

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 16/06/2022	Ref: 68111/FUL
Registration: 27/04/2022	LDFC: 03/06/2022	Expiry Date: 22/06/2022
Site Visit: 18/05/2022	Site Notice: 18/05/2022	Press Date: 12/05/2022
Objections: 0	Con Area: BURY	Adv Type: LBCA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Change of use of basement, rear of ground floor, 1st/2nd/3rd floors from commercial (Class E) to 7 no. flats with external alterations

Location: 1 The Rock, Bury, BL9 0JP

Description

The site relates to a 4 storey Grade II Listed Building with room in the basement which is located at the end of a main pedestrianised shopping street within Bury Town centre and the Conservation Area.

The building is located on a corner plot and forms the first of a row of premises in a main shopping area which are in retail or commercial uses, some with office/storage or residential flats above. To the west across a cobbled side access street is St Mary's Church, also a Grade II Listed Building. At the rear are the gardens to the rectory which are separated from the site by the back access alley, North Back Rock, and a stone wall.

The building is currently used as a shop at ground floor with storage in the basement level and offices at the upper floor which appear to be vacant. It is serviced at the rear via North Back Rock and with bin storage located in the rear yard area.

The building itself is a 4 storey red brick build, with distinctive mock timber framing. It is characterised by floor to ceiling window openings of varying designs to each floor including stained glass and oriel windows and an elaborately designed side entrance incorporating a dated coat of arms.

The application seeks the conversion of the rear part of the basement, rear part of the ground floor and the 1st/2nd/3rd floors from commercial to 7 no residential (5 x 1 bed flats, 1 x 2 bed flat, 1 x 3 bed flat) with external alterations. The front part of the ground floor would remain as a retail shop.

- Basement and ground floor - 1 no flat split over the rear floor areas to provide a 2 bed flat. Entrances would be at the side and rear. Lightwells and windows would be re-instated on the side elevation.
- First floor - 2 x 1 bed flats
- Second floor - 2 x 1 bed flats
- Third floor and new third floor mezzanine - 1 x 2 bed flat and 1 x 3 bed flat. Each flat would have a new staircase installed to access the mezzanine floor.

The flats to the upper levels would be accessed via the main entrance at the side which leads to an existing staircase.

Bins would be stored in the rear yard area.

It is proposed to carry out some external alterations which includes refurbishment of windows, repairs to the roof lead and replacement of a small number of slate and brick

walling. Blocked windows to the ground floor would be re-instated as would the lightwells to the basement level.

Relevant Planning History

59428 - Change of use of 1st/2nd/3rd floors from commercial (Class A2) to 5 no. flats; Repairs and refurbishment of external elevations and windows.

- Approve with Conditions 17/02/2016

59429 - Listed building consent for change of use of 1st/2nd/3rd floors from commercial (Class A2) to 5 no. flats, refurbishment of external elevations and windows, associated internal works - Approve with Conditions 17/02/2016

65000 - Retention of roller shutter to shop front - Refused 12/03/2020

65001 - 1 No. externally illuminated fascia sign - Approve with Conditions 16/03/2020

65092 - Proposal A: Listed Building Consent for change of use of ground floor from insurance office (Class A2) to shop (Class A1) and 1 no. externally illuminated fascia sign

Proposal B: Listed Building Consent for the retention of roller shutter to shop front - Split Decision 16/03/2020

68112 - Listed building consent for change of use of basement, rear of ground floor, 1st/2nd/3rd floors from commercial (Class E) to 7 no. flats with external alterations - Concurrent application

22/0130 - Roller shutters on shop front and side elevation window -

Publicity

Letters sent on 10/5/22 to 30 properties.

Site notice posted 18/5/22

Press advert 12/5/22.

No responses received.

Statutory/Non-Statutory Consultations

Traffic Section - No response received.

Waste Management - No response received.

Environmental Health - Pollution Control - No response received

Conservation Officer - No objection

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF National Planning Policy Framework

Area Central Shopping Area

BY6

S1/1 Shopping in Bury Town Centre

S2/3 Secondary Shopping Areas and Frontages

EN2/1 Character of Conservation Areas

EN2/2 Conservation Area Control

EN2/3 Listed Buildings

EN1/2 Townscape and Built Design

HT2/4 Car Parking and New Development

H1/2 Further Housing Development

H2/1 The Form of New Residential Development

H2/2 The Layout of New Residential Development

H2/4 Conversions

EN7/2 Noise Pollution

TC2/1 Upper Floors

TC2/2 Mixed Use Development

HT5/1 Access For Those with Special Needs

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Policies - Housing

Chapter 7 of the NPPF - Ensuring the vitality of town centres recognises town centres as the heart of communities and supports proposals to ensure their vitality and viability. It advocates a mix of uses are important to meet the needs and functions of a town centre, which includes residential uses.

Bury UDP Policies S1/1 - Shopping in Bury Town centres and S2/3 - Secondary Shopping Areas and Frontages seeks to encourage and enhance the vitality and viability of the town centre and to maintain and provide display a mix of commercial uses, and maintaining a display or open ground floor frontage.

Policy TC2/1 - Upper Floors - Proposals will be supported which bring underused and vacant space on upper floors of premises into beneficial use, and a range of uses such as offices and living accommodation will be encouraged which will contribute to the overall vitality of town centres and help to retain and improve their liveliness and attractiveness. Utilisation of this type of accommodation will also result in proper maintenance and repair of the building fabric, which is particularly important in conservation areas and for individual listed buildings.

Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the height and roof type of adjacent buildings, the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to parking provision and access, landscaping and protection of trees/hedgerows and external areas.

UDP Policy H2/4 - Conversions and Supplementary Planning Document 15 - Residential Conversions recognises that applications for conversions can often make an important contribution to the local housing stock, and often the best way to utilise vacant or underused space. Regard will be had to the following factors which include the effect on amenity of the neighbouring property through noise, visual intrusion, position of entrances, impact of parking areas, extensions and fire escapes; general character of the area; amenity of occupants; effect on the street scene of any external alterations; car parking and servicing requirements.

Principle - The proposed use would redevelop the upper floors of a vacant building by introducing a residential use which would support the vitality and viability of the town centre and would also ensure secure the longevity of the building within the town centre and conservation area.

The building is within a highly sustainable location, with existing infrastructure in place to support the scale of the development and would also contribute to meeting local housing needs in the Borough.

The ground floor would remain in commercial use and therefore continue to contribute to the shopping role of the town centre.

As such, the principle of the change of use would be in general accordance with national and local planning policy and would be in compliance with the NPPF and Bury UDP policies.

Policies - Heritage

The application site is a Grade II Listed Building circa 1874. The building is a 4 storey red brick build, with distinctive mock timbering. The listing states that the building is also characterised by floor to ceiling window openings of varying designs to each floor - the straight headers at ground floor, obtusely pointed header at first floor, pointed headers to the second and multi mullioned lights on the top floor.

The building also boasts stained glass and oriel windows and an elaborately designed side entrance incorporating a dated coat of arms. Internally, there are original features including fireplaces, picture rails, mouldings and skirtings.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the

desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

Section 72 sets out the duties imposed upon a Local Planning Authority in respect of Conservation Areas in exercising its planning functions.

The NPPF advocates positive strategies for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other risks. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

Paragraph 189 states that in determining applications, LPA's should require an applicant to describe the significance of any heritage assets affected, including any contribution to their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Paragraph 199 of the National Planning Policy Framework (NPPF) states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 of the NPPF states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 202 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control policies only support proposals where it can be demonstrated that development would preserve or enhance the special character of the area. The re-use of buildings within Conservation Areas will be encouraged, particularly at upper floor level, with regard had to any likely impact on the character of the immediate area and any need for alterations to the fabric of the building.

EN2/3 - Listed Buildings - The Council will actively safeguard the character and setting of Listed Buildings by not permitting works, alterations or changes of use which would have a detrimental effect on their historical or architectural character and features. Consideration will be given to the impact of the proposal on the historic fabric of the building. New uses are often the key for preservation for buildings, especially for buildings which have become wholly or partly redundant. However, new uses must not adversely affect the architectural or historic features and character of such buildings.

Principle - Heritage - The proposal would redevelop the upper floors of a vacant, run down and poorly maintained building and would support the regeneration of a Listed Building within a Conservation area. The proposed re-use of the building would result in maintenance and repair works to secure the longevity and continued contribution of the building and its use to the vitality and viability of the town and its setting in the Conservation Area.

It is therefore considered that the proposed use and the appropriateness of the works which

would be carried out to enable the restoration of this building would both preserve and enhance the character of this heritage asset within this important part of the Ramsbottom Conservation Area, and would be in accordance with the principles of the NPPF and UDP Policies.

Layout - The main entrance to the flat would be via the existing double door on the side elevation of the building which would lead to a central staircase and the upper floors. Flat 7, which would be split between the ground floor and basement would be accessed via a separate entrance at the side.

At the basement and ground floor, there would be 1 x 2 bed flat.

At 1st and 2nd floors there would be 2 x 1 bed flats, with the 3rd floor and new mezzanine level to accommodate 1 x 2 bed and 1 x 3 bed flats.

Internally, there would be some removal of walls and new walls formed to create usable living accommodation but such works would not be excessive or harm the main fabric of the building.

Externally, there would be no outdoor amenity space with the property apart from a small yard area which would be used for bin storage but lack of dedicated amenity space in a town centre location is not unusual, and there are public open spaces in the nearby vicinity for amenity purposes.

Similarly there is no dedicated parking for the premises. Being within a highly sustainable town centre location within walking distance to shops and services and public transport, this is considered to be acceptable.

The proposed scheme demonstrates that the building would be capable of being converted and provide an acceptable amount of space and accommodation for residential purposes, and as such, would comply with UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development.

Design and appearance - Alterations to the exterior of the building would be relatively minor, comprising repairs to the roof and brick work, minimal insertion of rooflights of a conservation type, refurbishment of windows and re-instatement of previously blocked up windows and lightwells, the latter to serve as openings to the proposed basement flat, which would restore the building to its original form.

The main facades and special character of the Listed Building would otherwise be retained.

As such, the proposed development is considered to be acceptable and would comply with EN1/2, H2/1 and H2/4.

Residential amenity - The premises are located on the edge of a pedestrianised part of the town centre, broadly characterised by a mix of shops, which tend to open during the daytime. Further to the west is what is known as the Cultural Quarter of the borough, more characterised by bars, restaurants and pubs.

Being located within a town centre, residential occupiers of town centre accommodation should expect a certain amount of noise and activity in the evenings and at night time. There are other residential units which are located above commercial premises in the town centre, and this would be no different in terms of the character of the development.

The Environmental Health Pollution Control Section have not commented on the application proposals but in many other similar situation where residential flats would be located above or within commercial uses and town centre locations, a soundproofing condition to Building Regulation standards has been recommended and reasonable to include as part of this development.

In terms of impact on adjacent occupiers, there is a church to the west, the grounds of which could be viewed from the windows on the side and rear elevations. The windows of the property already face and overlook these areas, and as such the situation would be no different or worse in terms of impact on the amenity of this area from any use of the internal space.

At the rear of the site are the grounds of the Church rectory. There are existing windows to the rear elevation and these would be to habitable room windows to the upper floor flats. However, these windows would only overlook the furthestmost corner of the rectory grounds and with a high intervening boundary walls and substantial and mature tree planting along the rear boundary, impacts on amenity of this site would not be significantly worsened than could currently exist.

It is therefore considered that the proposed development would not have a significantly harmful impact on adjacent occupiers and would comply with H2/1, H2/4 and EN1/2.

Parking - There is currently no allocated parking for the building or its existing uses and none is proposed as part of the application.

The site is located within the town centre and in a highly sustainable location, within easy walking distance of shops, eateries and entertainment and the central bus and Metro Link. It is also generally expected that town centre living would not necessarily or automatically provide parking, and any future occupiers would be aware of this fact before taking up residence. A cycle store would also be provided within the stairwell at the ground floor.

The proposed development is therefore considered acceptable.

Bin and cycle store - There is an existing rear yard and this would facilitate bin storage for both the residential and commercial uses.

This is considered an acceptable arrangement.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings - Project no 9070 - Site plan 0000B; Location plan 0001B; Basement plan 100B B; Ground floor 1000B; First floor 1001B; Second floor 1002B; Third floor 1003B; Third floor mez 1004B; Roof plan 1005B; South elevation 0028B; South west elevation 0027B; North/north west elevation 0024B; East elevation 0025B; Sections 0010B; Heritage Statement; Design and Access Statement and the development shall not be carried out except in accordance with the drawings hereby approved.

Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

- 3 The development hereby approved shall incorporate soundproofing of the floor/ceiling between each level of flats and between the ground floor and first floors flats, and the party walls to both sides of the building, which shall be in accordance with standards of construction specified in current Building Regulations, shall be completed before the development is brought into use.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policy EN7/2 Noise Pollution.

- 4 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, none of the flats hereby approved shall be used for any other purpose other than a Class C3 use (including any other purpose in Class C3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 as amended) without the submission and approval of a relevant planning application.

Reason. In the interests of residential amenity, to safeguard the character of the area and to secure the appropriate scale and intensification of use of the development for the site pursuant to policies H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development and H2/4 - Conversions.

- 5 The velux rooflights hereby approved and to be installed shall be a conservation area type and thereafter maintained.

Reason. In order to preserve the special architectural or historic interest of the building in the Conservation Area pursuant to the principles of the NPPF and UDP Policies EN1/2, EN2/1, EN2/2 and EN2/3.

- 6 The in-curtilage bin storage arrangements indicated on the approved plans shall be implemented before the use hereby approved commences and thereafter be maintained available for use at all times.

Reason. To ensure adequate off-highway bin storage arrangements are provided within the curtilage of the site, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development and H2/4 - Conversions.

- 7 No materials shall be used on the external elevations or roof of the proposed development other than those referred to on the approved plans / supporting documentation.

Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policies EN1/2 - Townscape and Built Design, EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control and EN2/3 - Listed Buildings of Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	16/6/22		