

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 16/06/2022	Ref: 68112/LBC
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: LBAL

Proposal: 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

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 Listed Building Consent for 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 - 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

Conservation Officer -

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 - 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.

EN2/3 - 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 - The proposed internal adaptation to facilitate the change of use is considered acceptable as the building has already been significantly adapted under planning consent 59429 for 5 flats and its significance is derived from its external architectural aesthetic. As such it would not harm the significance of the building. The additional internal partition of the building is considered to be reversible and would preserve the legibility of the existing historic plan form

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.

As such the proposal would comply with Bury adopted policies EN2/3-Listed Buildings and would be contrary to paragraphs 199, 200 and 202 of the NPPF.

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

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

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than the expiration of three years beginning with the date of this permission.
Reason - Required to be imposed pursuant to Section 18 of the Planning (Listed Buildings and Conservation Areas) 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 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.
- 4 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		