

Statement of Compliance with MA Rights

Notification of Prior Approval for a Proposed Change of Use from E Class to
Residential (C3)

Lester House, 22 to 40 Market Street and 19 and 21 Broad Street, Bury, BL9 0AJ

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1. Introduction

This Statement of Compliance (the “Statement”) supports an application for prior approval for the change of use from offices to C3 ‘residential’ under the provision of Class MA of Part 3 of Schedule 2 of the General Permitted Development Order (GDPO) 2015 (as amended).

There are no Article 4 directions in place which prevent the change of use proposed under Class MA.

The Statement covers the relevant planning legislation and is structured by headings to show how the building can be converted under Class MA of Part 3, Schedule 2 of the GDPO 2015 (as amended).

Having careful regard to the updated GPDO 2015, there is no impediment to the change of use under Class MA.

This Statement should be read in conjunction with the noise assessment submitted with the application.

The application is also supported by a duly complete application form, correct fee and the following drawings:

- Existing Plans
- Proposed Plans
- Existing Elevations
- Proposed Elevations
- Floor plans
- Existing and Proposed Site Plan
- 1:1250 Site Location Plan

These should be referred to alongside the Statement.

2. Site and Building Description

The building is located at Lester House, 22 to 40 Market Street and 19 and 21 Broad Street, Bury, BL9 0AJ.

The subject building is not a listed building and lies within Bury Town Centre Conservation Area. The surrounding area comprises a mix of commercial and residential properties, typical for a town centre.

The site is conveniently located in Bury Town Centre with train and tram stops just 0.1 miles from the site. Frequent bus services are also near to the site. In addition, there are 20 allocated parking spaces on site within the basement. These will only be accessible to residents.

The building is a five-storey building (plus basement, that was constructed in the 1990s. It is located at the junction of Market Street and Broad Street in Bury town centre.

The ground and first floor of Lester House are occupied by retail units. Floors 2 – 4 are occupied by offices.

The building is of substantial construction with a masonry building envelope.

A site location plan is shown below in Figure 1.

Figure 1 – Site location



Annex A shows an example of the building internally.

Table 1 below shows a site constraint review.

Table 1 – Site Constraint Review

Constraint	Response
Flood Risk Zone	1
Contaminated Land	No
Tree Preservation Order	No
Heritage Assets	No
Noise Abatement Areas	No
Explosive Hazard Areas	No
National Landscape	No
Special Protection Area	No
Site of Special Scientific Interest	No
RAMSAR Convention Site	No
Site of Importance to Nature Conservation	No
Article 4(2) Directions No	No
Conservation Area	Yes
Listed building	No

3. Proposed Development

The proposed development is for 28 flats. There will be 27 flats on the top 3 floors, and one flat on the first floor as shown on the accompanying plans. The remainder of the first floor will continue to be used as retail space. The ground floor will remain unchanged.

Car parking will be retained in the basement and there will be 20 parking spaces. In addition, bin storage is proposed to the rear. The bin storage has been designed based on Burys guidance for ‘recycling and waste provision guidance for property developers’ (January 2024).

All flats are within the National Space Standards as shown on the floor plans. Figure 2 below shows the bedroom numbers:

Figure 2 – Bedroom Numbers

The ground floor will be retained as part of the proposals and are not subject to this prior notification.

The Applicant has undertaken a review of housing demand in the area and considers that this type of property is very much in demand for the area and would be an appropriate use for the building, providing well maintained and high-end accommodation in a very sustainable location.

4. 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 provides guidance on which development is not permitted. It should be noted that criterion (a) and (c) were deleted from the legislation, effective from 5th March 2024 (under [SI 2024 No. 141]). The removal of these clauses means that, for any application submitted on or after 5th March 2024, there is now no limit to the floor space that can be converted under Class MA and there is no requirement for the building to be vacant for 3 months. In addition, criterion (g) is no longer

relevant as from August 2021 offices in England were transferred to the new Use Class E (covered by MA).

“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.

5. 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.

All answers are in bold text.

Criterion (a)

This was deleted from the legislation under SI 2024 No. 141 with effect from 5th March 2024.

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (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. The Companies House data shows offices currently leasing the unit:

<https://www.companieshousedata.co.uk/a/45111>

The Offices are managed by Hamilton Heath Ltd. Figure 3 below shows a screenshot from the Companies House website which shows the company as being incorporated at the office in 2012.

Figure 3 – Company House Extract

Overview **Filing history** People Charges More

Registered office address
Lester House, 19-21 Broad Street, Bury, Lancashire, England, BL9 0DA

Company status
Active

Company type
Private limited Company

Incorporated on
8 March 2012

Accounts
 Next accounts made up to **30 May 2025**
 due by **28 February 2026**
 Last accounts made up to **31 May 2024**

Confirmation statement
 Next statement date **18 September 2025**
 due by **2 October 2025**
 Last statement dated **18 September 2024**

Nature of business (SIC)
 68209 - Other letting and operating of own or leased real estate

Previous company names

Criterion (c)

This was deleted from the legislation under SI 2024 No. 141 with effect from 5th March 2024.

(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.

Figure 4 - Deeds

Official copy of register of title

Title number GM533776 Edition date 14.09.2021

- This official copy shows the entries on the register of title on 01 FEB 2024 at 08:05:40.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 09 Apr 2025.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Fylde Office.

A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

GREATER MANCHESTER : BURY

1 (18.04.1990) The Leasehold land shown edged with red on the plan of the above Title filed at the Registry and being 22 to 40 (even) Market Street and 19 and 21 Broad Street, Bury.

(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) (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).

As stated above it is considered that the development represents an opportunity to provide much needed high-quality accommodation in a very sustainable location. Further, this can be done in accordance with the provisions of Class MA within the amended GPDO.

As such, it is requested that prior approval is given and in the event any alterations are sought, they are requested at the council's earliest opportunity.

6. Conclusion

Annex A – Office Brochure