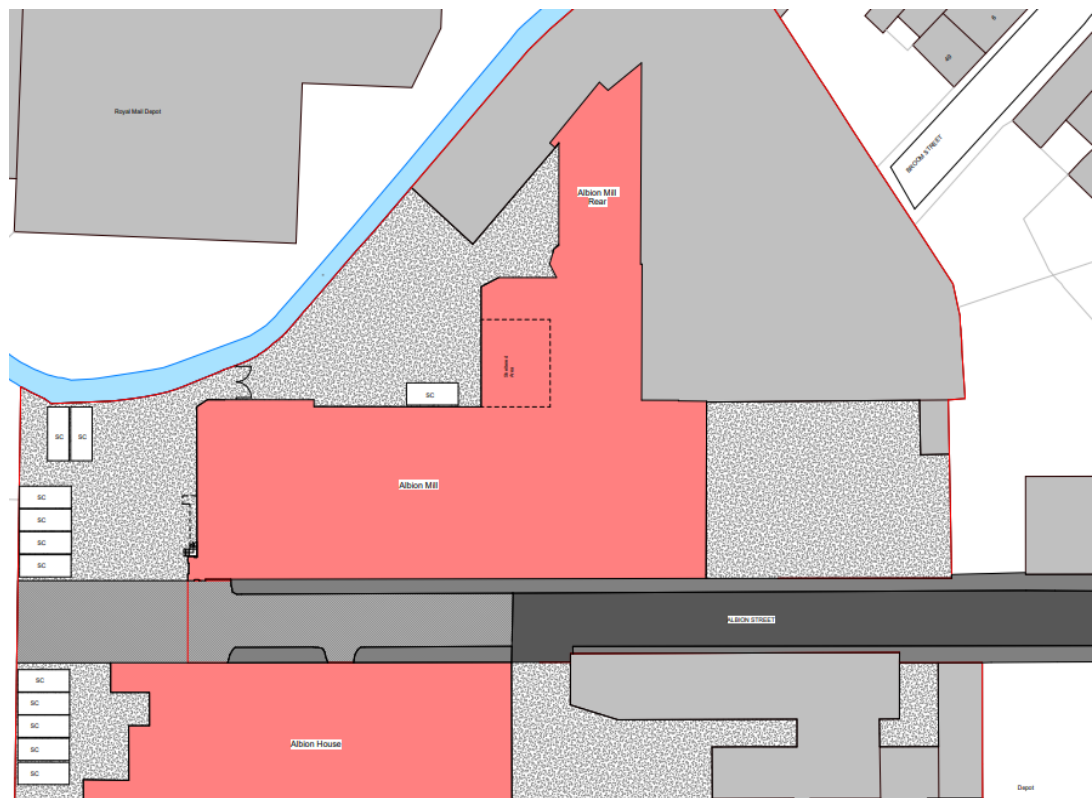


Image 1 – Existing Site Plan demonstrating the relative positions of Albion House, Albion Mill and Albion Mill rear in relation to Albion Street and Broom Street

4 PLANNING HISTORY

- 4.1 A review of the Council's online records reveals that the site has been subject to a several previous planning applications of relevance to the appeal scheme, as summarised below.
- 4.2 Application **Ref 70789** was submitted in May 2024 seeking the prior approval of the Council for the change of use from a commercial building to form 42 flatted dwellings - **Withdrawn 9th July 2024**.
- 4.3 The application was withdrawn by the applicant in July 2024 on the basis that the Council required additional information in respect of the following:
- **Transport** - Additional justification was requested in relation to parking provision and ensuring that the development would have no unacceptable impact in regard to highways safety;
 - **Noise** - It was requested that the applicant submit a noise impact assessment to demonstrate that future occupiers would not be subject to any unacceptable noise impacts arising from commercial floorspace within the building or nearby, and
 - **Contamination** - The Council requested additional supporting information to provide reassurance that there were no contamination risks relating to the site.
- 4.4 Accordingly, application **Ref 71587** was prepared to comprehensively address the Council's comments, as set out in the covering letter which supported the application and discussed further within the subsequent sections of this appeal.
- 4.5 Prior to this, application **Ref 70306** (which proposed external alterations including replacement of the existing roof and fenestration at Abion Mill and Albion Mill Rear in association with its lawful Class E commercial use) was approved on 8th May 2024.
- 4.6 Subsequently, application **Ref 71220** (which proposed alterations across the site including replacement of existing fenestration, addition of extra windows, demolition of car port, replacement of existing roof and reconfiguration of the car park across the site) was approved on 20th February 2025.

5 PLANNING POLICY

5.1 This section provides a review of relevant national and local planning policy and guidance.

5.2 As the application seeks the prior approval of the Council for the change of use of Use Class E (Commercial Floorspace) to Use Class C3 (Residential Dwellings) the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2015 (as amended)) is of principal importance to the assessment of this appeal.

Class MA, Part 3, Schedule 2, Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5.3 Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

5.4 MA.1. - (1) Development is not permitted by Class MA –

- b. Unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;
- d. If land covered by, or within the curtilage of, the building –
 - i. Is or forms part of a site of special scientific interest;
 - ii. Is or forms part of a listed building or land within its curtilage;
 - iii. Is or forms part of a scheduled monument or land within its curtilage;
 - iv. Is or forms part of a safety hazard area; or
 - v. Is or forms part of a military explosives storage area;
- e. If the building is within –
 - i. An area of outstanding natural beauty;
 - ii. An area specified by the Secretary of State for the purposes of Section 41(3) of the Wildlife and Countryside Act 1981;
 - iii. The Broads;
 - iv. A National Park; or
 - v. A World Heritage Site;
- f. If the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or
- g. Before 1 August 2022, if –
 - i. The proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
 - i. The development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

5.5 (2) The classes mentioned in sub-paragraph (1) (b) are the following classes of the Use Classes Order-

- a. The following classes of the schedule as it had effect before 1st September 2020 –
 - i. Class A1 (shops);
 - ii. Class A2 (financial and professional services);
 - iii. Class A3 (food and drink);
 - iv. Class B1 (business)
 - v. Class D1(a) (non-residential institutions – medical or health services);
 - vi. Class D1(b) (non-residential institutions – creche, day nursery or day centre);
 - vii. Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- b. On or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

5.6 Development under Class MA is permitted subject to the developer applying to the local planning authority for determination as to whether the prior approval of the authority will be required for the following conditions.

- a. Transport impacts of the development, particularly to ensure safe site access;
- b. Contamination risks in relation to the building;
- c. Flooding risks in relation to the building;
- d. Impacts of noise from commercial premises on the intended occupiers of the development;
- e. Where –
 - i. The building is located in a conservation area, and
 - ii. The development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
- f. The provision of adequate natural light in all habitable rooms of the dwellinghouses;
- g. The impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses;
- h. Where the development involves the loss of services provided by –
 - i. A registered nursery, or
 - ii. A health centre maintained under section 2 or 3 of the National Health Service Act 2006,

The impact on the provision of services lost; and

- i. Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

Request for Confirmation that Prior Approval is Not Required

- 5.7 In accordance with the above provisions, the following details are confirmed in respect of the proposed change of use:
- 5.8 As confirmed by the Council within the Delegated Report enclosed at **Appendix 2** the site is not or does not form part of the curtilage of –
- a. A site of special scientific interest;
 - b. A listed building;
 - c. A scheduled monument;
 - d. A safety hazard area;
 - e. A military explosives storage area;
 - f. An area of outstanding natural beauty;
 - g. An area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;
 - h. The Broads;
 - i. A National Park; or
 - j. A World Heritage Site.
- 5.9 The site is not occupied under an agricultural tenancy as confirmed within the Delegated Report.
- 5.10 Finally, as also confirmed within the Delegated Report for the application the site does not trigger the fire risk condition.

6 PLANNING CONSIDERATIONS

- 6.1 As summarised within Section 2, this appeal can effectively be split into two parts. In the first instance, an assessment of whether the proposal complies with the limitations of the General Permitted Development Order 2015 (as amended) as set out within Class MA.1.(2) needs to be made to establish whether the proposal can qualify as permitted development.
- 6.2 Secondly, it needs to be demonstrated that the proposed change of use can meet all relevant conditions as set out within Class MA.2.(2) to establish whether prior approval can be requested and granted for the proposed change of use under the provisions of Class MA.
- 6.3 These considerations are taken in turn below.

Whether the existing use of the site falls within one of the uses within Schedule 2, Class E of the Use Classes Order (as amended) and the proposal therefore complies with the limitations set out within Class MA.1.(2) of the General Permitted Development Order 2015 (as amended);

- 6.4 In considering this issue the Council contend at Page 5 that:

“The proposal would not comply with sub-paragraph 1(b) as part of the building (rear of the ground floor) which is subject of this Prior Approval and which is proposed as the entrance, bin store and bike store in association with the residential flats (and as such would be considered as residential in use), is in use as a car servicing unit which would fall within a Class B2 use and not Class E as it involves servicing and associated repair work that would be detrimental to residential amenity in terms of noise, fumes and smells”

- 6.5 To confirm, the existing use of this area of the site is solely for car servicing as stated clearly within the covering letter and annotated on the drawings package which accompanied the application. At no point has it been suggested by the applicant that the existing car servicing unit has been used for any repair work which would form part of a B2 Use Class.
- 6.6 Furthermore, as explained in Section 4, application **Ref 70306** (which proposed external alterations including replacement of the existing roof and fenestration at Abion Mill and Albion Mill Rear in association with its lawful Class E commercial use) was approved by the Council on 8th May 2024. The application plans showed car servicing use as forming part of the floorspace of the building and the Council raised no queries or objections to this, indicating that Officers accepted this as a Class E use.
- 6.7 As has been borne out within recent case law, premises undertaking car servicing and Ministry of Transport (MOT) Tests only, are regarded to be an industrial process which can be carried out within a residential area without detriment to the amenity of the area by way of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
- 6.8 As a result, car servicing falls is classified as a Class E Commercial, Business and Service use. It is only where more invasive repair works such as panel beating, body repairs, paint spraying etc. take place that the proposed use would fall within the remit of Use Class B2 General Industrial.
- 6.9 By way of demonstration, the appellant’s consultant team recently prepared a Class MA prior approval application which sought the proposed change of use from Class E Car Servicing to Class C3 (2 self-contained residential apartments). The application related to No 7 Sheffield Street, Heaton

Norris Stockport SK4 1RU and was determined for refusal under delegated powers by Stockport MBC on 22nd May 2024.

- 6.10 In determining the application however, the Council confirmed that the use of the premises (as car servicing) was a Class E use. Furthermore, in assessing the subsequent appeal the Inspector also confirmed that Car Servicing represented a Class E use (please refer to Paragraph 5 of the Appeal Decision letter attached at **Appendix 3**).
- 6.11 This case was determined under the same legislative framework and is therefore directly relevant to the determination of this appeal given that it clearly confirms the acceptance of Car Servicing as a Class E use.

Whether the proposal complies with all relevant Conditions as set out within Paragraph MA.2(2) (a-i)

- 6.12 As set out within Section 5 of this Statement, development under Class MA may be permitted subject to the developer seeking confirmation from the local planning authority prior to starting development as to whether prior approval of the authority will be required in relation to transportation and highways impacts, contamination risks in relation to the building, flood risk on site, the impact of noise from commercial premises on the intended occupiers of the development, the provision of adequate natural light in all habitable rooms and the impact on intended occupiers of the proposal of the introduction of a residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.
- 6.13 Accordingly the application was supported by a range of supporting information which confirmed that all relevant considerations could be satisfactorily addressed.
- 6.14 In particular, no objection/concern was raised by the Council in the consideration of the following conditions (as set out within pages 5-8 of the Delegated Report attached at **Appendix 2**):
- b. Contamination - (The Council's Environmental Health contaminated land section confirmed no objection subject to conditions);
 - c. Flooding - (The site was confirmed to not be at risk of flooding by the Council);
 - e. Character of a Conservation Area - (The Council confirmed the site did not lie within a Conservation Area);
 - f. Natural Light - (The Council confirmed all habitable rooms would receive adequate amounts of natural light), and
 - h. The loss of a registered nursery or health centre - (The Council confirmed there would be no loss of such provision as a result of the proposal).
- 6.15 As a result, the scope of issues to be considered in association with this appeal are restricted to the following, which are addressed in turn below:

- a. Transport impacts of the development, particularly to ensure safe site access as well as demonstrating that an acceptable refuse storage arrangement will be provided for future occupiers of the proposed development;
- d. Impacts of noise arising from commercial premises upon the intended occupiers of the development, and
- g. The impact on intended occupiers of the development of the introduction of a residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses.

Whether the proposal would have an unacceptable transport impact, taking particular account of safe access to the site and also whether an acceptable refuse storage arrangement will be provided for occupiers of the proposed development in accordance with the provision of Condition MA.2(2)(a) of Class MA, General Permitted Development Order 2015 (as amended);

6.16 By way of background, the Council's Highways Officer assessed the withdrawn prior approval application Ref 70789 and recommended its refusal on the following grounds:

- i. The proposal would result in the significant intensification of the use of a site with inadequate off-street parking facilities within the curtilage of the site for the proposed residential and retained existing industrial uses, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding adopted highways where on-street parking facilities are at a premium at all times of day, would have a significant detrimental impact on access to the adjacent industrial uses served by Albion Street and would be detrimental to the free flow of traffic and highway safety;
- ii. The proposal would result in the loss of existing off-highway servicing and parking facilities within the curtilage of the site for the existing industrial use, which would have a significant detrimental impact on highway safety, access to the adjacent industrial uses served by Albion Street and be detrimental to the free flow of traffic, and
- iii. The application and submitted plans contain insufficient information to ensure that access to and provision of adequate off-highway bin storage arrangements and facilities can be provided for the proposed residential use within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins.

6.17 Accordingly, the appellant instructed TTHC to prepare a Transport Statement in support of the revised application (which forms the basis of this appeal submission).

6.18 The Statement demonstrates that the site's location provides an excellent opportunity for travel by sustainable modes. Furthermore, the proposed redevelopment of the site would result in a net reduction of trips on the highway network.

6.19 It is proposed to re-arrange the existing parking area located to the south of the Mill to provide a total of 21 car parking spaces to serve the 20 proposed residential properties.

6.20 These spaces will consist of:

- 12 standard bays;
- 2 accessible bays, and
- 7 EVC bays.

6.21 Secure cycle stores providing a total of 20 cycle spaces will be provided within Albion House and Albion Mill Rear, respectively.

6.22 The plans also demonstrate that provision will be made for extensive secure and accessible internal refuse stores within Albion House and Albion Mill Rear.

6.23 However, during assessment of the application the Council's Highways Officer raised objection to the proposed development on the following grounds (see pages 5-6 of the Delegated Report):

"The proposal would result in the intensification of the use of site with inadequate off-street parking facilities, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a significant impact on access to and parking facilities for existing commercial businesses/operations located off Albion Street and would therefore be detrimental to the free flow of traffic and road safety.

The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the number of flats proposed within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins."

6.24 In response to the concerns raised by the Council, TTHC have prepared an addendum to the Transport Statement which is attached at **Appendix 4**.

6.25 Turning to the Council's primary concern (in relation to vehicle parking, access and highways safety), the Council's assertion that the proposed development will result in an intensification of use at the site is incorrect.

6.26 The Transport Statement presented a comparison between the existing/baseline and the proposed residential use. The Inspector should note that the technical data and methodology utilised in association with the Transport Statement have not been challenged by the Council, suggesting that these conclusions are not disputed on technical grounds.

6.27 The data demonstrates that the proposed change of use would generate less traffic than the existing site, thereby representing a net reduction in vehicle trips.

6.28 Furthermore, the Council's reference to existing inadequate off-street parking facilities has been informed by the layout and nature of the existing site which contains several shipping containers on areas that could be utilised for vehicle parking. As confirmed within the appeal submission and accompanying drawings package, all shipping containers will be removed in association with the redevelopment of the site.

- 6.29 In respect of the proposed parking provisions, the Transport Statement demonstrates how the proposals will meet the Council's parking standards (enshrined within Development Control Policy Guidance Note 11).
- 6.30 As outlined above, a total of 21 spaces will be provided which will fall within the Council's 'maximum' target standard of 27 spaces.
- 6.31 Furthermore, the Statement also demonstrates that the site is positioned within a highly accessible location. This is reflected by the GMAL (Greater Manchester Accessibility Level) rating of 6 (out of 8). The site also lies immediately adjacent to GMAL 7, which covers the northern extent of Albion Street and part of the A58 Bolton Road.
- 6.32 Having regard to the site's highly accessible nature, the proposed number of parking spaces is sufficient to serve the number of new flats and the Council have provided no substantive evidence to demonstrate on-street parking on Albion Street or within the wider immediate area would be adversely impacted. On the contrary, the net reduction in traffic that will be achieved as a result of the proposed development will reduce parking demand, particularly during daytime.
- 6.33 In terms of refuse storage, the drawings package demonstrates that two separate refuse storage areas will be positioned within Albion Mill and Albion House. These are very large and extend to 81.7 sqm and 48 sqm respectively.
- 6.34 The refuse stores are clearly more than large enough to accommodate the required refuse storage provision for the proposed residential apartments (as summarised on the Proposed Site Layout Plan Ref GSS23089.4 503 Rev 3).
- 6.35 Given the extensive spare capacity within both stores to accommodate additional refuse storage, it would be wholly appropriate for the Council to have controlled the issue via condition requiring full details of refuse storage for the remaining commercial floorspace and a management plan (if necessary).
- 6.36 Instead, the Council chose to refuse the application (in part) by contending that insufficient details of the bin store provision for the remaining commercial areas of the building had been provided and *"this could potentially result in the overspill of bins on the public highway which would be detrimental to highway safety and cause conflicts between users of the site and waste collection vehicles and access to the sites"*.
- 6.37 Ultimately, given the extensive size and scale of the refuse stores, it is clear that there will be no realistic potential for overspill of bins on the public highway. It was therefore unreasonable of the Council to have refused the application on this basis.
- 6.38 In the context of the above assessment (and as explained within TTHC's Transport Statement and subsequent addendum), there is no credible reason to conclude that the proposed development would have any adverse impact upon highways or access safety.
- 6.39 Accordingly, the proposed redevelopment would not result in an unacceptable impact on highway safety nor would the cumulative residual impact on the road network be severe.

6.40 Paragraph 116 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts upon the road network would be severe.

6.41 It is therefore concluded that there are no highway or transport related issues which would prevent granting of planning permission for the proposed residential development.

Whether there would be an unacceptable impact of noise from commercial premises on the intended occupiers of the development in accordance with the provision of Condition MA.2(2)(d) of Class MA, General Permitted Development Order 2015 (as amended)

6.42 The application submission included a Noise Assessment prepared by ADT which concludes that the proposed development would result in no unacceptable adverse impacts of noise from commercial premises on the intended occupiers of the development.

6.43 The Noise Assessment was subject to review by the Council's specialist consultee (in this case the Pollution Control Team). A formal consultation response was received and uploaded to the application file on 19th February 2025 (please refer to the copy attached at **Appendix 5**).

6.44 The consultation response did not raise any objection to the Noise Assessment (as confirmed on Page 3 of the Delegated Report) and accepted that the relevant British Standard 8233 could be achieved at the site with windows closed.

6.45 The response merely stated that:

"The noise report does not flag up any problems for this development. It does suggest double glazing and trickle vents".

6.46 Notwithstanding this positive consultation response from Bury Council's specialist team, the Case Officer elected to refuse the application on the grounds of noise impact. The Case Officer's assessment of this issue is presented at Page 7 of the Delegated Report and reads as follows:

"That said, the noise report also states that the existing ground floor of the Mill was not currently occupied and as such this could not be factored into measuring noise from an existing or a potential future occupier of the ground floor, which could be noisy from constant deliveries, the loading and unloading of goods, revving of engines and machinery and other such nuisances and it is therefore considered that locating residential units above such a use would be harmful to future residents of the Albion Mill building.

The objection received raises the concern that their business would be at risk from complaints from future occupiers of the flats to the activities and noise which is generated from their business premises and which includes carrying out their operations in the early morning hours and late at night.

Located at the end of a street which comprises a mix of industrial and business uses, including a car repair and MOT garage, the site would not be a suitable location for a residential development, not just from the operations being carried out at the adjacent businesses but from servicing and deliveries to these businesses.

As such, the proposed development is considered to be inappropriate and unacceptable within this commercial and industrial setting which would be harmful to the future occupiers of the proposed development.”

- 6.47 The Noise Assessment (at Section 4.5) clearly addresses the potential impact of the ground floor of the Mill building being re-occupied for commercial uses in the future.
- 6.48 The Assessment explains that (to address the potential of the ground floor being reoccupied for commercial uses in the future) it would be appropriate for the ground floor/first floor separating structure to provide reasonable airborne sound insulation to protect the amenity of future occupiers.
- 6.49 A floor construction plan (Ref 3748/SK1) indicating how the sound insulation could be achieved between ground and first floor to ensure adherence to the relevant acoustic requirements set out within Part E of the Building Regulations is included as an appendix to the Noise Assessment.
- 6.50 The appellant is happy to accept a condition requiring the agreement and implementation of the floor insulation prior to occupation of the development, as necessary. This approach would reflect the Council’s comments (again on Page 7 of the Delegated Report) which confirm that where the operation of an existing business could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.
- 6.51 On this basis, the Council were completely unjustified in refusing the application on the grounds of noise impact and the application should have been supported (subject to the inclusion of the aforementioned condition, if necessary).
- 6.52 To further substantiate this conclusion, the appellant instructed a professional acoustic consultant (Amber Acoustics) to review the case and prepare an addendum note which is attached at **Appendix 6**.
- 6.53 This addendum also concludes that the Council did not have reasonable grounds to refuse the application on the basis of noise impact and that it should have been approved.

Whether there would be an unacceptable impact on intended occupiers of the development arising from the introduction of a residential use within an area the authority considers to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses in accordance with the provision of Condition MA.2(2)(d) of Class MA, General Permitted Development Order 2015 (as amended).

- 6.54 The Council’s final reason for refusing the application again relates to perceived noise impact. Pages 8 to 9 of the Delegated Report contend that:

“As this is a prior approval application, comments relating to the principle of the development, including whether the proposal constitutes limited development or whether it would substantially detract from the area’s value as an EGA, cannot be considered. However, given the location of the site within an EGA and the continued focus for business and industrial uses within this area, it is considered that this would not only negatively impact on the potential future occupation of the ground floor of the Mill building by a commercial or industrial organisation but would also negatively impact on the

surrounding neighbouring employment uses. As such, it is considered that the location of the proposed development within the EGA would have an adverse impact on the occupiers of the future development within the EGA and would be harmful to the operations of the EGA.”

- 6.55 The Council have misinterpreted this aspect of the Class MA regulations. The wording of this part of Class MA refers to the impact upon the intended occupiers **of the development** (ie the new residents) arising from the introduction of a new residential use within an industrial area (which the Council considers to be important).
- 6.56 The intention of this test is to prevent inappropriate residential development in areas primarily designated for industrial or heavy commercial uses, where the noise and activity levels might be detrimental to residents.
- 6.57 As explained in the section above, the Noise Assessment confirms that future occupiers of the development will not be subject to any unacceptable noise impacts arising from nearby commercial properties within the Bury Bridge/Daisyfield Employment Generating Area.
- 6.58 Furthermore, the Transport Statement demonstrates that acceptable parking, servicing and refuse storage can be provided on site without being impacted in an unacceptable manner by virtue of the site’s location within a wider employment area.
- 6.59 Accordingly, the Council should have arrived at the conclusion that there would be no unacceptable impacts on future residents arising as a result of the wider Bury Bridge/Daisyfield Employment Generating Area. For these reasons, the proposed development clearly complies with this aspect of the Class MA regulations.
- 6.60 In any case, it should be noted that the Council benefit from the power to introduce an Article 4 Direction to protect allocated employment areas against the conversion of Class E commercial floorspace to residential under Class MA, but have not chosen to do so in this instance.
- 6.61 This would indicate that the Council do not consider the Bury Bridge/Daisyfield Employment Generating Area to represent an area which is important for general or heavy industry, waste management, storage and distribution or a mix of such uses in accordance with the regulations referred to above.

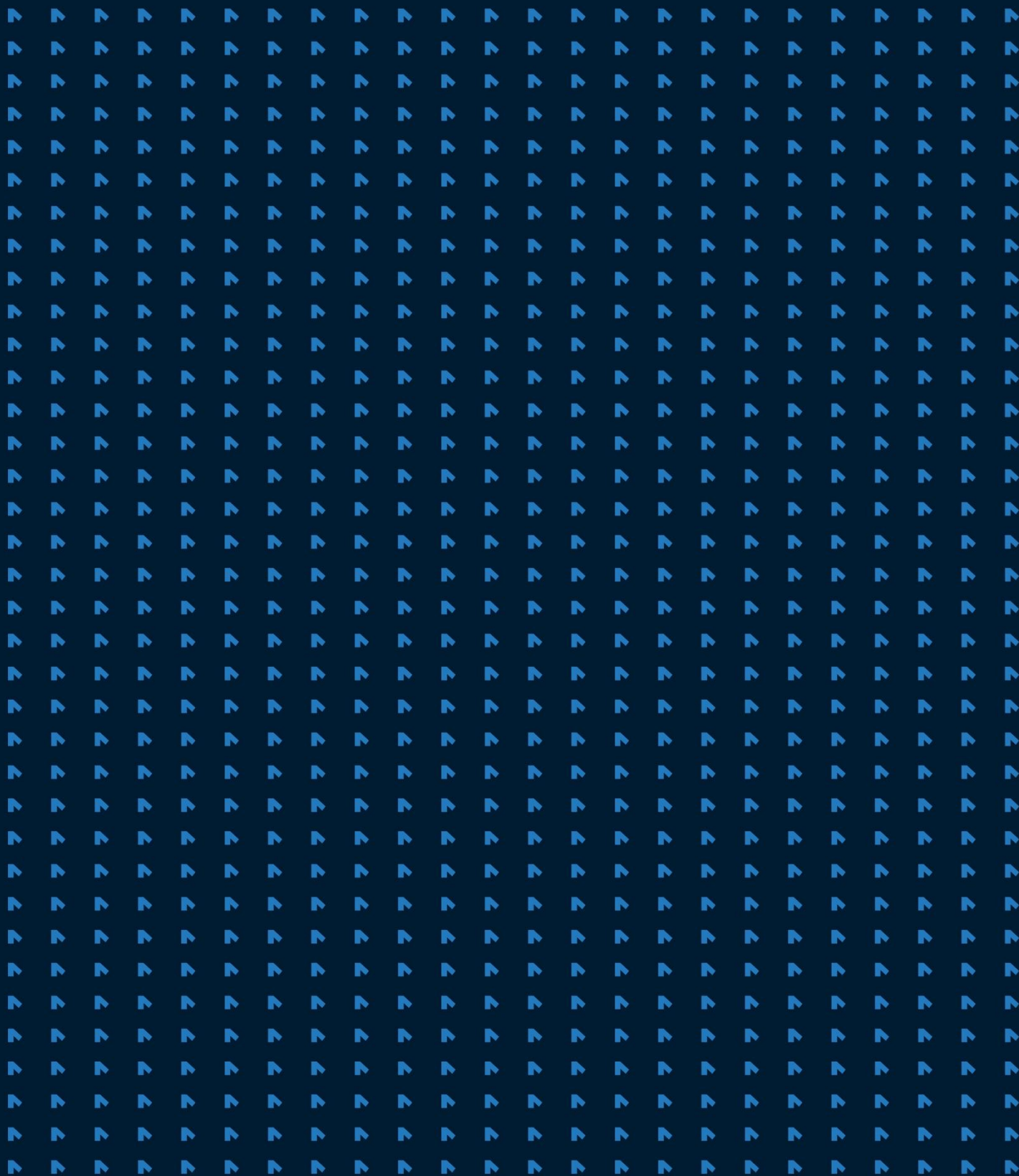
7 CONCLUSIONS

7.1 It is concluded that the revised development proposal is in accordance with the NPPF and the Council's adopted Development Plan. It therefore constitutes appropriate development and should be supported for the following reasons:

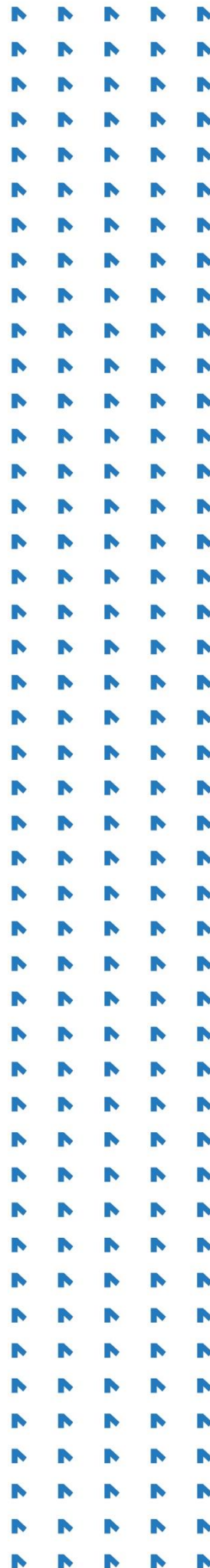
- The existing use of the site is as a car servicing workshop with no significant repair work taking place on site. As a result, the use of the property falls within Use Class E Commercial, Business and Service and the property is therefore capable of benefitting from a change of use to residential (Use Class C3) under Class MA of the General Permitted Development Order 2015 (as amended);
- The proposed scheme will not result in any unacceptable impact upon highway safety, either as a result of parking provision, refuse storage arrangements or any other transport related issue. As a result, it is appropriate for the property to change use to residential (Use Class C3) under Condition MA.2(2)(a) of Class MA, General Permitted Development Order 2015 (as amended);
- The proposed development will not result in any unacceptable noise impact arising from any commercial premises (including the ground floor of the Mill building) on the intended future occupiers of the development. Accordingly, the property can change to residential (Use Class C3) under Condition MA.2(2)(d) of Class MA, General Permitted Development Order 2015 (as amended), and
- The development proposal will not result in any unacceptable impact on future occupiers of the development from the introduction of a residential use in an area the authority considers to be important for general industry. Accordingly, it is appropriate for the property to change use to residential (Use Class C3) under Condition MA.2(2)(g) of Class MA, General Permitted Development Order 2015 (as amended).

7.2 Overall, the scheme adopts the principles of sustainable development in relation to social, economic and environmental factors. This is because it recycles urban land and delivers a mix of residential dwellings which are accessible by a choice of travel modes including foot, cycle and public transport. The proposals thereby accord with both the emphasis of national policy (set out within the NPPF) and the General Permitted Development Order.

7.3 In light of the above, the proposed development has been demonstrated to comply with all relevant planning legislation, in particular the General Permitted Development Order and should be considered acceptable.



Appendix 1



NOTICE OF PRIOR APPROVAL DETERMINATION

Part 3 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

To:

Sam Golding
Gold Sketch
55a Bury Old Road
Prestwich
Manchester
M25 0FG

On Behalf Of:

Bracknell Properties Limited

PART 1 - Particulars of Application

Application Number: 71587

Date of Registration: 13/01/2025

Proposal:

Prior approval for proposed change of use
from commercial to 20 No. Flats

Location:

Albion Mill Industrial Estate, Albion Street,
Bury, BL8 2AD

PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby determine that the prior approval of the local planning authority is **REQUIRED** for the development set out in Part 1 of this decision notice.

Bury Metropolitan Borough Council hereby **REFUSE** approval for the development proposed in the above-mentioned application for the following reason(s)

- 1 The proposal would result in the intensification of the use of site with inadequate off-street parking facilities, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a significant impact on access to and parking facilities for existing commercial businesses/operations located off Albion Street and would therefore be detrimental to the free flow of traffic and road safety.
The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:
Policy H2/2 - The Layout of New Residential Development
Policy EN1/2 - Townscape and Built Design
Policy HT2/4 - Car Parking and New Development
Policy JP-P1 - Sustainable Places
Policy JP-C5 - Streets for All
Policy JP-C6 - Walking and Cycling
- 2 The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the number of flats proposed within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of

communal bins.

The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

Policy JP-P1 - Sustainable Places

Policy JP-C8 - Transport Requirements of New Development.

- 3 The proposed development would introduce a non-conforming use within an Employment Generating Area which would be harmful to the future occupiers of the proposed development by virtue of the noise, activities, traffic and transport and servicing associated with the established EGA. The proposed development would therefore be contrary to the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:
EC2/1 - Employment Generating Areas
Policy H2/2 - The Layout of New Residential Development
Policy EN1/2 - Townscape and Built Design
Policy EN7/2 - Noise Pollution
Policy JP-P1 - Sustainable Places
- 4 The existing use of the site does not wholly fall within one of the uses falling within Class E of Schedule 2 to the Use Classes Order. Therefore, the proposal does not comply with the statutory limitation in paragraph MA.1 (1)(b) of Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

- | | |
|-------|--|
| H2/1 | H2/1 - The Form of New Residential Development |
| H2/2 | H2/2 - The Layout of New Residential Development |
| EN1/2 | EN1/2 - Townscape and Built Design |
| EN7/2 | EN7/2 - Noise Pollution |
| HT2/4 | HT2/4 - Car Parking and New Development |
| JP-P1 | Sustainable Places |
| JP-C5 | Streets For All |
| JP-C6 | Walking and Cycling |
| H3/1 | H3/1 - Assessing Non-Conforming Uses |

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

Proposed site plan 503 rev 3

Albion Mill

Level 0 - proposed 003

Level 1 - proposed 003A

Level 2 - proposed 003B

Level 3 - proposed 03C

Proposed elevations - front and left - 005A

Proposed elevations - rear and right - 005B

Albion Mill - rear

Level 0 and level 1 - proposed - 003A

Proposed elevations 003B

Albion House

Level 0 - proposed 003B

Level 1 and level 2 - proposed 003C

Proposed elevations - 003D

Preliminary Risk assessment

Transport Statement

Noise Assessment

NOTES TO APPLICANT

Not Applicable

Signed:

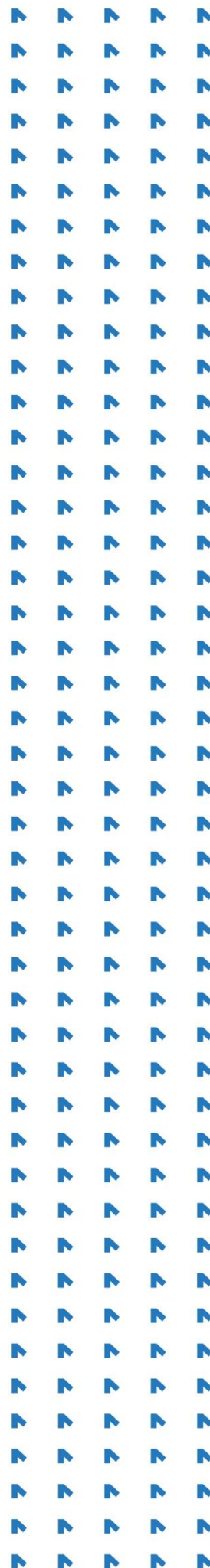


3 of 3

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On behalf of the Council

Date of Decision: 07/03/2025

Appendix 2



DELEGATED REPORT

Report by Jennie Townsend	Date of report: 06/03/2025	Ref: 71587/P3JPA
Registration: 13/01/2025	LDfC: 24/02/2025	Expiry Date: 10/03/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for proposed change of use from commercial to 20 No. Flats

Location: Albion Mill Industrial Estate, Albion Street, Bury, BL8 2AD

Description

The application relates to a mill building, Albion Mill and Albion House on Albion Street which is located to the west of Bury Town Centre and is within Bury Bridge/Daisyfield Employment Generating Area defined under Policy EC2/1/6. Albion Street comprises similar mill type buildings, other industrial units and workshops and to the south west is the Royal Mail depot on Wellington Street.

The site is located at the end of Albion Street which leads from a major junction serving routes to and from the town centre.

Albion Mill is a rectangular 4 storey building with a basement area. The building is split internally into different unit types, comprising storage, warehouse (Class B8) and 'back of house Class E' in the main part of the mill on the ground floor.

The rear part of the building is used as car servicing (Class B2. The applicant notes it as Class E) and retail (showrooms) with associated offices and storage at the upper floors. The mill is an early example of a brick industrial building with important detailing and is on the Council's Non-Designated Heritage Asset (NDHA) draft local list

Albion House is located opposite the mill and is built in a similar style with similar features as the mill and is also an NDHA. It is two storeys in height and comprises a basement used for storage, retail shop and offices at the ground floor and storage and offices at the first floor.

Planning permission (71220) has been granted for external alterations to both Albion Mill and Albion House including replacement of windows with aluminium frames and change some of the door and window openings.

Prior approval is sought for the change of use of part of Albion Mill and the whole of Albion House from commercial to 20 no flats in total under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.

Proposal

Albion Mill

- Ground floor - retain the main part of the Mill as B8 storage at the ground floor with lobby to access the upper floors.
- First floor - 4 x 2 bed flats
- Second floor - 4 x 2 bed flats
- Third floor - 2 x 2 bed and 2 x 1 bed flats

Albion Mill - rear

DELEGATED REPORT

- Ground floor - 1 x 1 bed flat and change the use of the car servicing area to associated residential use for a bike and bin store and lobby to serve the proposed units in Albion Mill.
- First floor - 1 x 1 bed flat and 1 x 2 bed flat

Albion house

- Ground floor - 1 x 1 bed flat and 1 x 2 bed flat. Bin and bike store, communal room and gym.
- First floor - 1 x 1 bed and 2 x 2 bed
- Second floor - Storage room

The application also proposes to provide 21 parking spaces (including 2 accessible spaces and 7 EV chargepoints) which would be located in the existing yard area to Albion Mill.

Relevant Planning History

70306 - Alteration to fenestration; Replace existing windows; Replace existing roof with hidden valley gutter removed - Approved 8/5/24

70789 - Prior approval for proposed change of use from commercial to 42 no. flats - Withdrawn by Applicant 09/07/2024

71220 - Alterations to fenestration, replace existing windows and add additional windows, demolition of car port, replace existing roof with hidden valley gutter removed, reconfiguration of the car park - Approved

Publicity

Letters sent to 57 properties on 31/1/25.

One objection received from an adjacent business which raises the following issues -

- The introduction of residential development in such close proximity is of significant concern as this use potentially gives rise to future amenity issues and challenges which could restrict or ultimately prevent operations at that site.
- We are a responsible operator and operate effectively from within the communities it serves, and are concerned about potential noise complaints from new residents who will reside in the residential development adjoining our operational site where the developer has failed to adequately take into account and mitigate for our operations in the design and construction of the housing.
- Operationally, our site is run from 05:00 to 20:00 Monday to Friday, 05:00 to 15:00 on Saturdays and 08:00 to 16:00 on Sundays and generates a significant amount of noise and high numbers of two-way vehicular movements per day. There are specific peak periods when the business is busiest, typically around 05:00 and 08:00, on 4.5 and 18 tonne vehicles and outside of these times there remains a steady stream of vehicular movements to and from the site. The hours of operation and traffic, naturally increase at various points in the year (e.g., Christmas), which coincides with holiday periods.
- The proposed residential dwellings are located adjacent to the business with approximately 7m retained between the application site and the service yard, where the greatest levels of noise and disturbance is generated. The potential impact and effect of existing noise generated by our business on the proposed residential development is therefore considered to be a significant and severe concern.
- It is noted a Noise Impact Assessment has been submitted to the Council to support the application. However, it is considered that the Noise Impact Assessment submitted fails to robustly assess our presence and the impact operations at the site.
- The first concern relates to the dates in which the survey was undertaken. The automatic surveys were placed at the site over a weekend, when operations are less busy. The findings indicate that the maximum noise levels at the site were around 23:00 and 07:00 on the weekdays, which would coincide with peak operational hours.

- In regard to the attended noise surveys, these surveys were recorded over a 2-hour period on a Friday, when operations would generally be less intensive. These attended surveys undertaken at the position closest to operations are not considered to robustly assess the potential impact of the activities in the service yard on future occupiers of the development.
- There is no confirmation of whether trickle vents are already installed or whether the applicant is committed to implementing this mitigation. In addition, we consider that other mitigation measures such as acoustic fencing along the boundary and/or other forms of landscaping could be used to mitigate any potential noise impacts.
- We therefore request that the applicant is required to submit a further Noise Impact Assessment prior to the determination of the application, which will provide a robust and reliable assessment of the proposed development against the ambient noise level, the potential impact on future occupants, and to identify any additional noise mitigation measures required.
- Please note the importance of protecting existing businesses and operations from unreasonable restrictions as a result of development permitted after they were established. This approach would be in accordance with the 'agent of change' principle.

Statutory/Non-Statutory Consultations

Traffic Section - Object on the grounds of inadequate parking and resulting highway safety impacts and insufficient information regarding bin store arrangements.

Environmental Health - Pollution Control - No objection

Environmental Health - Contaminated Land - No objection subject to conditions

Pre-start Conditions - Not relevant

Development Plan and Policies

H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
JP-P1	Sustainable Places
JP-C5	Streets For All
JP-C6	Walking and Cycling
H3/1	Assessing Non-Conforming 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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA states -

MA.1. - (1) Development is not permitted by Class MA -

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

(b) if land covered by, or within the curtilage of, the building—

(i) is or forms part of a site of special scientific interest;

(ii) is or forms part of a listed building or land within its curtilage;

(iii) is or forms part of a scheduled monument or land within its curtilage;

(iv) is or forms part of a safety hazard area; or

(v) is or forms part of a military explosives storage area;

(e) if the building is within—

(i) an area of outstanding natural beauty;

(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981

(iii) the Broads;

(iv) a National Park; or

(v) a World Heritage Site;

(c) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

(d) before 1 August 2022, if—

(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and

(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

(i) Class A1 (shops);

(ii) Class A2 (financial and professional services);

(iii) Class A3 (food and drink);

(iv) Class B1 (business);

(v) Class D1(a) (non-residential institutions – medical or health services);

(vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);

(vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

The proposal would not comply with sub-paragraph 1(b) as part of the building (rear of the ground floor) which is subject of this Prior Approval and which is proposed as the entrance, bin store and bike store in association with the residential flats (and as such would be considered as residential in use), is in use as a car servicing unit which would fall within a Class B2 use and not Class E as it involves servicing and associated repair work that would be detrimental to residential amenity in terms of noise, fumes and smells.

Class MA changes of use apply to land falling in the above category of Classes which does not include a B2 use.

The proposal would therefore fail to comply with the limitations set out in Class MA.1.(b) and as such could not be considered under the Prior Approval process.

Other provisions under Class MA

Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport impacts of the development, particularly to ensure safe site access

The Traffic Section have objected to the proposal on two grounds -

- The proposal would result in the intensification of the use of site with inadequate off-street parking facilities, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a significant impact on access to and parking facilities for existing commercial businesses/operations located off Albion Street and would therefore be detrimental to the free flow of traffic and road safety.
- The application and submitted plans contain insufficient information to ensure that

adequate off-highway bin storage arrangements can be provided for the number of flats proposed within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins.

The development proposes 21 spaces for 20 apartments, 16 of which would be 2 bed/3 person occupancy, with the 5 remaining flats 1 bedroomed. Details have not been provided to show parking or servicing for the retained warehouse/storage units at the ground floor.

For the residential development, SPD11 would require a maximum of 28 spaces in a high access area with consideration given to providing visitor spaces.

Albion Street is a relatively short road and provides on street parking for the other businesses which are located on the street. It is regularly heavily parked on, on both sides of the road, and this was evidenced on several visits to the site and google street view over the years (August 2023, August 2022, July 2019, July 2017 and October 2014 as examples).

Any overspill parking from the development onto Albion Street would lead to increased pressure on the street parking which would result in conflicts on the highway with users and vehicles accessing and servicing the adjacent premises and conflicts from the vehicles accessing and servicing the retained warehouse/storage units which would be detrimental to highway safety.

The development should at worst provide adequate parking to meet the standards specified in SPD11 based on the proposed use and size of apartments proposed which should be fully audited by the applicant. The site and access constraints have not been addressed in the Transport Statement.

In terms of bin storage provision, the applicant has shown there would be two bin store areas, one in Albion Mill and one in Albion House. There are however, no details of the bin store provision for the remaining commercial areas of the building and this could potentially result in overspill of bins on the public highway which would be detrimental to highway safety and also cause conflicts between users of the site and waste collection vehicles and access to the sites.

(b) contamination risks in relation to the building;

There are no operational or engineering works proposed.

The EH contam land section have no objections subject to conditions

(c) flooding risks in relation to the building;

The site is not in a Flood Risk Zone.

(d) impacts of noise from commercial premises on the intended occupiers of the development;

The site is located in an area which is predominantly characterised by industrial, commercial and business development. It is also proposed to retain the ground floor of the mill building for warehouse/storage purposes (Class B8) which in itself would generate noise in terms of deliveries, servicing and occupation of these units.

The Pollution Control Section have been consulted on the application and have pointed to the noise report which concluded that calculations show the internal noise levels recommended in BS 8233 should be achieved with windows closed, irrespective of the type of glazing used, even if basic acoustic trickle vents are used to provide background ventilation.

That said, the noise report also states that the existing ground floor of the Mill was not currently occupied and as such this could not be factored into measuring noise from an existing or a potential future occupier of the ground floor, which could be noisy from constant deliveries, the loading and unloading of goods, revving of engines and machinery and other such nuisances and it is therefore considered that locating residential units above such a use would be harmful to future residents of the Albion Mill building.

The objection received raises the concern that their business would be at risk from complaints from future occupiers of the flats to the activities and noise which is generated from their business premises and which includes carrying out their operations in the early morning hours and late at night.

Paragraph 193 of the NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities and that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Located at the end of a street which comprises a mix of industrial and business uses, including a car repair and MOT garage, the site would not be a suitable location for a residential development, not just from the operations being carried out at the adjacent businesses but from servicing and deliveries to these businesses.

As such, the proposed development is considered to be inappropriate and unacceptable within this commercial and industrial setting which would be harmful to the future occupiers of the proposed development.

(e) where -

- (i) the building is located in a conservation area, and
- (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustain ability of the conservation area;

The site is not in a conservation area

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses:

There is adequate natural light to all habitable rooms.

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

The application site is located within an Employment Generating Area (EGA) under UDP Policy EC2/1 and specifically under EC2/1/6 Bury Bridge/Daisyfield Bury Employment Generating Area.

Within the EGA designated under EC2/1/6, the specified uses are for B1 (now falling under Class E(g)), B2 or B8 development.

As this is a prior approval application, comments relating to the principle of the development, including whether the proposal constitutes limited development or whether it would substantially detract from the area's value as an EGA, cannot be considered.

However, given the location of the site within an EGA and the continued focus for business and industrial uses within this area, it is considered that this would not only negatively impact on the potential future occupation of the ground floor of the Mill building by a commercial or industrial organisation but would also negatively impact on the surrounding neighbouring employment uses.

As such, it is considered that the location of the proposed development within the EGA would have an adverse impact on the occupiers of the future development within the EGA and would be harmful to the operations of the EGA.

(h) where the development involves the loss of services provided by -

(i) a registered nursery, or

(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost;

There would be no loss of such provisions.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The development does not consist of two or more dwellings whilst also exceeding seven storeys in height.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The proposal would result in the intensification of the use of site with inadequate off-street parking facilities, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a significant impact on access to and parking facilities for existing commercial businesses/operations located off Albion Street and would therefore be detrimental to the free flow of traffic and road safety.
The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:
Policy H2/2 - The Layout of New Residential Development
Policy EN1/2 - Townscape and Built Design
Policy HT2/4 - Car Parking and New Development
Policy JP-P1 - Sustainable Places
Policy JP-C5 - Streets for All
Policy JP-C6 - Walking and Cycling
- 2 The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the number of

flats proposed within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins.

The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

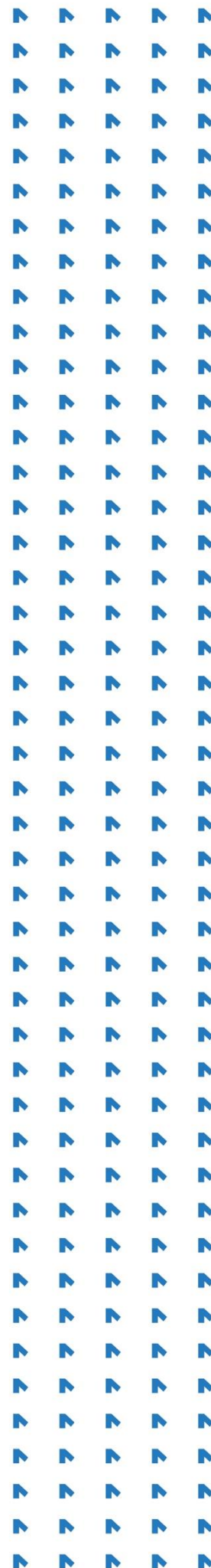
Policy JP-P1 - Sustainable Places

Policy JP-C8 - Transport Requirements of New Development.

- 3 The proposed development would introduce a non-conforming use within an Employment Generating Area which would be harmful to the future occupiers of the proposed development by virtue of the noise, activities, traffic and transport and servicing associated with the established EGA. The proposed development would therefore be contrary to the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:
- EC2/1 - Employment Generating Areas
Policy H2/2 - The Layout of New Residential Development
Policy EN1/2 - Townscape and Built Design
Policy EN7/2 - Noise Pollution
Policy JP-P1 - Sustainable Places
- 4 The existing use of the site does not wholly fall within one of the uses falling within Class E of Schedule 2 to the Use Classes Order. Therefore, the proposal does not comply with the statutory limitation in paragraph MA.1 (1)(b) of Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	6/3/25		

Appendix 3



Appeal Decision

Site visit made on 4 November 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/C4235/W/24/3346465

7 Sheffield Street, Heaton Norris, Stockport SK4 1RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Gee Estates Ltd against the decision of Stockport Metropolitan Borough Council.
 - The application Ref is DC/091681.
 - The development proposed is Change of use from Class E Car Servicing to Class C3 2 No. Apartments.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has been taken from the decision notice as this more accurately describes the proposal. I note that this has also been used in the appeal form.
3. The name of the applicant and appellant differ between the application form and appeal form. Clarification has been sought on this matter and both the applicant and appellant have been confirmed as Gee Estates Ltd, which is reflected in the banner heading above.

Background and Main Issues

4. Article 3(1) and Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) provides for a permitted development right for the change of use of a building falling within use class E (Commercial, Business and Service) to class C3 (dwellinghouses). This is subject to limitations and conditions, as set out in subsequent paragraphs of Class MA.
5. Paragraph MA.1. (1) and (2) set out the requirements to qualify for permitted development under Class MA. There is no dispute between the parties that the criteria of Class MA.1 are satisfied, I find no reason to arrive at a different view on this matter.
6. Paragraph MA.2 requires that where any development under Class MA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for its prior approval subject to a number of matters. In this case the matters in dispute between the main parties are the impacts of noise from

commercial premises, transport impacts of the development and the provision of adequate natural light.

7. Therefore, the main issues are whether the development would accord with the conditions of Schedule 2, Part 3, Class MA of the GPDO with regard to:
 - impacts of noise from commercial premises on the intended occupiers of the development; audible noise
 - transport impacts of the development; and
 - the requirement for the provision of adequate natural light.

Reasons

Noise

8. The appeal site is located in a predominantly industrial area. The proposed apartments would be located on the ground floor with many of the windows facing a service yard. Adjacent to the property is a vehicle servicing unit with the Council noting that noise generating activities occur in the external yards in the vicinity of the appeal site. The Council have also indicated that the area is designated as employment land in the Local Plan, accommodating B1, B2 and B8 uses, including industrial, mixed use and vehicle repair. There are therefore numerous sources of noise that could potentially impact the living conditions of future occupiers of the proposed apartments.
9. During my visit, I did observe some noticeable noise in association with the vehicle servicing unit at the adjacent business premises and a steady hum from plant equipment at a mill north of the site. I appreciate that this might not be the case at all times. However, the adjacent garage is stated to operate 9am till 4pm. While these hours may coincide when future occupiers are most likely to be away from the home, they could be shift workers or work from home. Moreover, I note that due to the age of the industrial area many of the businesses have unrestricted operational hours.
10. The appellant has suggested a number of mitigation measures including acoustic sound insulation and plasterboard along with acoustic glazing and enhanced background ventilation to prevent the need for windows to be opened during warm weather. However, no information has been provided with regard to the acoustic specification of the ventilation strategy. Nor has any information been provided within the submitted noise assessment regarding the existing noise levels emanating from the surrounding industrial area, or the effect that the acoustic measures would have on these noise levels. Consequently, it is not possible to ascertain whether the measures would be effective or if further noise insulation measures would be necessary. Given this uncertainty, a condition requiring compliance with the results of a formal noise assessment would not be sufficiently precise nor reasonable to meet the relevant tests in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG).
11. I therefore conclude that it has not been demonstrated that the impacts of noise from commercial premises on the intended occupiers of the development would be acceptable. The proposal therefore fails to satisfy condition MA.2 (2) (d) of Schedule 2, Part 3, Class MA of the GPDO. Furthermore, because of this and the industrial location, it consequently fails to satisfy condition MA.2 (2)

(g) as the proposal does not adequately assess the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

Transport

12. Condition MA.2 (2) (a) of Class MA requires regard to be had to transport impacts of the development, particularly to ensure safe site access. It does not preclude the consideration of other direct transport impacts of the development.
13. The appeal proposal does not provide off-street parking; however, the appeal site is in an accessible location close to a number of amenities and public transport. Should future occupiers own a private vehicle, I observed that there was plenty of on street parking availability, although this was only a snapshot in time, it was when most of the surrounding industrial units were open, thus there would likely be further parking availability when the businesses are closed. Therefore, given the scale of the development, it would be unlikely to adversely contribute to parking pressure.
14. In relation to cycling, the submitted plans demonstrate the provision of 4no foldable bike lockers which would serve both the proposed ground and existing first floor apartments.
15. Whilst the Council require 1 full size storage locker, I must have regard to the Framework so far as relevant to the subject matter of the prior approval. The Framework advocates cycling and that appropriate opportunities to promote sustainable modes of transport can be taken up. Although the appellant identifies that another local authority may be satisfied with foldable bike lockers, I find that they would be prohibitive. Future occupiers with a full-size bicycle would not have any provision for secure cycle storage, potentially discouraging bicycle ownership and the proposed storage could therefore have an impact on the provision of sustainable transport, limiting sustainable transportation choices for future occupiers.
16. The Council state that the proposed two ground floor apartments would require three bins. The submitted plans demonstrate storage for three refuse bins at the rear of the building, however the appellant also asserts that this is where bins are currently located. It is therefore not clear whether the refuse area could accommodate additional refuse facilities. Notwithstanding this, the identified area also lies outside of the red line boundary, and it is unclear if a right of access exists. If the bins cannot be located in the identified location, given the site limitations, it could result in them being positioned either on the footway or on the access road in the yard, hindering the movement of vehicles and pedestrians to the detriment of highway safety.
17. I note the appellant contends that the proposals for refuse storage align with a similar scheme in Leeds, however I have very little information on this and I cannot be sure of the size of the bin store in that location. It therefore does not alter my assessment above.

18. For the above reasons, based on the submitted information I cannot be satisfied that the transport impacts would be acceptable and find that the proposal would not satisfy condition MA.2.(2)(a) of Schedule 2, Part 3, Class MA of the GPDO.

Light

19. Condition MA.2(2)(f) of Class MA requires the provision of adequate natural light in all habitable rooms of the dwellinghouses. Based on the existing window locations there would be insufficient openings to meet this requirement. To mitigate this, the proposal includes a number of new openings to be installed, primarily replacing the existing roller doors.
20. Class MA only permits a change of use of a building and land within the curtilage, but not the operations required to facilitate the change of use. However, the proposed windows have recently been granted planning permission (Ref: DC/091084), although the alterations have not yet been carried out. The proposed windows upon implementation would provide natural light into all of the habitable rooms. No concern has been raised that the light would not be adequate and based on my site observations and the proposed size, location and orientation of the windows, I am satisfied that they would secure adequate natural light within the proposed habitable rooms.
21. I note that the local planning authority cannot force the appellant to implement the extant permission. However, since there is an extant permission and the Council have not raised concerns regarding the adequacy of the light in the room from the proposed windows, a condition could be applied that would prevent occupation of the proposed apartments until the approved works under permission DC/091084 has been completed, to ensure that adequate natural light would be provided. There is nothing in paragraph W (13) of the Order, or in the PPG, to prevent the imposition of a negatively worded condition, relating to occupation. The condition would be also reasonably related to the subject matter of the appeal.
22. For the above reasons, I conclude on this issue that the proposal would provide adequate natural light to all habitable rooms of the dwellinghouses and would satisfy condition MA.2(2)(f) of Schedule 2, Part 3, Class MA.

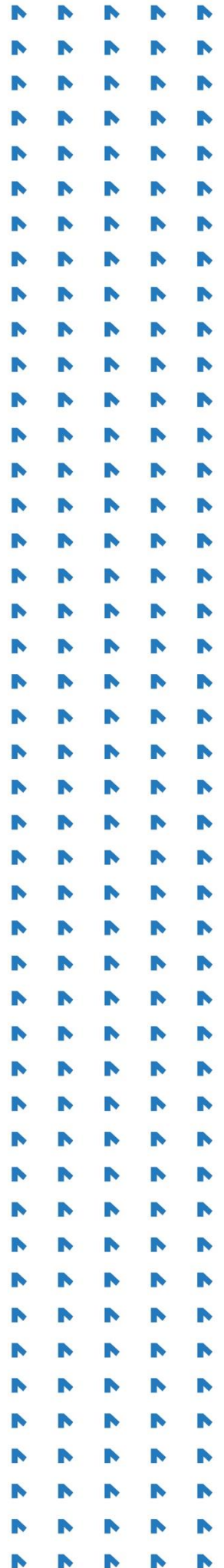
Conclusion

23. The proposed development would fall within the provisions of Schedule 2, Part 3, Class MA of the GPDO and would, subject to a condition, provide adequate natural light in accordance with MA.2.(2)(f). However, it has not been possible to fully assess the transport impacts in accordance with MA.2.(2)(a), nor has it been demonstrated that the impacts of noise from commercial premises would be acceptable, in accordance with MA.2.(2)(d) and (g).
24. For the reasons given above, I conclude that the appeal should be dismissed.

T Bennett

INSPECTOR

Appendix 4



**ALBION MILL
ALBION STREET, BURY**

TRANSPORT APPEAL STATEMENT

TTHC Ltd – the Traffic, Transport & Highway Consultancy

Manchester
Barnfield House
Salford Approach
Salford
M3 7BX

London
Mayfair Point
34 South Molton Street
London
W1K 5RG

www.tthc.co.uk / www.tthc.com

TTHC Ref: M24040-02 TAS
Date: May 2025

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3.0	POLICY REVIEW AND CONCLUSIONS	11

TABLES

Table 1	Calculation of Maximum Parking Provision using SPD11
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1.0 INTRODUCTION

- 1.1 This Transport Appeal Statement (TAS) supports an appeal against the refusal of a prior approval by Bury Council (BC) for the proposed change of use from commercial to 20 flats at Albion Mill and Albion House in Bury. This TAS responds specifically to Reason No.1, which states:

*The proposal would result in the **intensification of the use of site with inadequate off-street parking facilities**, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a **significant impact on access to and parking facilities** for existing commercial businesses/operations located off Albion Street and would therefore be **detrimental to the free flow of traffic and road safety**.*

The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

Policy HT2/4 - Car Parking and New Development

Policy JP-P1 - Sustainable Places

Policy JP-C5 - Streets for All

Policy JP-C6 - Walking and Cycling

*(TTHC **emphasis** added)*

- 1.2 TTHC had supported the prior approval submission with a Transport Statement (TS) dated January 2025 (doc ref: M24040-01C TS).
- 1.3 Prior to the decision by BC, TTHC had reviewed a consultation response from the Head of Engineering at BC, representing the Local Highway Authority (LHA), upon which Reasons 1 and 2 were subsequently based. The LHA consultation response suggests the proposed change of use would lead to the '*intensification of the use of the site*'. It also suggests that such claimed intensification would in turn result in a '*significant impact on access to and parking facilities for existing commercial businesses/operations and would be detrimental to the free flow of traffic and road safety*'.'

- 1.4 The claimed intensification of use provides the premise for the LHA conclusions in respect of impact. It should be noted that no data, information or evidence has been provided with the consultation response (or shared with the applicant prior to the decision) as to how the LHA has determined there would be an intensification of use of the Site nor has there been any direct criticism of the technical evidence set out within the TS.
- 1.5 To avoid repetition, this Statement does not duplicate information and data contained within the TS. Moreover, it seeks to provide clarification in respect of matters raised within the Council's decision and Delegated Report.

2.0 TRANSPORT STATEMENT TECHNICAL ASSESSMENTS

Claimed '*Intensification of use of the Site*'

- 2.1 The TS provided a detailed review of the peak hour and daily trip generation of both the Permitted Baseline use and the Proposed Residential use in order to determine the Net Effect of the conversion to residential. This showed that there would be a **Net Reduction in traffic activity** in both the peak hours and the daily periods.
- 2.2 The **peak hour reductions** were calculated to be between 22 and 69 two-way trips and the **daily reduction** some 782 trips. The LHA has provided no technical evidence which challenged this information when suggesting there would be an intensification of use of the Site.
- 2.3 Interestingly, neither the LHA consultation response nor the Officer's Delegated Report make any reference to the existing permitted use floorspace (and its associated trip activity) which is proposed to be converted to residential use.
- 2.4 Nevertheless, irrespective of whether or not the permitted use of the Site is allowed for, the trip generation of the proposals in isolation would have an imperceptible impact on the operation of the surrounding highway network.

Claimed '*Inadequate off-street parking facilities*'

- 2.5 The LHA consultation makes no reference to policy conflicts whatsoever.
- 2.6 Under the 'Transport Impacts' heading, the delegated report only makes reference to SPD11, which is a document entitled 'Parking Standards in Bury' and which were adopted some 18 years ago (May 2007). No other policy documents or references are discussed under this heading within the Delegated Report.

- 2.7 As noted with the parking standards document, the National Policy context for SPD11 at that time was Planning Policy Guidance Note 13: Transport, which was withdrawn in 2011. The Local Policy context for SPD11 is the Bury Unitary Development Plan, which was adopted in 1997 and Greater Manchester's Second Local Transport Plan 2006, which expired in 2011.
- 2.8 BC have recently published their draft Local Plan (March 2025) and, although not relied on within the TS, it is noted that the Council's justification for their proposed policy LP-TR6: Parking provision and drop off facilities notes that car parking provision must relate to the availability of public transport and should be set at a level which encourages the use of public transport.
- 2.9 As explained with the TS, SPD11 sets a maximum provision by dwelling size. For ease of reference, these are summarised within **Table 1** below, with the associated calculation of a maximum permitted provision for the proposals.

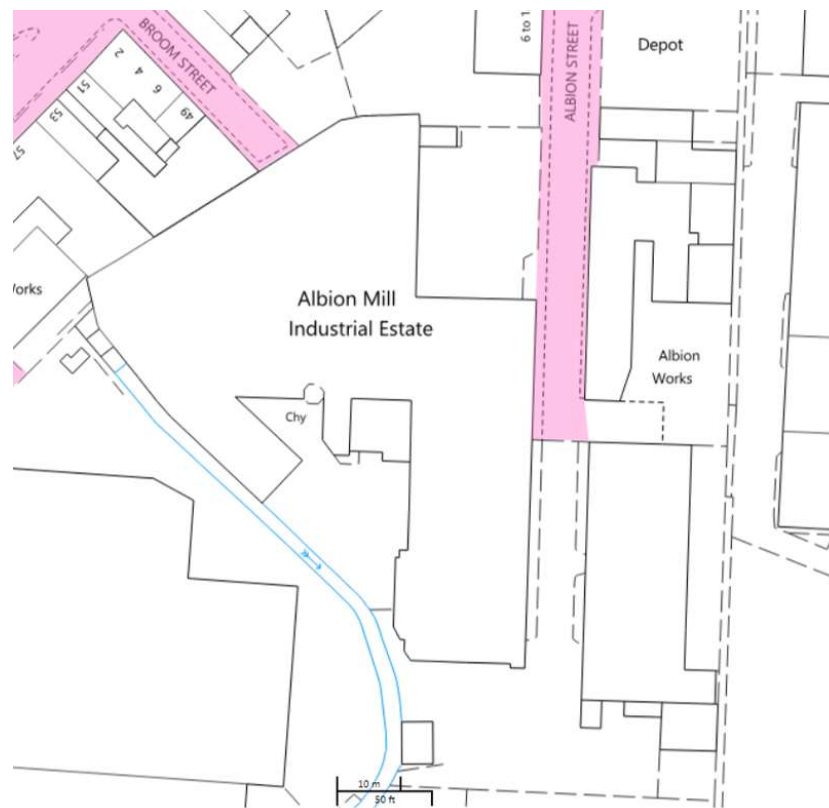
Table 1 – Calculation of Maximum Parking Provision using SPD11			
Dwelling Size	Proposed Number of Units	SPD Max standard (High Access Area)	Maximum Spaces Permitted
1 Bed	6	1.0 spaces/unit	6 spaces
2 Bed	14	1.5 spaces/unit	21 spaces
Total	20		27 spaces (max)

- 2.10 The SPD requires 5% of the overall space provision to be for disabled users and so the proposed layout allocates 2 mobility spaces adjacent to the mill building. The provisions also include 7 electric vehicle charging spaces – the SPD11 parking standards are not recent enough to include a standard for such provision. Two new motorcycle spaces and new cycle parking are also provided for.

- 2.11 The proposals provide 21 spaces overall within the large open area at the southern end of the Site, which represents 78% of the maximum the 2007 standards would allow in this location.
- 2.12 The SPD11 standards only provide a maximum level of provision – there is no minimum level of provision stated. As maximum standards, they are not targets to be achieved. They set an upper limit as to what would be allowed.
- 2.13 In this regard, it should also be noted that Chapter 2 of the TS provided an assessment of accessibility. This concluded that the Site has a very good level of accessibility which is reflected in its high Greater Manchester Accessibility Level (GMAL) score of 6 (out of a maximum of 8) and being immediately adjacent to a GMAL7 area.
- 2.14 The accessibility review within the TS also concluded that having regard to existing public transport provision and proximity as well as pedestrian and cycle facilities, the location provides excellent opportunities for travel by sustainable modes.
- 2.15 Within the context of such accessibility and sustainable travel opportunities, it would be inappropriate to provide the maximum level of provision resulting from the SPD calculation.
- 2.16 It is important to note that none of the accessibility assessment information or conclusions within the TS has been challenged by BC and nor has there been any request to increase on-site parking provision to a particular level deemed appropriate by BC.
- 2.17 It should also be noted that no reliance has been made for any parking capacity that would be available exclusively for the Site on the cobbled section of Albion Street which is private and which sits outside of the adopted highway. This has capacity (if required) to accommodate 12 cars.



View of private section of Albion Street



Adopted Highway shown in pink

Claimed '*significant impact on access to and parking facilities*'

- 2.18 Aside from the trip generation assessment, which showed that there would be a net reduction in trip activity as a result of the residential proposals when compared to the baseline position, and the support for the overall parking provision proposed, the TS also provided a description and photographs of the access road, Albion Street, and observations in respect of the presence of on-street parking [TS Sections 2.2 to 2.11].
- 2.19 The TS also included AutoTrack swept path plots of vehicle servicing (by Fire Tender and Large Refuse Vehicle), which demonstrate that service vehicles can turn around safely within the curtilage of the development and access / egress the Site from / to the public highway in a forward gear.
- 2.20 It should be noted that for more than 10 years almost all of the area proposed for residential parking has been taken up (and therefore not available) by storage containers. These can also be seen in the aerial photograph shown below. These containers would be removed if the existing use is replaced by residential.



Existing Site Layout (Aerial View)

- 2.21 Whilst the TS included some site photographs of Albion Street, these did not clearly demonstrate the presence of the containers within the area proposed for parking during the existing (baseline) use.
- 2.22 The photographs below were taken on Thursday 22 May 2025 and are consistent with previous observations in 2024.



Containers within the Site

- 2.23 The Delegated Report states that Albion Street is heavily parked on both sides of the road and makes reference to site visits and Google street view shots between October 2014 and August 2023, although none of this information has been provided.

2.24 For context, the photographs of the adopted section of Albion Street below were taken on the Thursday 22 May 2025 Site visit at approximately 11:00am.



View north towards A58 from Albion Street and south back towards the Site



View south on Albion Street towards the Site at approximately 50m and 100m from A58

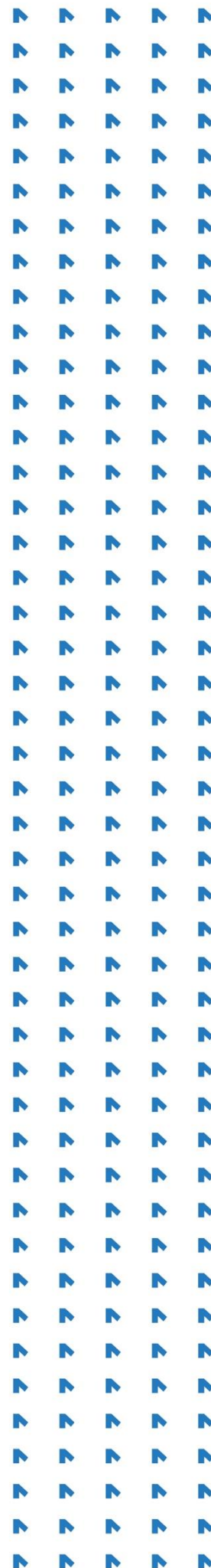
2.25 Against the backdrop of an incorrectly assumed intensification of use of the Site by the Council, the Delegated Report suggests that the BC's unquantified increase in demand would result in *'vehicles parking and carrying out manoeuvres on the surrounding highways where on-street parking facilities are at a premium at all times of day, which would have a significant impact on access to and parking for existing commercial businesses/operations located off Albion Street and would therefore be detrimental to the free flow of traffic and road safety.'*

- 2.26 Most of the existing floorspace within the Albion Mill buildings would be replaced by the proposed residential development with only 831sqm of (unoccupied) B8 floorspace within the ground floor of Albion Mill retained. If occupied in the future, this small amount of B8 floorspace would be expected to generate less than 10 two-way trips in the AM and PM peak hours and with a parking demand of no more than 8 spaces.
- 2.27 Whilst the precise location of the objector referred to in the Delegated Report is not known, this 'adjacent business' must be situated outside of the Site curtilage with no rights to use the private section of Albion Street (the cobbled section within the Site) or the area within the Site itself. The proposals would not be expected to have any bearing whatsoever on the presence of on-street parking on the adopted highway sections of Albion Street which exist outside of the Site and would have no bearing on the manoeuvres on the highway.
- 2.28 The unsupported claim by BC that the proposals would be detrimental to the free flow of traffic and road safety has no basis and contrary to the evidence provided by the Appellant.

3.0 POLICY REVIEW AND CONCLUSIONS

- 3.1 Government policy seeks to encourage developments which are accessible by a choice of modes of transport. Undoubtedly, site location is a key criterion in meeting the Government's sustainability objectives.
- 3.2 Whilst the Delegated Report references only the SPD11 within the 'Transport Impacts' section, it is excluded from the policies listed with Refusal Reason No.1. Furthermore, the policies which are listed with the Reason are not discussed within the delegated report.
- 3.3 None of the policies listed within Reason 1 have been subject to any analysis within the Delegated Report. Nor is there any suggestion as to why or which parts the proposals would be in conflict. It is simply stated that the proposals would be contrary to them.
- 3.4 Whilst the delegated report makes reference to and suggests it includes an analysis against the relevant policies of the National Planning Policy Framework (NPPF), this is not referred to within the context of the transport impacts and there is no challenge to the TS conclusion that, with reference to paragraph 115 of NPPF, the proposals would not result in an unacceptable impact on highway safety nor would the cumulative residual impact on the road network be severe. NPPF does not feature at all within the reasons for refusal.
- 3.5 It therefore remains the conclusion, as previously stated within the TS that there are no highway or transport related issues which would prevent granting of planning permission for the proposed residential development.

Appendix 5

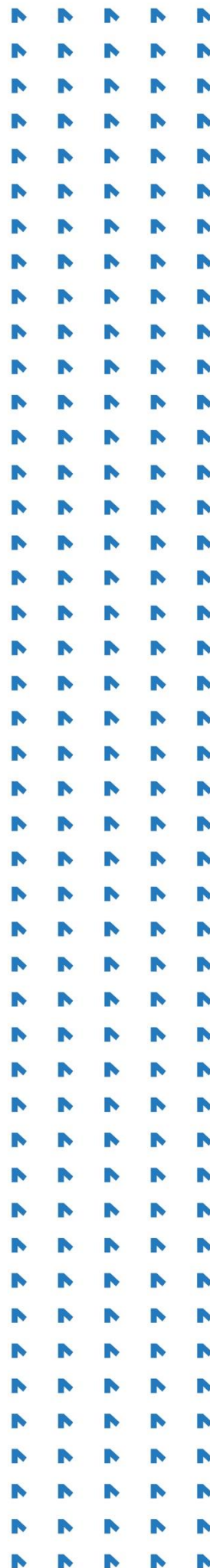


The noise report does not flag up any problems for this development. It does suggest double glazing and trickle vents.

Commercial Team

Bury Council | Department for Operations | Public Protection

Appendix 6



Sam Golding
Gold Sketch
55a Bury Old Road
Prestwich
Manchester
M25 0FG

19th May 2025

**RE: Expert Review of Environmental Noise Impact Assessment –
Albion Mill Industrial Estate, Albion Street, Bury, BL8 2AD**

Planning Ref: 71587/P3JPA

Dear Mr. Golding,

I write to you in my capacity as an independent acoustic consultant, having been asked to assess the Environmental Noise Impact Assessment (ENIA) prepared by Acoustic Design Technology Limited (Ref: ADT 3748/ENIA, dated 31 August 2024) and to review the associated planning case for Albion Mill, Bury, which has been refused under the prior approval process.

1. Professional Credentials

I am a Chartered Environmentalist (CEnv) and an Associate Member of the Institute of Acoustics (AMIOA). I hold a Master of Science in Applied Acoustics, having completed the rigorous academic and practical requirements of the Institute of Acoustics Diploma in Acoustics and Noise Control.

My professional practice is supported by formal certification in both environmental and building acoustics, holding the Certificate of Competency in Environmental Noise Measurement (CCENM) and



the Certificate of Competency in Building Acoustics Measurement (CCBAM).

My wider professional standing is reflected in memberships with several recognised bodies including the Chartered Institute of Environmental Health (MCIEH), the Institute of Environmental Sciences (MIEnvSc), the Chartered Association of Building Engineers (MCABE), the Chartered Institute of Building (MCIOB), the Institution of Fire Safety Managers (MIFSM), and the Energy Institute (MEI).

I have extensive experience providing expert acoustic consultancy in complex mixed-use developments and regularly advise on the compatibility of residential proposals with existing industrial or commercial operations in accordance with national guidance and technical standards.

2. Background to the Case

The applicant submitted a prior approval application under Class MA of the GPDO for the conversion of parts of Albion Mill and Albion House to 20 residential units. A single objection was received from an adjacent business, raising concerns that the proposed development would lead to amenity conflicts and future operational risk due to residential proximity.

An Environmental Noise Impact Assessment (ENIA) was submitted in support of the application. The report concluded that the internal levels recommended by BS8233 should be achieved with the windows closed, irrespective of the type of glazing used, even if basic acoustic trickle vents are used to provide background ventilation.

The Environmental Health Officer (EHO), as a consultee, reviewed this report and stated explicitly:

“The noise report does not flag up any problems for his development. It does suggest double glazing and trickle vents.”

Despite this, the application was refused in part on noise grounds, with the case officer stating that the development would introduce

a non-conforming use harmful to future residents and the operational viability of the EGA.

3. Analysis of the ENIA

The ENIA undertaken by Acoustic Design Technology Ltd is thorough and methodically follows best practice guidance, including:

- **BS 8233:2014** – Guidance on sound insulation and noise reduction for buildings.
- **Use of Cadna/A modelling** to simulate future noise scenarios from nearby sources, including Greenbrook Garage.
- **Measurement Strategy:** Includes unattended logging from 2–6 August 2024 and attended surveys to validate daytime noise events.
- **Assessment Metrics:** LAeq, Lmax, and LA90 levels have been measured and compared against BS 8233 internal and external criteria.
- **Mitigation:** The report concludes that standard double glazing and trickle vents would be sufficient to meet internal noise targets, even in the worst-case facades (max 57 dB LAeq).

The modelling is conservative—assuming reflective surfaces and no ground absorption—and, crucially, proposes a separating floor construction with an Rw+Ctr of 55 dB, exceeding Building Regulations Part E.

4. EHO Response and Officer Overruling

It is both material and concerning that the planning officer dismissed the conclusions of a professionally prepared ENIA and the unambiguous support from the Council's own Environmental Health Officer. This is especially problematic in a **prior approval context**, where the LPA's discretion is strictly limited to the criteria in Class MA. Among these, item **(d) noise from commercial premises** must be considered, but there is no authority to override

a **specialist consultee's advice** without compelling technical justification.

There is no evidence within the officer report that a counter-expert review or contrary data was presented to challenge the EHO's advice. As legally precedented, a *"decision-maker should give the views of statutory consultees ... 'great' or 'considerable' weight. A departure from those views requires 'cogent and compelling reasons'"* That standard was not met here.

5. Addressing the Objector's Claims

The objector states that the noise survey was "inadequate" because it captured operations over a weekend and that attended monitoring was only carried out for two hours on a Friday. These claims are demonstrably unfounded:

- The unattended survey ran for **four continuous days**, including peak operational windows cited by the objector (05:00–08:00).
- **Figure 3748/TH2** clearly shows Lmax events aligning with the cited hours of operation.
- The noise report **captured and analysed peak events** and modelled them appropriately.
- The argument regarding survey timing is refuted by the **data itself**, which correlates to the objector's own stated activity patterns.
- Please find attached visual excerpts from the noise time history that highlights peak events aligning with the business's operating schedule.

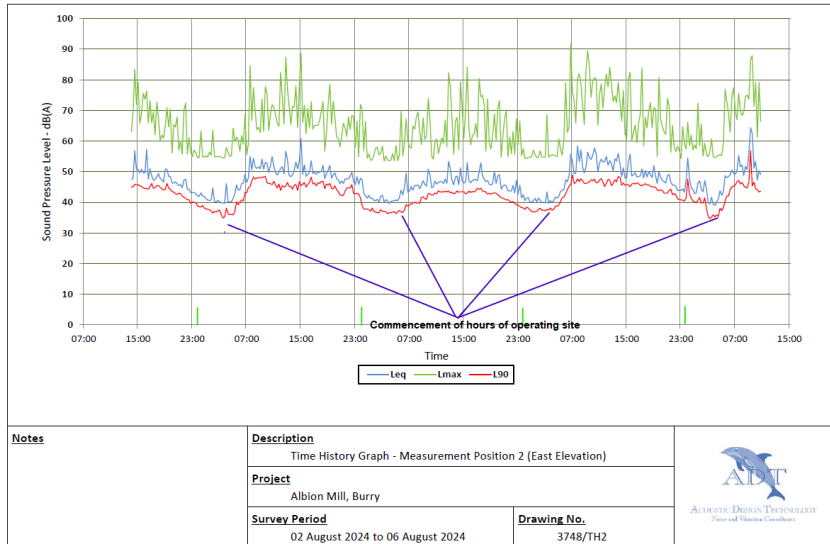


Figure 1: Time History data from the report evidencing the noise levels beginning to pick up at the stated opening times of the objector

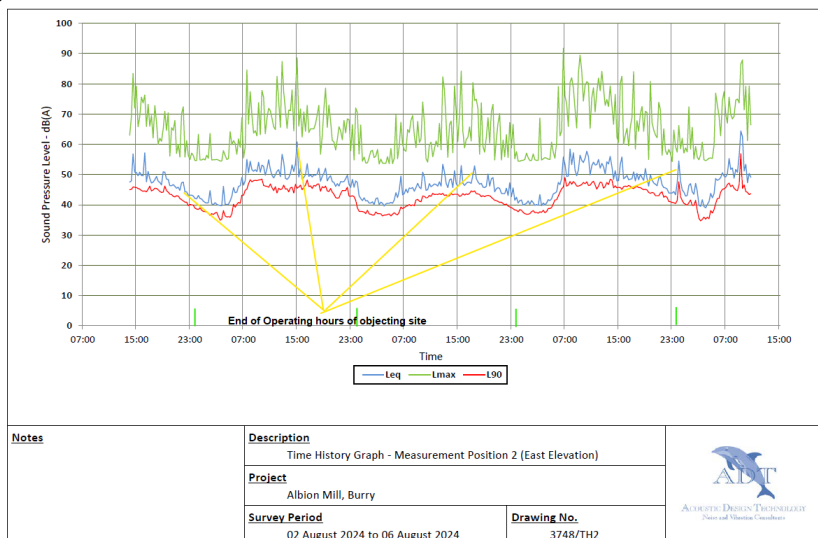


Figure 2: Time History data from the report evidencing the noise levels beginning to drop off at the stated closing times of the objector.



6. Concerns over Procedural Conduct

The planning officer's report appears to substitute generalised concerns over noise (based on the sole objector) in place of detailed technical evidence, giving insufficient weight to the findings of the Environmental Noise Impact Assessment and the clear, unambiguous support of the Council's Environmental Health Officer. This raises questions of proportionality in decision-making.

Planning Practice Guidance (Noise, Paragraph 009) sets out that it is the role of the applicant — as agent of change — to identify potential adverse effects from existing businesses and to propose suitable mitigation. It acknowledges that while such mitigation may not prevent all future complaints, it can provide a satisfactory living environment and reduce the risk of statutory nuisance, particularly where, for example, windows are kept closed and alternative ventilation systems are provided.

The ENIA clearly discharged this obligation by modelling representative worst-case conditions and proposing mitigation aligned with BS 8233:2014. Despite this, there is no indication that the officer considered the option of securing the identified mitigation through condition prior to issuing a refusal.

In prior approval cases, it is not uncommon for planning authorities to use conditions to formalise mitigation strategies where the baseline assessment has otherwise demonstrated policy compliance.

7. Recommendations and Final Observations

Given the above:

The officer's conclusion on noise is **unsubstantiated**, contradicts expert advice, and fails to recognise the **technical sufficiency of the mitigation proposed**.

If the officer had concerns, it would have been both reasonable and appropriate to **communicate these back to the applicant** and request confirmation or commitment to the proposed mitigation via condition.



The refusal based on noise appears procedurally unsound and fails to satisfy the requirements of evidence-led, proportionate decision-making under the GPDO and wider planning principles.

I understand that it is the applicant's intention to proceed to appeal and trust this independent expert review will assist in resolving the technical matters under dispute and restoring confidence in the acoustic suitability of the development site.

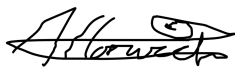
I hope that the above analysis will be persuasive in assisting the appeal to be allowed and prior approval be granted, subject to appropriate conditions regarding the implementation of the noise mitigation measures recommended in the noise assessment and endorsed by the EHO.

Alternatively, should the Planning Inspectorate consider that additional information is required, I would request that this be addressed through conditions rather than dismissal of the appeal, in accordance with the proportionate approach to prior approval applications established in case law.

I reserve the right to expand upon these grounds and to make further representations in support of this appeal.

Please don't hesitate to contact me if you require further clarification.

Kind regards



Aharon Horwich

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