

DELEGATED REPORT

Report by Helen Pressley	Date of report: 12/02/2024	Ref: 70416/FUL
Registration: 15/01/2024	LDfC: 09/02/2024	Expiry Date: 11/03/2024
Site Visit: 19/01/2024	Site Notice: 19/01/2024	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 shop (Class E) to adult gaming centre (Sui Generis)

Location: 3-5 Princess Parade, Bury, BL9 0QL

Description

The application relates to an existing retail unit within row of commercial units on Princess Parade. The main entrance is from Princess Parade, which is a pedestrianised street. There is a large shop front with a recessed entrance and the building is constructed from brown brick with a flat roof.

The existing adult gaming centre is located on 47 Market Street, which would be demolished as part of the Levelling Up fund development to create a flexi hall.

There are other commercial and retail units to the south, east and west of the site. The land to the north is a servicing area for the retail units. There are residential apartments at first floor level within the building.

The proposed development involves the change of use from a shop (class E) to a adult gaming centre (sui generis). The proposed development would be accessed from Princess Parade. The proposal seeks 24hour opening.

Applications 70417 and 70418 deal with the external alterations, and adverts required for the unit.

Relevant Planning History

70417 - New shop front and alterations; Siting of 3 no. air condenser units to rear at 3 - 5 Princess Parade, Bury. Received - 15 January 2024.

70418 - 2 No.internally illuminated fascia signs (letters only) and 2 no.internally illuminated projecting suspended signs internally (letters only) at 3 - 5 Princess Parade, Bury. Received - 15 January 2024.

Adjacent site

62097 - Change of use from retail shop (Class A1) to drinking establishment (Class A4) at 1A Princess Parade, Bury. Approved with conditions - 7 December 2017.

Publicity

The neighbouring properties were notified by means of a letter on 18 January 2024 and site notices were posted on 19 January 2024.

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to a condition in relation to bin storage.

Environmental Health - Contaminated Land - No comment.

Environmental Health - Pollution Control - No objections.

Waste Management - No response.

Planning Policy - No objection to the proposed change of use in principle.

Design for security - No response.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
EN7/2	Noise Pollution
S1/1	Shopping in Bury Town Centre
S2/2	Prime Shopping Areas and Frontages
S2/7	Amusement Centres and Arcades
HT5/1	Access For Those with Special Needs
TC2/3	Vacant and Cleared Sites
Area	Central Shopping Area
BY6	
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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Principle

The application site is located within Bury Town Centre and as such Bury's Unitary Development Plan (UDP) policies S1/1 (Main Shopping Area in Bury Town Centre) and S2/2 (Prime shopping area and frontages) are relevant.

Policy S1/1 - Shopping in Bury Town Centre states that the Council will protect, maintain and enhance the role of Bury Town Centre as a sub-regional shopping centre and promote the centre as a focal point for further development.

Under Policy S2/2 - Prime Shopping Areas and Frontages the Council seeks to maintain class A1 retailing (now Use Class E(a)) as the predominant land use at ground floor level within prime shopping areas. Where a proposal would lead to more than 10% of any identified prime shopping frontage being in non-retail use, the Council will also consider several factors including the location and prominence of the proposal, the number, distribution and proximity of other premises in non-retail use and the particular nature and character of the use proposed. Policy S2/7 - Amusement Centres and Arcades confirms that this sort of use would be appropriate in certain circumstances, within town and district centres.

Paragraph 90 of the National Planning Policy Framework (NPPF) says that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth management and adaptation. Paragraph 90 (a) further states that planning policies should promote the long-term viability and viability of town centres by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses and reflects their distinctive characters. The NPPF no longer refers to shopping frontages.

The proposal would increase the amount of prime shopping frontage (1a - 31 Princess Parade) in non-retail use however the predominate use class will continue to be Use Class E(a). Whilst not for retail use it is considered that the change of use to a gaming centre will generate activity within the existing frontage. Furthermore, it will make a positive contribution to help support the long-term vitality and viability of the town centre in line with the NPPF.

Therefore, on balance there is no objection to the proposed change of use in principle.

Places for Everyone

The Places for Everyone Joint Development Plan Document (PfE) is a joint plan covering nine of the ten Greater Manchester districts, including Bury, and is intended to provide the

overarching framework to strategically manage growth across the boroughs.

PfE was published in August 2021 and subsequently submitted to the Secretary of State in February 2022. Inspectors have been appointed to carry out an independent examination of the Plan with the hearing sessions commencing in November 2022 and were concluding in July 2023. The examination of the plan is on-going.

Given the advanced stage in the preparation of PfE, it is already considered reasonable that the Plan (as proposed to be modified) should be given weight in the decision-making process in line with paragraph 48 of the National Planning Policy Framework.

Consequently, the principle of this application has been considered against PfE (as proposed to be modified). However, the principle of this proposal does not give rise to any conflict with PfE policies.

Visual Amenity

Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

Alterations to the elevations of the building will be assessed under application 70417.

To the rear of the site there is an existing communal service yard and access to communal bin storage facilities which are screened from the main shopping precinct. As such it is considered that the change of use would not have a detrimental impact on the visual amenity of the area.

Amenity

UDP Policy EN1/2 - Townscape and Built Design seeks to ensure that proposals do not have an adverse impact on the particular character and townscape by assessing the relationship of the proposal to the surrounding area. Policy S2/2 - Prime Shopping Areas, states that the Council will consider noise and disturbance when assessing changes of use and this is further supported by UDP Policy S2/7 - Amusement Centres and Arcades that states that planning permission would not be granted for amusement centres where they would be likely to adversely affect the amenity of existing dwellings. EN7/2 - Noise Pollution does not permit development which could lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users.

The premises would be located at ground floor with residential units above. During the day, there is already footfall and activity on the area from those visiting the town centre. As a night time use, whilst there may be more activity to the area at later hours, the premises are located opposite the bus terminal and not far from the entrance to the metrolink that would be used by commuters and those using the evening facilities in the town. In addition the existing adult gaming centre that is proposed to be demolished, is located approximately 19metres from the proposed site, on the opposite side of the road. As such, it is considered there would not be a significant increase in noise and disturbance which could be created as a result of the development.

As a town centre location, it would be expected that a variety of uses would be available for visitors and residents of the area.

As such, it is considered that the proposed use would not cause unacceptable levels of noise or disturbance and as such would comply with UDP Policies S2/2, EN1/2 and EN7/2.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 numbered 3543 (B) 01, 3543(C) 01, 3543 (B) 02, 3543 (B) 04 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 listed.
- 3 The communal bin storage facilities to the rear of the premises shall be made available for use prior to the use hereby approved commencing and maintained thereafter.
Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway.
- 4 The development shall incorporate scheme to soundproof the floor/ceiling between the ground floor and the first floor flats. Such works that form the scheme shall be implemented and available for use before the use hereby approved is brought into use.
Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policy EN7/2 Noise Pollution.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 12/2/24		DM 12/2/24	