

DELEGATED REPORT

Report by Tom Beirne	Date of report: 05/08/2025	Ref: 72135/P3JPA
Registration: 04/07/2025	LDFC: 30/07/2025	Expiry Date: 29/08/2025
Site Visit: 29/07/2025	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: BURY	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 offices (Class E) to 28 no. flats (Class C3) at part of first floor and second, third, fourth floors

Location: Lester House, 21 Broad Street, Bury, BL9 0AW

Description

The application relates to a former council office building on the corner of Broad Street and Market Street within Bury Town Centre. This part of the town centre is characterised by a mix of retail, commercial and residential uses.

The building is five storeys (plus basement) and constructed in the 1990's. The building is split internally with the ground and first floor occupied by retail units and floors 2-4 occupied by offices. The basement comprises a parking area with 20 spaces.

The building is not listed but is situated within the Town Centre Conservation Area. There are no Article 4 directions in place to specifically prevent the proposed change of use.

Prior approval is sought for the change of use from offices to 28 flats - C3 Residential under the provision of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

There would be 27 flats on the top three floors and one flat on the first floor. Car parking would be retained in the basement with bin storage at the rear. The ground floor are not subject to the prior approval. The application states that all flats comply with the National Space Standards.

Relevant Planning History

52736 - Erection of plant room on roof; New access ramp and alterations to existing entrance; Renovation of external facade - Approve with Conditions 02/08/2010

Publicity

Surrounding neighbours notified by letter dated 08/07/2025. No objections received.

Statutory/Non-Statutory Consultations

Conservation Officer - No objection.

Traffic Section - No objection.

Environmental Health - No objection subject to noise ventilation condition.

Pre-start Conditions - N/A

Development Plan and Policies

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.

Legislative Framework - Class MA 3.1 of the GDPO states:

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.

MA.1.—(1) Development is not permitted by Class MA—
(a) deleted

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

(c) deleted

(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) it forms part of a safety hazard area; or
- (v) it 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(a); (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.

(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
- (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.

Conditions

MA.2.—(1) Development under Class MA is permitted subject to the following conditions.

(2) 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;

(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; and

- (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(a), the impact on the local provision of the type of services lost.
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

Applicant's assessment

Prior approval applications are split into an assessment as to whether the development qualifies for the permitted development allowance and an assessment of the pre-development criteria.

In respect of the qualification criteria the applicant states the following.

(a) - Deleted from legislation.

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

Lester House Business Centre has persisted within Class E for a substantial period, exceeding the 2-year limit set by the GDPO.

(c) Deleted from legislation.

(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;

The site is not a listed building and is not any of the land affected by this clause. It should be noted that a listed building is adjacent to the site, however, to be included within the curtilage of the building, the object or structure must have formed part of the land since before 1st July 1948. It is clear from external observations that the building is of a 1990s structure and does not form part of the curtilage. In addition, Figure 4 below shows an extract from the Deeds. This demonstrates that the building was registered in the 1990's.

(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(a); (iii) the Broads; (iv) a National Park; or (v) a World Heritage Site.

The site is not within any land affected by this clause.

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

The site does not relate to agricultural land and there is no agricultural tenancy in place.

(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 (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.

Criterion (g) is no longer relevant to Class MA applications as the dates within the parts g(i) and g(ii) have passed. As such it is concluded that the development complies with the qualification criteria of Class MA.

The Pre-Development Conditions

MA.2. requires that development under Class MA is permitted subject to assessment via a prior approval for the following pre-commencement criteria.

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

This consideration relates to whether the conversion of the building would result in an impact to the safety and convenience of the highway. The impact of the development on transport and highways is considered not to be detrimental or harmful due to the existing use of the site when compared to the proposed use as apartments.

The site is conveniently located in a sustainable Town Centre, by Mill Gate Shopping Centre with train and tram stops just 0.1 miles from the site. Frequent bus services are also near to the site.

Parking is to be retained for 20 allocated spaces. In addition, it will incorporate uses with good linkages to local facilities and infrastructure which will promote sustainability by reducing the number of car trips to local facilities. Therefore, it is evident that the proposed change of use will not amount to a substantive impact on the highway network.

(b) contamination risks in relation to the building.

The building was formerly used as offices within Class E and therefore, it is not considered that there would be any concerns regarding contamination. It is therefore concluded that the change of use would not cause any contamination risk to surrounding uses or areas.

(c) flooding risks in relation to the building

The site falls within Flood Zone 1 (very low flood risk). As such the flood risk requirement is met.

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

A noise report supports this application. The assessment considers the potential impact of noise from nearby commercial premises on the future occupiers of the development. A noise survey has been undertaken at the site and daytime and night-time noise levels have been determined. The noise impact from commercial and industrial noise sources has been found to be low.

Based on the results of the noise survey, the noise levels at the site have been assessed with reference to relevant British Standards and guidance documents and are low impact. Recommendations for glazing and ventilation to the new residences have been provided.

By following the recommendations in this report, the building can provide suitable levels of protection from commercial and industrial noise sources for the occupants of the new dwellings.

(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.

The building is within Bury Town Centre Conservation Area however no changes to the ground floor are proposed and therefore this clause does not apply in this case.

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

The GPDO defines a habitable room as any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.

All habitable spaces within the proposed flats will have access to natural light via the existing windows as shown on the floor plans. As such none of the bedrooms and living spaces will be without appropriate levels of natural light.

(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 site is not within a designated area and as such this clause has no effect.

(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(a), the impact on the local provision of the type of services lost.

The development does not affect the uses named above.

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

The building does not exceed the fire risk condition threshold. The development does not exceed seven storeys in height. A fire risk assessment is not required.

Application of the National Space Standards in Para 9A.

The floor space would exceed the 37 square metres required under the national housing standards. This is demonstrated on the accompanying floor plans. There is no longer a limit of space to be converted under the permitted development right (previously 1,500 sq.m in the GPDO).

Local Planning Authority Assessment

Given the information provided in the applicant's statement and proposed plans, it is considered that the development would be acceptable within the town centre and can be carried out in accordance with the provisions of Class MA within the amended GPDO. As such, it is recommended that prior approval is given with a condition requiring acoustic ventilation in line with recommendations in the noise report.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

- 1 Prior to first occupation, an acoustic ventilation scheme shall be implemented in accordance with the Noise Assessment by Hepworth Acoustics (report No.P25-256-R01).
Reason. In order to control noise pollution in the interests of residential amenity.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	05/08/2025	DM -	15/08/2025