

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 02/12/2024	Ref: 71205/FUL
Registration: 11/10/2024	LDfC: 05/11/2024	Expiry Date: 06/12/2024
Site Visit: 21/10/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of first floor from office/retail storage to 1no. apartment (Class C3)

Location: 165 Rochdale Road, Pimhole, Bury, BL9 7BB

Description

The application relates to a shop premises which is located at the end of a row of other businesses and shops within a Neighbourhood Shopping Centre.

The property is in use as a Class E shop and has a single storey extension at the rear used for retail storage. At the first floor is an office and further storage.

The application seeks a change of the first floor to a 1 no bed residential flat.

The flat would be accessed via a door on the side elevation of the single storey rear extension which would lead to an internal staircase and the flat at the 1st floor. Accommodation would comprise a living/kitchen area and bedroom and WC facilities.

The bins would be stored within the single storey rear extension.

There would be no changes to the ground floor shop arrangements.

Relevant Planning History

51571 - Externally illuminated advertising sign on gable (retrospective) - Refused
19/08/2009

Publicity

Letters sent to 15 properties on 14/10/24.
No responses received

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions

Waste Management - No response received

Environmental Health - Pollution Control - No response received

Pre-start Conditions - Not relevant

Development Plan and Policies

NPPF	National Planning Policy Framework
S1/5	Neighbourhood Centres and Local Shops
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
JP-C2	Digital Connectivity

JP-H3 Type, Size and Design of New Housing
JP-S2 Carbon and Energy

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.

Principle

The site is located in a Neighbourhood shopping Centre where it is not uncommon to find residential accommodation above shops or businesses to utilise space and contribute to

housing needs.

The proposed development would therefore be acceptable and comply with the principles of the NPPF and EN1/2 and JP-H3.

Layout

The proposed flat would be accessed via a new inward opening door at the side which would lead to a staircase and the flat on the 1st floor. Accommodation would comprise living space/kitchen and 1 no bedroom. Bins for this use would be stored in an area contained within the single storey rear extension.

The layout and access to the ground floor shop would not be affected and would remain as existing.

PfE Policy JP-H3 - Seeks to provide an appropriate mix of dwelling types and sizes. All new dwellings must 1. comply with the nationally described space standards and 2. be built to the 'accessible and adaptable standard in Part M4(2) of Building Regulations unless specific site conditions make this impracticable.

The proposed residential unit would be a flat above commercial properties and therefore it would be impracticable and costly to fully comply with the requirement of JP-H3 and Part M4(2) of Building Regulations for dwellings to be accessible and adaptable.

This is accepted for development which involves flats above shops in shopping centre locations.

The applicant has confirmed the development would comply with nationally described space standards.

It is therefore considered that the proposed development would be acceptable and comply with H2/2, EN1/2 and JP-H3.

Impact on residential amenity

The proposed use for a residential flat would not introduce a use which is considered to be significantly harmful to adjacent occupiers in terms of noise and disturbances.

It is therefore considered the proposed development would be acceptable and comply with H2/1 and EN1/2.

Highways

Given the location on a major throughroute and high access area and within a shopping centre with easy access to shops and facilities, there would not be a requirement to provide parking.

The Highway Authority have no objection subject to a condition to provide internal bin store facilities and inward opening doors.

JP-C2 - Digital connectivity

The applicant will make provision for future fibre connection. There will be broadband services / phone line installed as these are available now.

It is considered the proposed development would comply with JP-C2.

JP-S2 - Carbon and energy statement

The proposals would include the following energy saving measures -

- new insulation of walls.
- roof insulated to L1 standards.
- high efficiency boiler A rated boiler.
- Ventilation achieved by specifying Vent Axia Low Carbon Central dMEV fans to minimise electricity demand.

The development would comply as far as possible and reasonable with part L of Building Regulations and it is considered the proposed development would comply with JP-S2.

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 -

Location plan produced 30-Sep-2024
Revised existing site plan/GF/FF P00 rev 1
Revised existing front/rear/side 1 P01 rev 1
Revised proposed existing side 2/existing section P02
Revised proposed site plan/rear isometric P10 rev 1
Revised proposed wall key/GF (schematic)/ground floor P11 rev 1
Revised proposed FF P12 rev 1
Revised proposed front/rear/side 1 P13 rev 1
Revised proposed side 2 P14 rev 1
Revised proposed section P15 rev 1

Space standards table received 11/10/24
Digital connectivity statement
Carbon and energy statement

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 and Places for Everyone Joint Development Plan listed.

- 3 The development hereby approved shall not be brought into use unless and until the off-highway internal bin storage arrangements indicated on the approved plans have been implemented prior to the use hereby approved commencing and thereafter maintained at all times.
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 policies H2/2, EN1/2 and JP-C8.
- 4 The proposed access to the first floor flat in the side elevation, incorporating an inward opening door and level access from the adjacent unadopted footpath constructed within the width of the gable wall as indicated on the approved plans, shall be implemented prior to the use hereby approved commencing and thereafter maintained at all times.
Reason. To ensure good highway design and maintain the integrity of the adopted

highway, in the interests of highway safety pursuant to Policies H2/2 and EN1/2.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	2/12/24	DM	02/12/2024