

DELEGATED REPORT

Report by Claire Booth	Date of report: 06/12/2023	Ref: 69837/FUL
Registration: 06/09/2023	LDFC: 28/09/2023	Expiry Date: 01/11/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from light industrial storage (Class B2) to dog day care centre with formation of outside exercise area (Sui Generis)

Location: Unit 2, The Workshops, Hulme Street, Bury, BL8 1AN

Description

The application relates to a steel portal frame building located in one of the Workshop Units at the end of Hulme Street which form an L shape along the residential garden areas of properties on Meton Street and the street running along the side of the building which connects Hulme Street to Merton Street.

Hulme Street and Merton Street are terraced streets located to the west of Crostons Road and the north of the ring road.

Planning Permission is sought to change the use of the building from its light industrial storage use (Class B2) to a dog day care centre (Sui Generis) and for the formation of an outside exercise area in the corner of the two workshops present on site which are laid in an L shape. The outside area would be given a roof and a side and have a waist height fence.

The nearest properties to the application site are 24 Hulme Street and nos. 23 and 25 Merton Street.

Relevant Planning History

18002: Extension to Workshop - Approved with no conditions, 10/04/1986

C/09960/80: Single storey building to contain office, storage and workshop buildings. Approved with Conditions, 22/05/1980. Condition 3 restricts noise levels from the building to no more than 40 dB and Condition no. 5 restricted the opening of the application site to 8am - 6pm Monday to Saturday with no workings on a Sunday.

Publicity

Site Notices were placed at both the front of and rear of 24 Hulme Street, the nearest property to the access gates to the application site, on Hulme Street and Back Hulme Street.

Neighbouring properties abutting the application site, on Merton Street and Hulme Street have also been notified by letter.

No representations have been received to this public consultation.

Statutory/Non-Statutory Consultations

Licensing - Animal Health - No comments or observations received.

Environmental Health - Pollution Control - Raises concern about dogs barking affecting the amenity of local residents.

Waste Management - No comments or observations received.

Traffic Section - No objections, subject to a condition securing the proposed car parking provision.

Borough Engineer - Drainage Section - No comments or observations received.

Pre-start Conditions - Not applicable.

Unitary Development Plan and Policies

Area	South of Pilkington Way
RD3	
H5/1	Area Improvement
EC2/2	Employment Land and Premises
EC4/1	Small Businesses
EC6/1	New Business, Industrial and Commercial
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
SPD11	Parking Standards in Bury
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) 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

Principle of Development

The site is unallocated within the adopted Local Plan; Bury Unitary Development Plan (UDP). The Workshops on Hulme Street appear to have been in existence since around the 1970s. The earliest planning record for the Workshops site is in 1986 when planning permission was granted to extend the workshop, the area in which the proposal would operate within.

UDP Policy EC2/2 - Employment land and Premises Outside the Employment Generating Areas seeks the retention of employment outside EGA's except where it can be demonstrated that an existing site or premises is no longer suited in land use terms. Consideration will be given to alternative development providing it does not conflict with the character of the surrounding area and other policies and proposals.

UDP Policy EC6/1 - Assessing New Business, Industrial and Commercial Development takes into consideration factors including scale, size and layout; access and parking provision; effect on neighbouring properties and safety of employees, visitors and adjacent occupiers.

Whilst the change of use would result in the loss of a B2 industrial/business use, it is considered that the loss of one unit would not have a significant impact on the industrial character of the site. Furthermore, there would be little by way of alteration to the building, so it could easily revert back to business use should the dog day care use cease.

It is considered that the the use would generate employment and therefore the proposed use of the building would not conflict with UDP Policy EC2/2 or SPD 14. As such, the change of use is considered to be acceptable in principle as it would not detract from the area's value as a small light industrial site and would comply with policies EC2/2 and EC6/1 of the UDP.

Amenity and Noise

The application site is in close proximity to residential properties; 24 Hulme Street and 23 and 25 Merton Street.

The planning permission in 1980, C/09960/80, gave permission for the building to be located approximately 11m from the rear of the properties on Merton Street.

In terms of impact on the surrounding area, the issue more likely to cause concern would be noise which would be created from keeping dogs at the unit. The applicant has submitted a Noise Impact Statement and Noise Management Plan.

As noted within the submitted Noise Impact Statement, the majority of the dogs will be inside during the opening hours of the facility, but permission is sought for a proposed

outdoor area on the elevation of the building facing into the site grounds. The proposal has been amended so that the outside area is contained and covered by a roof. This will direct any noise away from properties on Merton Street.

The other concerns relate to the use of the shutter. There is also a full height floor to roof roller shutter type entrance, which would usually be used to facilitate deliveries from larger vehicles and enable the storage of bulky goods or equipment at the units. However, it would not be particularly easy to enforce that the shutter remains closed at all times in terms of monitoring the situation, and if the shutter were to remain open, the barking of dogs may arguably be no louder or aggravating than the noise some equipment or machinery may generate.

As a light industrial estate, the surrounding units could generate a certain amount of noise from light industrial processes involving the operation of machinery or equipment which could produce constant or sporadic noise on a daily basis, without the need for planning permission.

Given the location of the premises within a light industrial setting and taking account of the Noise Management Plan submitted, provided the noise management plan is implemented, the noise which could potentially be generated from industrial processes and the recommended condition, it is considered that the proposal is acceptable and would not cause demonstrable harm to the amenity of nearby residents. The proposal thus accords with UDP Policy EN7/2 - Noise Pollution

Highway Safety

The proposed facility could provide care for around 20 dogs, and there would be a number of trips to and from the premises, when owners would drop off the dogs on the way and back from work. Whilst this would generate more traffic to the area at peak times in a morning and evening, these trips would likely be staggered when people start and end their day at various times. As an industrial unit, the site could generate higher volumes of traffic in any event, from deliveries by much larger vehicles, which could create as much or more traffic to the area. The business would be relatively small scale in comparison to some other uses which could accommodate the building without the need for planning permission, and given that drop off and pick up times would be for limited periods only, it is considered that traffic generation would not be significant.

SPD 11: Parking Standards advocates 1 space per 40 sqm and 1 per 60 sqm of floor space for B1 and B2 respectively. Taking B1 use as a yardstick for maximum provisions, the Highway Authority is satisfied with the level of parking proposed within the site and therefore consider that the proposal would not result in conditions that are detrimental to highway safety. The Highways department has therefore raised no objections subject to a condition being imposed requiring the car parking provision shown to be put into place prior to the building coming into use. Within the recommended condition from Highways, it refers to an amended Site Plan. No amendments to the parking layout proposed have been made during the course of this application and therefore it is assumed that the word 'revised' has been included in error.

In light of all of the above the proposals are considered to comply with UDP Policies EC6/1 and HT2/4 and are therefore acceptable from a highway safety perspective.

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 permission relates to the following plans and documents:

Drawing no. ZT23-196-00: Location Plan;
Drawing no. ZT23-196-04: Proposed Plans and Elevations, received 05/12/2023;
Drawing no. ZT23-196-05: Existing and Proposed Site Plan; and,
Noise Management Plan

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings and documents.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the Bury Unitary Development Plan and the National Planning Policy Framework.

- 3 The car parking and bin storage arrangements indicated on the approved plan, drawing no. ZT23-196-05 shall be made available for use to the satisfaction of the Local Planning Authority prior to the use hereby approved commencing and thereafter maintained at all times.

Reason. To ensure adequate off street car parking provision in the interests of highway safety pursuant to Policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 4 The use hereby permitted shall not be open to customers outside the following times: 07.00 to 18.00 Monday to Friday.

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy EC6/1 - Assessing New Business, Industrial and Commercial Development of the Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	06/12/2023		