

DELEGATED REPORT

Report by Tom Beirne	Date of report: 17/11/2023	Ref: 70033/FUL
Registration: 18/09/2023	LDfC: 13/10/2023	Expiry Date: 18/12/2023
Site Visit: 26/09/2023	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MADW

Proposal: Variation of condition 2 (approved plans) of planning permission 65525 (Change of use of former industrial premises (Class B2) into 15 no. residential apartments (Class C3)) - Amend roof to mansard with flat centre section; 2no. windows on rear elevation to be replaced with sash windows and minor internal layout changes

Location: Topping Mill, Topping Street, Bury, BL9 6DR

Description

The application relates to a redundant red brick two storey mill on the south side of Topping Street, containing a mix of commercial and residential buildings. Topping Street itself runs on an east west axis with access on to Walmersley Road (A56) to the west and on to Taylor Street at its eastern end. The wider area around the site is mixed, although the area to the north and west is more residential in character and the area to the south and east, comprising the Freetown Employment Generating Area, predominantly, but not exclusively, commercial/industrial. To the north side of Topping Street are a number of semi-detached two storey houses and bungalows built in the 1990s. Further west along Topping Street, on its junction with Walmersley Road, is a relatively recent development comprising a four storey blocks of flats. Directly to the south is a row of terraced houses fronting Badger Street. Bury Town Centre lies some 200 metres to the south west, at the end of Walmersley Road.

The application seeks to amend the design of the roof of the building to create a mansard with flat central section instead of the existing small valley roofs. Other changes are more minor and include 2no. windows on rear elevation to be replaced with sash windows and minor internal layout changes.

Relevant Planning History

65525 - Change of use of former industrial premises (Class B2) into 15 no. residential apartments (Class C3)) - Approved 25/08/2021

Publicity

Surrounding residents/businesses notified by letter dated 21/09/2023.

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
EN10/1	Derelict Land
EN4	Energy Conservation

EN5/1	New Development and Flood Risk
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/2	Noise Pollution
EN7/5	Waste Water Management
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H3/2	Existing Incompatible Uses
HT2/4	Car Parking and New Development
EC2/1	Employment Generating Areas
SPD11	Parking Standards in Bury
SPD14	Employment Land and Premises
SPD15	Residential Conversions
SPD16	Design and Layout of New Development in Bury
SPD7	DC Policy Guidance Note 7 - Managing the Supply of Housing

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.

Use - The approved use of the premises is not affected by this application.

Visual amenity and Streetscape - The change in the roof design would improve its structural integrity and entail less maintenance without having a significant impact on the overall design and appearance of the building within the streetscape. The internal changes and changes to the two windows on the rear elevation would not be significant within the overall scheme. The proposal is acceptable and complies with UDP policies and guidance in relation to design and appearance.

Residential amenity - Given the scale and nature of the changes, there are no residential amenity issues arising from the application. The proposal is acceptable and complies with UDP policies and guidance in relation to residential amenity.

Traffic - No changes are proposed that would have an impact on traffic or highway safety.

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 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered 1076-PP-05A2, 05B, 06 and TM-A-104-1 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 No development shall commence unless and until:-
 - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning

Authority.

Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 4 Following the provisions of Condition 3 of this planning permission, 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 Prior to demolition of any structures on site, an asbestos survey is to be carried out by an appropriately qualified contractor. Any asbestos identified shall be disposed of in an appropriate manner.

Reason: This is to secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to the National Planning Policy Framework.

- 6 Foul and surface water shall be drained on separate systems.

Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , 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.

- 7 Notwithstanding the details indicated on the approved plans, no development shall commence unless and until full details of the following have been submitted to and approved by the Local Planning Authority:

- The reinstatement of the footway and redundant footway crossing along the Topping Street site frontage to a specification to be agreed, lifting of the footway to meet existing back of footway levels and provide adequate falls to the carriageway for the purpose of discharging surface water, proposed level thresholds to the apartment lobby entrance at this increased height above existing levels and all associated highway and highway drainage remedial works;
- Foundation and surface water drainage details for the proposed development demonstrating that no encroachment of or discharge onto the existing adopted highway will occur.

The details subsequently approved shall be implemented to an agreed specification and programme.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design, maintain the integrity of the adopted highway and ensure the intervisibility of the users of the site and the adjacent highways, all in the interests of highway safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, H2/4 - Conversions, EN1/2 - Townscape and Built Design, EN5/1 - New Development and Flood Risk and HT6/2 - Pedestrian/Vehicular Conflict.

- 8 No development shall commence unless and until a 'Construction Traffic

Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:

- Access routes for construction traffic from the highway network;
- Hours of operation, confirmation of delivery & construction vehicle sizes that can be accommodated on the residential estate roads and number of vehicle movements;
- Parking arrangements for operatives' and construction vehicles on land within the applicant's control together with storage on site or on land within the applicant's control of construction materials, including any requisite phasing of the development to accommodate this;
- Method statement and traffic management arrangements to cover the delivery and storage of materials and all works abutting the adopted highway, including the removal of the external fire escape, incorporating the provision, where necessary of temporary pedestrian facilities/protection measures;
- Proposed site hoarding/gate positions, if proposed;
- Measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials.

Reason. Information not submitted at application stage. 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 HT6/2 - Pedestrian/Vehicular Conflict.

- 9 The bin storage facilities indicated on the approved plan 07B shall be provided before the development is first occupied/brought into use and shall subsequently be maintained at all times.

Reason. To ensure adequate off-highway bin storage facilities are provided within the curtilage of the site in the interests of road safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New residential Development, H2/4 - Conversions, EN1/2 - Townscape and Built Design, HT2/4 - Car Parking and New development.

- 10 Details/Samples of the materials/windows/doors and rainwater goods to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Only the approved materials shall be used for the construction of the development.

Reason. No material samples have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policies H2/1 - The Form of New Residential Development, H2/4 - Conversions and EN1/2 - Townscape and Built Design. Amenity.

- 11 Before the first occupation of the development hereby permitted the all windows shall be fitted with non-opening/obscured glazing (min obscurity level 3) to a minimum height of 1.7m from floor level and shall be permanently retained in that condition thereafter:

Reason. To protect the privacy of surrounding residents and to accord with Policies H2/1 The Form of New Residential Development, H2/3 Extensions and Alterations of

the Bury Unitary Development Plan and Supplementary Planning Document 6
Alterations and Extensions to Residential Properties.

- 12 No works shall occur unless a detailed bird nest and bat survey by a suitably experienced ecologist has been carried out and written confirmation provided that no active bird nests or bat roosts are present which has been agreed in writing by the LPA (unless the species present is feral pigeon in which case a general license issued by Natural England authorising destruction of feral nests should be provided to the LPA).

Reason. In order to protect birds and bats pursuant to the NPPF and UDP Policy EN6/3 Features of Ecological Value.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
TB	17/11/23	DM	17/11/23