

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 06/09/2023	Ref: 69572/FUL
Registration: 12/05/2023	LDfC: 13/06/2023	Expiry Date: 11/08/2023
Site Visit: 22/05/2023	Site Notice: 22/05/2023	Press Date: 25/05/2023
Objections: 0	Con Area:	Adv Type: MD
Reason for Delay:		EIA:
N/A		Dec Level: DEL
		Stat Class: MADW

Proposal: Part demolition, conversion and extension of existing building to provide 10 no. supported living units; Construction of detached building to rear containing a further 3 no. supported living units

Location: 137 The Rock, Bury, BL9 0ND

Description

The existing building is located on The Rock, which is within the town centre and is surrounded by commercial uses. The building was historically a public house, but was most recently used as a retail unit at ground floor. The existing building is constructed from concrete cladding at ground floor and red brick to the first and second floors. The roof is pitched with a mix of concrete tiles and slate. There is an access way to the west of the main building, which leads to the rear yard. The site is accessed from The Rock.

The adjacent buildings in the terraced row to the east are all commercial at ground floor, although some are currently vacant. Wilkinsons store (retail use) is located to the west and north of the site, including the servicing yard. There is an eight storey building, which has plant and commercial uses at ground floor and residential apartments above.

Description

The proposed development involves demolition, conversion and extension of No. 137 The Rock to provide 10 supported living units and the erection of a detached building containing a further 3 supported living units. The supported living units would provide accommodation for adults with a mental health or learning disability and would enable people to live independently with on site support.

The existing single storey outrigger at the rear of No. 137 The Rock would be demolished and an extra floor (third) would be added to the main building. The proposed extension would be constructed from red brick with a concrete parapet and a flat roof. The main building (No. 137 The Rock) would contain 10 apartments and a store and bike storage in the basement.

A single storey building with rooms in the roofspace would be constructed on the northern boundary and would contain 3 apartments. The proposed building would be constructed from red brick with grey roof tile.

Pedestrian access would be taken from The Rock.

Relevant Planning History

02821/E - Partial demolition, conversion and extension of existing building to provide 10 no. supported living units and Erection of detached building to provide a 3 no. supported living units at 137 The Rock, Bury. Enquiry completed - 14 March 2023

45462 - Demolition of existing public house and shop unit & redevelopment of site to

provide ground floor retail units with 3 floors of office space above at 137- 141 The Rock, Bury. Approved with conditions - 13 February 2006

46855 - Change of use from public house to shop Class A1 at ground floor with beauty salon at first floor; external alterations at 137 The Rock., Bury. Approved with conditions - 18 October 2006.

Publicity

The neighbouring properties were notified by means of a letter on 18 May 2023 and a press notice was published in the Bury Times on 25 May 2023. Site notices were posted on 22 May 2023.

There has been no response.

Statutory/Non-Statutory Consultations

Traffic Section - No objections, subject to the inclusion of conditions relating to construction traffic management plan, footway crossing and bin storage.

Drainage Section - No response.

Environmental Health - Contaminated Land - No objections, subject to the inclusion of conditions relating to contaminated land.

Environmental Health - Air quality - No objections, subject to the inclusion of conditions relating to electric vehicle charging.

Waste Management - No objections.

GM Ecology Unit - No objections, subject to the inclusion of a condition relating to landscaping and informatives relating to bats and nesting birds.

United Utilities - No objections, subject to the inclusion of condition relating to foul and surface water drainage.

GM Fire Service - No objections.

Designforsecurity - No response.

Pre-start Conditions - Applicant/Agent has/ agreed with pre-start conditions

Unitary Development Plan and Policies

H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H4/2	Special Needs Housing
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution
EN7/5	Waste Water Management
S2/4	Control of Non-Retail Uses in All Other Areas
HT2/4	Car Parking and New Development
HT5/1	Access For Those with Special Needs
HT6/2	Pedestrian/Vehicular Conflict
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

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.

Principle - Residential - The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring

indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) of the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed dwelling, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

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.

The site is located within the urban boundary and there are residential properties to the south. The proposed development would not conflict with the surrounding land uses and would be located in a sustainable location with regard to public transport and services. The proposed development involves the conversion of an existing building and as such, would be previously developed land. Therefore, the proposed development would be acceptable in principle and would be in accordance with Policy H1/2 of the Bury Unitary Development Plan and the NPPF.

Principle - Loss of retail - Chapter 7 (Ensuring the vitality of town centres) of the National Planning Policy Framework states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Paragraph 86 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

- a. define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;
- b. define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
- c. retain and enhance existing markets and, where appropriate, re-introduce or create new ones;
- d. allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should

- not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;
- e. where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and
 - f. recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

Policy TC2/2 states that the Council will encourage and support compatible mixed use development within the town centres.

The last use of this building was as a retail unit with consent for use as a beauty salon at first floor. The use as a beauty salon was not implemented and the existing building has been vacant for a number of years. The loss of this site would not have an adverse impact upon the vitality and viability of the town centre. The proposed development would provide homes for 10 adults and as such, would serve to sustain and enhance the existing cultural, leisure and retail services in close proximity to the site. As such, the proposed development would be a compatible use and would be in accordance with Policy TC2/2 of the Bury Unitary Development Plan and the NPPF.

Design and layout - The proposed development involves the removal of the existing low quality additions at the rear of the site, which would have a positive impact upon the character of the building.

The proposed extensions would replace the pitched roof with a full storey and an additional floor to the existing outrigger at the rear. The proposed second floor would include a parapet detail, which would be the same height as the existing ridge of the pitched roof. As such, the proposed extension would be appropriate in terms of height and scale.

The windows on the front elevation would be replaced with mock sash windows, which would be in keeping with the original building. The use of headers, cills and banding detail would add visual interest to the building.

The proposed mews buildings would be located in a terrace in the rear garden and would be constructed from red brick with a tile roof, which would match the existing building. The use of large windows, headers and cills would add visual interest to the elevations.

The proposed development would be accessed from a covered, gated passageway. The proposed gates would face the main street and along with the windows at ground floor would maintain an active frontage.

Therefore, the proposed development would not be a prominent feature in the streetscene and would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

Impact upon surrounding area - A communal garden would be provided for use by all the occupiers of the proposed units, which would provide a suitable level of private amenity space. There would be space within the main building for bin storage. As stated above, metal gates would be provided, which would not be a prominent feature in the streetscene. Therefore, the proposed development would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

Impact upon residential amenity - There would be 13 metres between the proposed development and the apartments within The Rock development opposite. This would be below the 20 metre aspect standard, but would be no worse than the existing relationship. As such, the proposed development would not have a greater impact upon the amenity of

the proposed occupiers or the neighbouring properties.

There would be no openings on the elevation facing No. 139 The Rock, which is located off the boundary. As such, the proposed development would not have a significant adverse impact upon the amenity of the neighbouring properties.

The proposed development would not comply with the aspect standard between the proposed mews houses and the main building. However, the proposed dwellings would be used as part of an supported living scheme. As such, the occupiers would be aware of the relationship before deciding to occupy the units. Given the distance involved and the nature of the use of the proposed dwellings, the proposed development would not have a significant adverse impact upon the amenity of the future occupiers.

Ecology - The main issues relate to bats, nesting birds and landscaping.

Bats - Two bat surveys have been submitted with the application. There is no evidence of bat roosting recorded during either survey. There is no reason to doubt the findings of the report as bat activity was low and the first record of a bat was well after sunset on both occasions. This is indicative of bats travelling to the site. As individual bats can turn up in unexpected locations, GM Ecology Unit recommends an informative relating to bats is added if permission is granted.

Nesting Birds - No evidence was recorded of any nesting birds within the property. GM Ecology Unit has no objections, subject to the inclusion of an informative relating to nesting birds.

Contributing to and Enhancing the Natural Environment - Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. GM Ecology Unit have recommended that one sparrow terrace is included within the development and this would be secured by a condition.

Therefore, the proposed development would not have an adverse impact upon protected species and would be in accordance with Policies EN6 and EN6/3 of the Bury Unitary Development Plan and the NPPF.

Highways issues - The proposed development would be accessed from The Rock. There would be no vehicular access and pedestrian access would be provided up the side of the existing building. The existing dropped kerb would be reinstated to a pavement. The Traffic Section has no objections, subject to the inclusion of conditions relating to construction traffic management plan, footway crossing and bin storage. Therefore, the proposed development would not be detrimental to highway and pedestrian safety and would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

Planning obligations

The following planning obligations would apply to the proposed development:

- Recreation provision - To make a financial contribution of £20,305.35, pursuant to Policy RT2/2 of the Bury Unitary Development Plan.

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: Minded to Approve

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 A750-P-101, A750-P-102, A750-P-104, A750-P-200A, A750-P-203A, A750-P-300A, A750-P-400A, A750-P-500A, A750-P-501 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 external finishing materials for the proposal hereby approved shall match those of the existing building.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.
- 4 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.
- 5 Following the provisions of Condition 4 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.
- 6 A landscaping scheme shall be submitted to, and approved by the Local Planning Authority prior to the commencement of the development. The contents of the plan should include native tree and shrub planting and the provision of bat bricks/tubes within the new development and bat and bird boxes. The approved scheme shall thereafter be implemented not later than 12 months from the date the building(s) is first occupied or within the first available tree planting season,; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely

diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.

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.

- 7 The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Foul & Surface Water Drainage Design Drawing 2882/0100, Rev P01 - Dated 29/03/2023 which was prepared by Brennan Consult. For the avoidance of doubt surface water must drain at the restricted rate of 5 l/s. Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

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.

- 8 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and approved by the Local Planning Authority and shall confirm/provide the following:

- Photographic dilapidation survey, to a scope to be agreed, of the footways and carriageways abutting the site in the event that subsequent remedial works are required following construction of the development and as a result of statutory undertakers connections to the site;
- Access route for all vehicles to the site from the Key Route Network and all temporary works required to facilitate access for demolition/construction vehicles, including the provision, where necessary, of temporary pedestrian facilities/protection measures on the adopted highway;
- A scheme of appropriate warning/construction traffic signage in the vicinity of the site and its access;
- Confirmation of hours of operation, vehicle sizes and number of vehicle movements;
- Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site and/or measures to control/manage deliveries to the site, including any requisite phasing of the development to accommodate this;
- Parking on site or on land within the applicant's control of operatives' and construction vehicles together with storage on site of construction materials, including any requisite phasing of the development to accommodate this;
- Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or 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 demolition/construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the demolition and construction periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of demolition/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 formation of the proposed footway crossing indicated on the approved plans shall be implemented to a scope and specification to be agreed on site with the Highway Authority prior to the development hereby approved being brought into use/first occupied.

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, in the interests of highway safety pursuant to Policy EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan.

- 10 The bin storage facilities indicated on the approved plans shall be made available for use prior to the use hereby approved commencing and maintained thereafter.

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 Policy EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 06/09/2023		DM 07/09/23	