

## **Description**

The proposal relates to a large mature two storey building in a slightly elevated position on the west side of Walmersley Road, most recently occupied by a nursery business. It is bounded by a three storey block of flats to the north and Back Walmersley Road West and Regent Street to the west and south, with residential terraced dwellings opposing. The property has hard paved amenity/curtilage and a ramp up to the main entrance with an unenclosed private parking area accessed from Regent Street.

Planning permission 68075 was for the change of use of nursery/creche (Class E) to an 8no. one bedroom supported living residential accommodation (Class C2) including alterations.

The non-material amendments relate to the enlargement to a roof light over the second floor stairwell, alteration/removal of proposed ground, first, second floor windows to sides of the property retaining only the existing.

Proposed windows have been removed to retain the structural integrity of the existing building so have not been added. The roof light over the second floor stairs has been enlarged to improve natural light over the stairs.

## **Relevant Planning History**

66547 - Conversion of existing nursery/creche (Class E(f)) to 7 no. residential apartments with rear dormer and external alterations - Approve with Conditions 08/04/2021

68075 - Conversion of Nursery/Creche (Class E) to supported living residential (Class C2) including alterations to the roof to form a new dormer - Approve with Conditions 04/05/2022

## **Publicity**

None required.

## **Statutory/Non-Statutory Consultations**

None required.

**Pre-start Conditions** - Not relevant

## **Unitary Development Plan and Policies**

<SQLDCPolicyComRep>

## **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.

## **ASSESSMENT**

### **Visual amenity**

UDP policy EN1/2 is concerned with the appearance and design of proposals and impacts on street scene.

The proposed amendments would be negligible in the context of the site and building as a whole, in the main relating to the omission of previously approved new openings and the retention of existing openings.

Given the above, the proposal would not have any unacceptable impacts upon visual amenity of the street scene. As such the proposal would comply with the above policies.

### **Residential Amenity**

UDP policy EN7/2 is concerned with the amenity of occupiers and neighbouring property.

The proposed amendments would not further undermine existing neighbouring residential amenities.

**Conclusion** - Section 96A of the Town and Country Planning Act 1990 states that, 'A local planning authority may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.'

The assessment of the proposed development above clarifies that the proposed change would not be material as it would not impact upon the visual amenity, appearance or

residential amenity. As such, the proposed development constitutes a non-material amendment.