

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 24/04/2024	Ref: 70333/FUL
Registration: 03/01/2024	LDFC: 26/01/2024	Expiry Date: 03/04/2024
Site Visit: 09/01/2024	Site Notice: 09/01/2024	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MADW

Proposal: Variation of condition no. 3 (affordable housing statement) following approval of planning permission 68998 - amendment to the tenure and unit mix

Location: Land at Green Street, Radcliffe

Description

The site is located between the Green Street, Pilkington Way and Blackburn Street in the town centre of Radcliffe and relates to a car park which formally served a leisure centre which has since been demolished.

St Thomas and St John church, which is Grade II listed is located to the east of the site and is set within landscaped grounds. There are commercial uses, retail uses and a car park to the south of the site. Pilkington Way forms the boundary to the north and is level at the north, but significantly lower than the site at the western point. Beyond Pilkington Way is a area of landscaping and residential properties.

Planning permission was granted for the erection of 2 buildings containing 132 apartments (Blocks A, B&C), a bar, offices and commercial units in June 2023.
Works on site have commenced.

In terms of the Planning Obligations secured for the development, the scheme would provide 97 affordable units in Blocks B&C, to be developed in conjunction with a registered housing provider and would be a mix of affordable rent and shared ownership.
This was secured through a condition (condition 3).

This application relates to the Affordable Housing element of the application only and proposes a change to the tenure of the affordable housing apartments.
Overall, the scheme would continue to deliver 97 no affordable homes, delivered either as Social Rent or Affordable Rent to Buy.

The application has been submitted as a Variation of Condition (Condition 3) to vary the previously approved Affordable Housing Statement (dated August 2022).

Relevant Planning History

68998 - Construction of new mixed-use development comprising 132 apartments, bar, commercial and office spaces with associated landscaping and car parking - Approved 27/6/24

Publicity

Site notices posted 9/1/24
No responses received

Statutory/Non-Statutory Consultations

N/a

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EC5/2	Other Centres and Preferred Office Locations
EC6/1	New Business, Industrial and Commercial
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H4/1	Affordable Housing
EN1/2	Townscape and Built Design
EN1/4	Street Furniture
EN1/5	Crime Prevention
EN1/7	Throughroutes and Gateways
EN1/8	Shop Fronts
EN2/3	Listed Buildings
EN6/3	Features of Ecological Value
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
RT2/2	Recreation Provision in New Housing Development
S1/2	Shopping in Other Town Centres
S2/1	All New Retail Proposals: Assessment Criteria
S2/6	Food and Drink
HT2/3	Improvements to Other Roads
HT2/4	Car Parking and New Development
HT5/1	Access For Those with Special Needs
TC2	Town Centre Enhancement and Development
TC2/2	Mixed Use Development
TC2/3	Vacant and Cleared Sites
Area	Green Street/New Church Street
RD2	
SPD1	Open Space, Sport and Recreation Provision
SPD5	DC Policy Guidance Note 5: Affordable Housing
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework
PfE	Places for Everyone
JP-P1	Sustainable Places
JP-P2	Heritage
JP-S4	Flood Risk and the Water Environment
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-S5	Clean Air
JP-G7	Trees and Woodland
JP-C5	Streets For All
JP-C6	Walking and Cycling

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 principle for a mixed use development comprising commercial, office and apartment uses with associated landscaping and car parking has been established with the grant of planning permission reference 68998

PfE Policy JP-H2 seeks to maximise the delivery of affordable homes and support the provision of affordable homes as part of new developments (avoiding where possible clusters of tenure to deliver mixed communities).

This application will continue to deliver 97 affordable units, of which 56 will be for social rent and 41 will be affordable rent to buy. The proposed affordable units will be developed in conjunction with a registered housing provider and represent 73% of the total units, well in excess of the 25% required by local policy. The proposed tenure mix is considered acceptable in these circumstances and will contribute towards meeting needs for affordable housing.

The principle of this proposal does not give rise to any conflict with PfE policies.

The proposed development is therefore considered to be acceptable and would comply with the principles of the NPPF, PfE Policy JP-H2 and UDP Policy H4/1.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 This decision relates to drawings numbered
121305 01 P1, 121305 10 P1, 121305 11 P20,
121305-TADW-11-[-1]-DR-A-0021-P-8, 121305-TADW-00-00-DR-A-0022-P-10,
121305-TADW-00-01-DR-A-0023-P-9, 121305-TADW-00-02-DR-A-0024-P-9,
121305-TADW-00-03-DR-A-0025-P-8, 121305-TADW-00-04-DR-A-0026-P-8,
121305-TADW-00-05-DR-A-0027-P-8, 121305-TADW-00-ZZ-DR-A-0028-P-8,
121305-TADW-00-ZZ-DR-A-0029-P-7, 121305-TADW-00-ZZ-DR-A-0030-P-8,
121305-TADW-00-ZZ-DR-A-0031-P-7, 121305-TADW-00-05-DR-A-0032-P-1,
121305-TADW-00-ZZ-DR-A-0041-P-10, 121305-TADW-00-ZZ-DR-A-0042-P-10,
121305-TADW-00-ZZ-DR-A-0043-P-10, 121305-TADW-00-ZZ-DR-A-0044-P-10,
121305-TADW-00-ZZ-DR-A-0045-P-9, ELL/21164/WH/L/1000 A
Revised Affordable Housing Statement Rev 4 April 2024
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.
- 2 The residential units in Building B and Building C hereby approved shall be occupied at all times as affordable housing as defined in the Revised Affordable Housing Statement Rev 4 April 2024 (received 23/4/24).
Reason. The proposed development has been granted given the particular circumstances of the applicant and the opportunity to provide increased affordable housing, but as a result a recreational contribution pursuant to Supplementary Planning Document 1 (Open Space, Sport and Recreation Provision in New Housing Development) will not be provided. This condition is thereby to ensure that in order to make the development acceptable in planning terms, as a result of not making a recreational contribution the whole development shall instead contribute to satisfying the need for affordable housing provision.
- 3 The development hereby approved shall be carried out in accordance with the details approved under condition 4 of planning permission ref 68998. Only the approved materials shall be used for the construction of the development.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/2 - Townscape and Built Design.
- 4 Following the provisions of Condition 5 of planning permission ref 68998, where

remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 5 The development hereby approved shall be carried out in accordance with the details approved under condition 7 of planning permission ref 68998.
Reason. In accordance with the principles of the NPPF, to encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life.
- 6 The development hereby approved shall be carried out in accordance with the details approved under condition 10 of planning permission ref 68998.
Reason. The information is required to reduce the impacts of dust disturbance from the site on the local environment, pursuant to chapter 11 of the NPPF - Conserving and enhancing the natural environment.
- 7 Prior to occupation of the commercial units hereby approved, a scheme for treating, diluting and dispersing fumes from and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements.
Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.
- 8 The mitigation measures identified in the Noise Impact Assessment, dated 16 December 2021 shall be implemented as proposed in full prior to first occupation of the dwellings hereby approved.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy EN7/2 - Noise Pollution of the Bury Unitary Development Plan.
- 9 The construction of the separating floor between the bar and offices (as shown on plan reference 121305-TADW-00-00-DR-A-0022-P-9) hereby approved must achieve an on-site sound insulation value of at least 50dB.
Reason. To protect the amenities of the future occupiers of the offices pursuant to Policy EN7/2 - Noise Pollution of the Bury Unitary Development Plan.
- 10 The construction of the separating floor between the commercial unit (74.4 square metres as shown on plan reference 121305-TADW-00-00-DR-A-0022-P-9) and the

residential dwellings hereby approved must achieve an on-site sound insulation value of at least 55dB.

Reason. To protect the residential amenities of the future occupiers of the dwellings pursuant to Policy EN7/2 - Noise Pollution of the Bury Unitary Development Plan.

- 11 The noise levels within the commercial unit (173 square metres as shown on plan reference 121305-TADW-00-00-DR-A-0022-P-9) shall not exceed 85dB(A).
Reason. To protect the residential amenities of the future occupiers of the dwellings pursuant to Policy EN7/2 - Noise Pollution of the Bury Unitary Development Plan.
- 12 The development hereby approved shall be carried out in accordance with the details approved under condition 16 of planning permission ref 68998.
Reason. In the interest of public health and to ensure protection of the public sewer system pursuant to Policy EN7/5 - Waste Water Management of the Bury Unitary Development Plan.
- 13 The development hereby approved shall be carried out in accordance with the details approved under condition 17 of planning permission ref 68998.
Reason. To promote sustainable development and reduce flood risk pursuant to Places for Everyone Policy JP-S4 - Flood Risk and the Water Environment, Unitary Development Plan Policies EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.
- 14 The development hereby approved shall be carried out in accordance with the details approved under condition 18 of planning permission ref 68998.
Reason. In the interest of public health and to ensure protection of the public water supply pursuant to Policy EN7/5 - Waste Water Management of the Bury Unitary Development Plan.
- 15 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity, and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 16 The development hereby approved shall be carried out in accordance with the details approved under condition 20 of planning permission ref 68998.
Reason. To ensure the safe and satisfactory development of the site in the interest of Policy JP-G1 - Landscape Character and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 17 The development hereby approved shall be carried out in accordance with the details approved under condition 21 of planning permission ref 68998.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.
- 18 The development hereby approved shall be carried out in accordance with the details approved under condition 22 of planning permission ref 68998.
Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to the following Policies of

the Bury Unitary Development Plan:

Policy EC6/1 - Assessing New Business, Industrial and Commercial Development

Policy EN1/2 - Townscape and Built Design

Policy H2/2 - The Layout of New Residential Development.

- 19 The development hereby approved shall be carried out in accordance with the details approved under condition 23 of planning permission ref 68998.
Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to the following Policies of the Bury Unitary Development Plan:
Policy EC6/1 - Assessing New Business, Industrial and Commercial Development
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development.
- 20 The development hereby approved shall be carried out in accordance with the details approved under condition 24 of planning permission ref 68998.
Reason. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and JpE Policies JP-C5 - Streets for All and JP-C6 - Walking and Cycling.
- 21 The vehicular and pedestrian access arrangements within the curtilage of the site indicated on the approved plans shall be implemented to the satisfaction of the Local Planning Authority before the development hereby approved is brought into use/first occupied.
Reason. To ensure good highway design in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:
Policy EC6/1 - Assessing New Business, Industrial and Commercial Development
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development.
- 22 The turning facilities within the curtilage of the site indicated on the approved plans shall be provided before the development hereby approved is brought into use/first occupied and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:
Policy EC6/1 - Assessing New Business, Industrial and Commercial Development
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development.
- 23 The car and cycle parking indicated on the approved plans shall be surfaced, demarcated and made available for use before the development hereby approved is brought into use/first occupied and thereafter maintained at all times.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 24 Bin storage arrangements shall be provided within the curtilage of the development for all uses in accordance with Waste Management's 'Guide to Refuse Collection Requirements & Storage Methods for New Developments' before the development hereby approved is brought into use/first occupied and shall thereafter be maintained.

Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to the following Policies of the Bury Unitary Development Plan:
Policy EC6/1 - Assessing New Business, Industrial and Commercial Development
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	24/4/24	DM	24/04/2024