

DELEGATED REPORT

Report by Helen Pressley	Date of report: 20/02/2026	Ref: 72763/P3JPA
Registration: 19/01/2026	LDFC: 13/02/2026	Expiry Date: 16/03/2026
Site Visit: 16/02/2026	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 of 1st/2nd/3rd floors from Class E to 4 no. apartments (Class C3)

Location: 4-6 Silver Street, Bury, BL9 0EX

Description

Prior approval for proposed change of use of 1st/2nd/3rd floors from Class E to 4 no. apartments (Class C3) under Part 3 Class MA of the General Permitted Development Order.

The property is a 3 storey, brick built building fronting Silver Street. Accommodation is also provided within the roof space with a dormer and gable fronting Silver Street. Retail use is shown to be retained on the ground floor. The property is a semi-detached building directly attached to a public house to the north, and is located on the corner of Silver Street and Parks Yard. There are numerous bars (The Old White Lion, Wyldes, The Clarence, Stanleys, Society, Forbidden Bar, Murphy's, the Monkey House Brewery) in the vicinity. There are also retail units and a restaurant (Verona) on the same street.

It is proposed to change the first, second and third floors to 4no. apartments. The building was previously used as offices. There is no evidence of any other intervening uses.

Relevant Planning History

72759 - Change of use of basement and ground floor from Use Class E to a hot food takeaway (Use Class Sui Generis); extractor flue at rear - Invalid

Publicity

Letters to neighbours sent 23/01/2026. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - Inadequate bin storage proposed for proposed and existing uses on site.

Environmental Health - Pollution Control The noise assessment has identified mitigation methods which must be incorporated in the development.

Conservation Officer There is no proposed change of use to any part of the ground floor. Therefore, there is no requirement for an assessment under condition MA.2. – (2) e (i)(ii).

Environmental Health - Contaminated Land The Environment Section has assessed the application and has no comments to make regarding contaminated land.

Pre-start Conditions - Not relevant

Development Plan and Policies

S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
EN1/2	Townscape and Built Design
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN7/2	Noise Pollution
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
H1/2	Further Housing Development
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-P1	Sustainable Places
JP-P2	Heritage
JP-C1	Our Integrated Network
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
SPD6	Supplementary Planning Document 6: Alterations & Extensions
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), 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.

Development is not permitted by Class MA—

(a) *

(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) *

(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;

(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;
- (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; or

(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.

* Para a and c omitted by virtue of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 (S.I. 2024/141), arts. 1(1), 3(2)(b)

The proposal would comply with all the limitations and conditions set out above.

Development under Class MA is permitted subject to the following conditions.

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;

There is no vehicular access to the site. The building is located in the town centre with good public transport links.

The bin storage shown would be acceptable for the domestic properties, however it is unclear where any bins for the retained ground floor use would be stored. The bin storage however does not appear to be workable, with the proposed 1100L doors needing to be maneuvered through a 1m wide door. It is highly likely that this will lead to more communal bins being stored on the highway, adding to existing problems in this area and the wider town centre. It is considered that the potential overspill of bins on the public highway would be detrimental to highway safety and cause conflicts between users of the site, waste collection vehicles and access to the sites.

- (b) contamination risks in relation to the building;

There are no operational or engineering works proposed.

- (c) flooding risks in relation to the building;

The site is not in a Flood Risk Zone.

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

The site is located within the town centre, with a busy night time economy located within the vicinity of the site that has not been addressed or assessed within the submitted Environmental Noise Assessment 2526-100-03-01. Paragraph 3.6 of this assessment states "*There are several restaurants close to the site but there is no outside drinking or dining associated with them and most do not operate after approximately 10pm.*" The only public house or late night establishment identified within the report is the Monkey House Brewery which is approximately 50 metres from the site. The assessment has failed to note the following licensed premises which clearly operate beyond 10pm:

- 2 Silver Street (The Clarence) - Open from 10.00 - 02.00 - Monday - Sunday. Attached

- to the premises and with access to outdoor space directly connected to the site.
- 3 Silver Street (Stanleys) - Open from 12.00 - 03.20 - Monday - Sunday. Opposite the site.
 - 10 Silver Street - Monday - Sunday - 12.00 - 02.30. Located closer to the host premises than Monkey House Brewery.
 - 11-13 Silver Street (Society) - open from 12.00 - 03.30 - Monday - Thursday, 12.00 - 04.30 - Friday - Sunday. Opposite the site.
 - 14-16 Silver Street (Murphys) - Open from 10.00 - 00.30 - Monday to Wednesday, 10.00 - 01.30 - Thursday, 10.00 - 02.30 - Friday - Saturday, 10.00 - 01.00 - Sunday adjacent to the Monkey House Brewery and closer to the host premises.
 - 15 - 17 Silver Street (Factory nightclub) - Monday - Sunday - 10.00 - 02.30
 - 18 Silver Street (Monkey House Brewery) - Open from 15.00 - 01.00 - Wednesday, 15.00 - 02.00 - Thursday, 15.00 - 03.00 - Friday, 12.00 - 03.00 - Saturday, 12.00 - 00.00 - Sunday
 - 19 Silver Street (Verona) - Open from 12.00 - 00.30 - Monday - Thursday, 12.00 - 01.30 - Friday - Sunday
 - 24 Silver Street - Open from 11.00 - 02.00 - Monday - Wednesday, 11.00 - 04.00 - Thursday, 11.00 - 05.00 - Friday - Saturday, 12.00 - 04.00 - Sunday. Lawful use as a nightclub.
 - Unit B, 24 Silver Street - Monday - Sunday - 11.00 - 03.00. Lawful use as a nightclub.

Elton Bullit 24 Hour taxi rank is also located on Parks Yard which runs along the southern boundary of the site.

Access to the Clarence for servicing and deliveries also appears to be located to the rear of the site, accessed via Parks Yard and implications of this in terms of noise have also not been addressed within the submitted assessment.

The list above is limited to licensed premises located on Silver Street. Wyldes and The Old White Lion located on Bolton Street and Broad Street Social on Broad Street are also in close proximity to the site and all contribute to the nighttime economy.

It is therefore considered that the submitted Environmental Noise Assessment has failed to adequately assess, and highlight the potential noise sources and impacts from the surrounding commercial units.

Whilst acknowledged that the noise survey undertaken may have picked up noises from these uses, it is also unclear if the noise assessment has also been undertaken with the windows to the proposed residential units open although paragraph 4.4 confirms that the sound level metre was not positioned as for an outdoor free field measurement. Given that the intended use is for residential it is highly likely that in the summer months future occupiers would need to open windows for ventilation. The noise assessment also requires mitigation which includes upgrading the glazing of the windows within the site to ensure that the future resident's would not be impacted. It is noted within the report however that glass performance alone is not an acceptable means of demonstrating compliance with required the specification for window performance. The rating of the existing window units has not been included within the assessment. It is considered that given the location of the site, and the potential requirements to also upgrade panels, frames and seals to meet the required sound reduction this mitigation could not be adequately conditioned as details of the replacement glazing have not been included within the prior approval.

The windows within the building are currently timber, largely sliding sash and appear to be single glazed. The site is also located within Bury Town Centre Conservation Area. These existing windows contribute to the visual amenity of the building and the wider Conservation Area. It is considered that the changes in glazing, to accommodate any required mitigation may lead to external changes to the building that can not be approved under Class MA prior approval. Depending on the proposed glazing and any replacement windows required, the extent and cumulative effects of the replacements required for this building could materially

affect the external appearance of the building and as such would need planning permission - Section 55(2)(a)(ii) of the Town and Country Planning Act 1990.

In this respect recent appeal decision APP/T4210/D/25/3374183 also needs to be reviewed as the Inspector concluded that replacement UPVC windows within a Conservation Area, of the same style but differing materials would " introduce contemporary materials into what is presently a largely intact historic property in terms of window form and detailing. The appeal scheme would consequently appear as a modern insertion and it would be sufficiently noticeable from the public realm to constitute harm to the character and appearance of the building."

Given the above it is considered that the applicant has failed to demonstrate that the proposal would adequately address the impacts of noise from commercial premises on the intended occupiers of the development. As such the proposal can not be supported.

(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 site is in a conservation area. There are no proposed changes of use to any part of the ground floor. Therefore there is no requirement for an assessment.

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

The proposed site plan, and supporting floor plans are poor in detail and do not include the footprints of the neighbouring properties and does not give any indication of heights of neighbouring sites that may impact on habitable room windows. A site visit however confirms that there is a 3 storey building to the south of the site, a 4 storey elevation to the rear, and single story units to the rear.

There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 (SPD6) provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

For clarity the following aspect standards, when assessing overbearing relationships and natural light would be applicable:

- 13 metres between an existing habitable room window and a proposed two storey blank wall
- 6.5 metres between an existing habitable room window and a proposed single storey blank wall

Any assessment takes into account significant change in levels or new accommodation to be provided at a higher storey. In this regard, there should be an extra 3 metres of separation for each 2.5m or one storey of height or level difference in each of the above cases.

The first floor windows for the bedroom for flat 1 would obliquely face towards a 4 storey blank wall associated with 5-7 Bolton Street. , As these windows would be located at the first floor, a distance of 16 metres should be provided. These windows would be located approximately 4.5 metres from this blank wall and as such would fail to comply with aspect standards.

The second floor windows for the rear bedroom windows associated with flat 3 would also face towards this 4 storey blank wall. As these windows would be located at the second floor a distance of 13 metres should be required. These windows would be located approximately 7.3 metres from this blank wall and as such would fail to comply with aspect standards.

Aspects for the rear bedroom window for flat 4 would comply with aspect standards.

Whilst acknowledged that the elevation associated with 5-7 Bolton Street is slightly offset from the proposed habitable room windows that would be impacted, given the courtyard nature of the rear of the building the close relationship of this 4 storey elevation would have a direct impact on the rear windows of the building.

The proposed first floor side kitchen/living room windows for flat 1 would face towards the side, 3 storey elevation of No. 8 Silver Street. As these windows would be located at first floor a distance of 13 metres should be provided. A distance of approximately 5.7 metres can be provided which would fail to meet aspect standards.

Given that there would be a failure to provide aspect standards for habitable room windows, across a number of the units within the proposal site it is considered that the proposal would fail to provide 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

It is not in an area important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

(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, the impact on the local provision of the type of services lost; and

The current lawful use of the buildings fall under use Class E.

The proposed floor plans state that the ground floor is currently Class E- Retail use. The last lawful use of this unit would appear to insurance sales which would be considered to be an office use. As this would still be a use that can be considered under Class MA the application has not been refused for this discrepancy.

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

The development does not consist of two or more dwellings whilst also exceeding seven storeys in height.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The Environmental Noise Assessment submitted with the application fails to adequately identify the main noise sources within the vicinity of the site that may be seriously detrimental to the residential amenities of future occupiers, by reason of the noise, disturbance and general activity associated with these existing neighbouring uses. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan:
H2/1 - The Form of New Residential Development
H2/4 - Conversions
EN7/2 - Noise Pollution
- 2 The applicant has failed to demonstrate that the proposed development would not be seriously detrimental to the residential amenities of future occupiers, by reason of the noise, disturbance and general activity associated with the existing neighbouring uses without the need for amendments to the building that would require planning permission. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan and Places for Everyone Joint Development Framework:
H2/1- The Form of New Residential Development
H2/2 - The Layout of New Residential Development
H2/4 - Conversions
EN7/2 - Noise Pollution
EN2/1 - Character of Conservation Areas
EN2/2 - Conservation Area Control
EN1/2 - Townscape and Built Design
JP-P1 - Sustainable Places
JP-P2 - Heritage
- 3 The proposed development would be detrimental to the amenities of the adjacent property by reason of substandard distances between proposed habitable room windows and surrounding buildings, leading to a reduction in natural light. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan:
H1/2 - Further Housing Development
H2/1 - The Form of New Residential Development
H2/4 - Conversions
and Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 4 The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the number of flats proposed, and the retained ground floor use within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins.
The proposed development would therefore be contrary with the following Policies of the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan:
H2/2 - The Layout of New Residential Development
H2/4 - Conversions
EN1/2 - Townscape and Built Design
JP-P1 - Sustainable Places
JP-C5 - Streets for All
JP-C6 - Walking and Cycling
JP-C8 - Transport Requirements of New Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	20/02/2026	DM	20.02.2026

