

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 21/01/2022	Ref: 67849/FUL
Registration: 30/11/2021	LDFC: 05/01/2022	Expiry Date: 25/01/2022
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from club to sweets manufacturing unit (Class B2) with extraction flue to side elevation

Location: Salisbury Conservative Club, Badger Street, Bury, BL9 6AD

Description

The site relates to part of a building which has a current use as a Conservative Club which is located approximately 150m from Bury town centre.

The site is on the boundary with, but is not part of a Local Shopping Centre which is to the west and which is formed by a row of shops fronting Walmersley Road. Opposite the site to the north is a commercial building and offices and to the east is St Joseph's Church with a row of residential terraced houses to the north east. Directly to the south is a public car park.

The Conservative Club is a part 2 storey and part single storey build and is located on a corner with its main entrance fronting Badger Street on the north elevation. The side elevation of the building runs adjacent to Peter Street to the east. At the rear is a yard which can also be accessed via a timber gate off Peter Street. The remainder of the boundary to Peter Street is formed by a timber fence.

Planning permission was granted in August 2021 for the redevelopment of the 2 storey element of the building to change the use to a retail shop with external alterations to provide a shop front. The application area also included the rear yard for the storage of bins.

This application relates to the remaining part of the building and the single storey element which is adjacent to Peter Street. This part of the build still has a use as a Conservative Club, albeit the premises are vacant.

It is proposed to change the use to a manufacturing unit (Use class B2). The application states this would specifically be for a sweet manufacturing unit.

The main entrance to the unit would be from Badger Street and apart from the installation of a flue to the roof of the building, there would be no other external alterations. It appears the rear yard would be shared with the attached retail unit and a separate bin store provided for the proposed use.

No vehicular access, parking or servicing area is proposed within the curtilage of the site although the supporting statement references that the rear yard would be suitable for the parking of a delivery goods vehicle.

Internally, there would be 2 offices and staff welfare facilities to the front of the building with the remainder of the floor area open plan for the manufacture of the products.

It is stated there would be 10 no. employees and hours are proposed as 8am to 6pm.

The applicant states that the building would be used for the production of classic Artisanal English confectionary used to retail in their own shops around Lancashire and other local distributors.

The application is a resubmission of a scheme previously refused for a similar development, for the change of use to a sweet manufacturing unit, external flue with parking and servicing proposed in the existing rear yard via a proposed dropped kerb and vehicular access to be formed off Peter Street.

To clarify, this current application still comprises the change of use but proposes to seek to relocate the flue to an alternative position on the building and no longer provide any parking, servicing or access.

Relevant Planning History

67611 - Change of use from club to sweets manufacturing unit (Class B2) - Refused 23/11/21

67078 - Change of use from Club to Corner shop (A1) with Shop front to the front including roller shutter - Approve with Conditions 13/08/2021

66656 - Change of use from club (sui generis) to carpet shop (E) with shop front to the front including roller shutter - Refused 18/05/2021

Publicity

Letters sent on 9/12/21 to 12 properties on Walmersley Road, Peter Street and Topping Street.

No responses received

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal

Environmental Health - Pollution Control - Recommend refusal on lack of information with regard to noise output and impacts

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC2/1	Employment Generating Areas
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
S1/4	Local Shopping Centres
SPD11	Parking Standards in Bury
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution

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.

Policy EC4/1 - Small Businesses will be acceptable where the scale of the development is appropriate to and the use environmentally compatible with the surrounding area in which it is to be located.

Policy EC6/1 - New Business, Industrial and Commercial Development considers factors including impacts on the environment, scale of use, access and parking provision, effect on neighbouring properties and safety of employees and visitors.

The site is located close to the town centre and directly next to a local shopping centre with commercial, business uses and shops in the locality. A business use would therefore not necessarily be out of context within an area of mixed commercial uses.

However, there are some constraints in this particular locality and in relation to the site itself which could limit the use of the building for certain purposes. A Local Shopping Centre is not one where manufacturing uses would usually be found, and which would generally make higher demands on for servicing, parking and access to a greater degree than other businesses which typify an area predominantly comprising shops, takeaways and offices. In

addition, a manufacturing unit would likely generate significantly more pollution and noise than other businesses which are typical in a shopping centre.

These issues are discussed further below.

Highway issues

The proposed plans show that the main entrance for staff and visitors would be on the front of the property and this would be acceptable. The plan also shows a fire exit located at the rear of this part of the building which would lead out onto the rear yard area. In principle, this would also be acceptable.

Reasons for refusal of the previous application related to the detrimental highway impacts which would be caused by providing a new access and parking/servicing off Peter Street. This application proposes no parking or servicing or new access.

The site is located in a highly sustainable area and there are public car parks and links to public transport systems in the town centre. The proposed use would not generate customer footfall to the site and in terms of staff, whilst 10 employees are proposed, arguably, none would be necessary due to its sustainable location.

As no servicing and access is now proposed, all deliveries, servicing and trips to the site would need to be carried out on the 2 adjacent streets.

Badger Street and Peter Street, the two streets to the front and side of the building are more often than not heavily parked on both sides of the road and access is difficult for cars at the best of times, especially as the area is used to access the commercial business on the adjacent side streets and for parking for residents. There is already significant pressure on parking in the area which has been noted on several site visits.

Access and deliveries by any form of vehicle larger than a car or domestic sized van would be extremely difficult in this area and would cause significant disruptions and obstruction on a public highway and as the previous application was refused for 4 highway safety related reasons when access and parking were proposed, it is apparent the proposed use would not be suitable in this particular location.

Deliveries would also likely be relatively frequent both to the unit, for the delivering of the raw materials and such like, and the transporting of the finished products to retail outlets comparative to other businesses of a lesser scale and less intensive use.

The Highway Section have been consulted on the application and have raised serious concerns about the use proposed for the shop and the highway safety implications that this use would bring to the area. As such, they have recommended refusal.

It is therefore considered that the scale and type of the proposed development would be detrimental to the surrounding area in which it is located as the servicing and car parking provision for the use proposed would be inadequate and highly likely to lead to vehicles loading, parking and carrying out manoeuvres on the adjacent constrained highways to the detriment of the free flow of traffic and road safety.

As such, the proposed development would be contrary to UDP Policies EC4/1, EC6/1, HT2/4 and HT6/2.

Impact on residential development - The nearest properties would be the terraced houses on Badger Street to the north east, approximately 20m away. The rest of the area is characterised by commercial and business uses.

The applicant states that the industrial process would comprise traditional methods and use of some light machinery, although it is stated 'the noise impact of these systems is of an extremely low impact'. The applicant has not submitted a noise report and this would have

been advised had the applicant entered into pre-application discussions prior to a formal application submission. Whilst the nearest residents would be 20m away, the unknown factor of noise output and therefore potential noise nuisance, as well as smells and fumes from the manufacturing unit carrying out industrial processes, is unknown and the LPA cannot make a reasonable assessment as to whether there would be impacts on residential amenity without this information.

This same issue was raised in the previous scheme and has not been addressed by the applicant here.

As such, the proposed development would be contrary to Policies EC4/1, EN1/2, EN7/1 and EN7/2.

Impact on visual amenity - There would be no alterations to the elevations or fabric of the building. The only addition would be the installation of a flue which is proposed to be located on the roof towards the rear of the building and would be set next to the side wall of the adjacent 2 storey building. The flue would be upstanding and plans show it project to a height of 2.65m when viewed from the east and 3.2m when viewed from Badger Street to the north. The proposed flue is a relatively bulky and industrial type and one which protrude fairly visibly above the roof of the building and as such considered to appear as a cumbersome and discordant addition in the streetscene, especially as it would be visible from 3 directions.

It is therefore considered that the proposed development would have a detrimental impact on visual amenity and be contrary to policies EC4/1 and EN1/2.

Flue/extraction system - The application proposes to install a flue on the roof of the single storey building.

A noise assessment has not been carried out (to BS4142 standards) to identify the background noise level with and without the fan to understand if there will be a potential for complaints (this can be assessed by comparing the predicted or measured noise level with the background noise level at noise sensitive areas/house/boundaries). The assessment should take into account worse case scenario eg low background noise and full fan on. But there is also additional penalties that can be added to the calculation for characteristics of the noise, tonality, impulsivity and intermittency.

The Pollution Control have therefore recommended refusal and as such, it is considered that there is insufficient information to assess the impacts of the proposed development on the surrounding area and therefore contrary to EC4/1, EN1/2 and EN71/1 and EN7/2.

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: Refuse

Conditions and Reasons:

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- 1 The proposed flue would, by reason of its position and design, be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EC4/1 - Small Businesses and EN1/2 - Townscape and Built Design.
- 2 The servicing and car parking provision for the use proposed is inadequate and is highly likely to lead to vehicles loading, parking and carrying out manoeuvres on the adjacent constrained highways to the detriment of the free flow of traffic and road safety. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and built Design, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.
- 3 The proposed development would result in the loss of off-street storage/servicing and bin storage arrangements previously conditioned and approved as part of the determination of planning permission reference 67078, which is highly likely to lead to an increase in activities and use for storage purposes of the adjacent highways, to the detriment of the highway safety. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and built Design, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.
- 4 The application and submitted plans contain insufficient information to determine the impacts of the proposed development on residential amenity to enable them to be properly assessed.
The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and Built Design, EN7/1 - Atmospheric Pollution and EN7/2 - Noise Pollution.
- 5 The application and submitted plans contain insufficient information with regard to the treating, diluting and dispersing of fumes and odours and noise output to enable them to be properly assessed. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and Built Design, EN7/1 - Atmospheric Pollution and EN7/2 - Noise Pollution.
- 6 The application and submitted plans contain insufficient information to determine the impacts of the proposed development on residential amenity to enable them to be properly assessed.
The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and Built Design, EN7/1 - Atmospheric Pollution and EN7/2 - Noise Pollution.

<u>Case Officer</u> JT 21/1/22	<u>Date</u>	<u>Sign off Officer</u> DM21/1/22	<u>Date</u>
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