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L220131 - SAV Cover Letter



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SUBMITTED VIA PLANNING PORTAL REF: PP-11001516

Dear Sir or Madam,

**SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
REMOVAL OF CONDITION 2 OF PLANNING PERMISSION: 58449 TO ALLOW THE UNIT TO BE USED
AS A 'HEALTH & FITNESS CLUB' WITHIN CLASS E
UNIT B, MOORGATE RETAIL PARK, BURY, BL9 7AQ
THE CHARITIES PROPERTY FUND C/O SAVILLS INVESTMENT MANAGEMENT**

Introduction

We write on behalf of our clients, The Charities Property Fund, to apply for planning permission for the removal of Condition 2 of Planning Permission: 58449, in order to allow the floorspace within Unit B at Moorgate Retail Park to be used as a health and fitness club within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended). The application is made to facilitate the reuse of Unit B by a new tenant, Kings Gym.

In accordance with the Town and Country Planning (Development Management Procedure) Order 2015, the documents which comprise the application include the following:

- This covering letter;
- The completed application forms and certificates; and
- Planning Permission: 58449.

As the application has been submitted online via the Planning Portal (Ref: PP-11001516), the requisite planning application fee of £234 has been made by BACS.

The Site

The application site is Unit B of the Moorgate Retail Park. The unit measures approximately 932 sq. m and is a long-term vacancy following the cessation of the previous use following the closure of Carpetright after it entered into a Company Voluntary Arrangement ('CVA') in 2018.

Moorgate Retail Park is an established commercial destination located within Bury town centre as defined by the UDP Policies Map. It is accessed via Moorgate.

The Retail Park comprises five units, four of which are occupied by the following tenants:

- Home Bargains
- Halfords

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- Farmfoods
- KFC

The units at the Retail Park are configured around a central car park which includes provision for approximately 280 vehicles (11 of which are reserved for use by less able bodied customers).

Planning History

The Retail Park was constructed pursuant to Outline Planning Permission: 30363/94 which was granted on 11 April 1995 and Condition 7 authorised it to be used for the sale of all non-food goods. Since that time, the Council has determined two relevant applications, which are summarised as follows:

- On 20 May 2011, permission was granted to allow for the variation of Condition 7 of Planning Permission: 30363/94 to allow the sale of food retail goods from Unit A (Permission Ref: 53512).
- On 17 April 2015, permission was granted to allow for the variation of Condition 2 of Planning Permission: 53512 to allow for the sale of food retail goods from Unit D (Permission Ref: 58449) (the '**2015 Permission**').

Condition 2 of the 2015 Permission reads:

The development shall be used for the sale of non-food items only, except unit A (former MFI unit) and unit D (Former Comet unit).

The above decisions demonstrate the LPA's long-standing position that the site is an appropriate location for uses other than the retailing of 'bulky goods' commonly found on retail parks.

The Proposal

This application seeks planning permission to remove Condition 2 of the 2015 Permission, to allow the floorspace within Unit B at the Retail Park to be used for any purpose within Class E. The application is made to facilitate the reuse of Unit B by a new tenant, Kings Gym.

On 21 July 2020, Statutory Instrument 2020 No. 757 was laid before parliament by the Government, which comprised of a number of changes to the Town and Country Planning (Use Classes) Order 1987 (the "**Use Classes Order**"). The changes outlined within the Statutory Instrument came into law on 1 September 2020.

As set out above, the established use of the building is for 'retail'. This operation was formerly classified within Use Class A1 of the Use Classes Order prior to 1 September 2020. The amendments to the Use Classes Order sought to simplify the classification of commercial uses. The effect of the new legislation is to revoke the previous Use Classes A, B1 and D and replace those classes with a new, single classification covering 'Commercial, business and service' uses, called Class E.

It follows that the use of all of the floorspace at the Retail Park is now correctly described as being within Class E of the Use Classes Order.

As the Local Planning Authority will be aware, moving from one operation to another within the same use classification is not "development", as defined by Section 55(2)(f) of the Town and Country Planning Act 1990 ('**the Act**'). Section 55(2)(f) states:

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land –

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other

land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

The Government has advised that the changes to the Use Classes Order were made in order to better enable the repurposing of retail buildings within town centres, to allow them to be used as restaurants, offices, gyms or other purposes within Class E – without the need to obtain further planning permission. The new Class E allows for a dynamic mix of commercial uses within town centres, which reflects the evolving nature of those centres within our communities (i.e. away from a primarily retail based destination to a flexible commercial centre).

It follows that the intention of the introduction of Class E is to enable the flexible reuse of commercial properties, without the need to obtain planning permission whenever a new use is introduced.

The proposal is located within the defined town centre and therefore accords with the 'town centre first approach' set out in the National Planning Policy Framework and Policies TC1, TC2 and TC3 of the adopted Unitary Development Plan that seeks to promote the vitality and viability of Bury town centre. The site is in an 'in-centre' location for the type of use proposed.

Conclusion

As set out above, the proposal is a positive proposal that will enable a long-term vacant unit in Bury town centre to be reoccupied so that it can contribute to the local economy. It accords with all relevant policies in the UDP and national Government policy to regenerate and revitalise town centres.

We therefore conclude that the proposal accords with the adopted development plan and material considerations and benefits from being granted in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the presumption in favour of sustainable development outlined in the NPPF.

We trust that you have sufficient information to register the application and commence its formal consultation.

We will contact you shortly to confirm details of the Council's timescales for determining the application. In the meantime, if you have any questions please contact Brad Wiseman at these offices.

Yours faithfully

A handwritten signature in black ink, appearing to read "Savills", written in a cursive, flowing style.

Savills (UK) Ltd
Planning