

DELEGATED REPORT

Report by Helen Pressley	Date of report: 15/11/2023	Ref: 69086/FUL
Registration: 16/11/2022	LDFC: 28/12/2022	Expiry Date: 11/01/2023
Site Visit: 09/02/2023	Site Notice: N/A	Press Date: N/A
Objections: 2	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 sweet manufacturing unit (Class E(g)(iii) Industrial processes) with extraction system

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

Description

The application relates to part of a building which has a current use as a Conservative Club that is located approximately 150metres from Bury town centre. The site is on the boundary with, but is not part of a Local Shopping Centre to the west that runs along Walmersley Road. Commercial properties and offices are located to the north, a church to the east, residential properties to the north east, and a public car park to the south.

The existing building is part two storey, part single storey and is located on a corner with the main entrance fronting Badger Street. At the rear is a yard that can be accessed from Peter Street.

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.

Planning permission is sought for a change of use to the remaining part of the building. This part of the building retains the former use, although it is currently vacant. It is proposed to change the use to a manufacturing unit (Use class E(g)iii). The application states this would specifically be for a sweet manufacturing unit.

The proposal also seeks permission for the installation of a flue to the roof of the building.

The application is a resubmission of a refused scheme that seeks to reduce the size of the flue, includes an acoustic odour survey and assessment, and an amended planning statement.

Relevant Planning History

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

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

67611 - Change of use from club to sweets manufacturing unit (Class B2) - Refused 23/11/2021

Publicity

Neighbour letters sent 01/12/2023.

2 objections received in relation to:

- This has already been objected, why are they trying again. Where are all the workers going to park. Badger Street is bad enough as it is and will be even worse when the red lines are introduced on Walmersley rd.
- Has there been any effort made for parking for the customers?
- Badger Street is already congested because of the Bury town worker who park up from 630 am until as late as 8 pm and then there's the shoppers who don't want to pay for parking.
- The junction is dangerous because of cars on the corners. If you're reversing out your vision is nil. Then there's the cars speeding and ignoring the one way system.
- There's constantly little prangs happening but one day there will be a major accident.
- There's been no thought about the residents parking.
- We really need parking permits.
- This business would add to our pressure to be able to park outside our own homes.

1 representation of support received in relation to:

- After following this application since it was last refused I feel I am supportive of this becoming a manufacturing premises as there will be no customers going into the premises it will solely be used to Manufacture products as for the workers and their vehicles there is a car parking to the rear of this property and I'm in support of local jobs so who knows the workers may live locally and might not even need a vehicle to drive to this site

Following a change of description further neighbour letters sent 05/06/2023

No further representations received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommendation for Refusal in relation to servicing and car parking provision and loss of off street storage/servicing.

Environmental Health - Pollution Control - noise report should be conditioned.

Planning Policy Manager - no response

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EC6/1	New Business, Industrial and Commercial
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.

Principle

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. The proposed use however is still within an E use class, which would suggest a less intensive use that can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smokes, ash dust or grit.

The updated planning statement received 1st June 2023 confirms that the proposed manufacturing use would function more of a small scale kitchen similar to that found in cafes, but with no customers. Given the scale of the unit proposed to be changed for use it is considered that this would be an accurate comparison and as such it is likely that the proposal does fall within a class E use, rather than a heavier industrial/manufacturing use. A condition could therefore be imposed limiting the unit to this use class, or specifically for use class E(g)iii if applicable. There are however other considerations that need to be fully analysed to ensure that the proposal would not have a detrimental impact on the surrounding land uses.

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 inadequate servicing and car parking provision, likely to lead to vehicles loading, parking and carrying out manoeuvres on the highways, and the loss of off-street storage/servicing and bin storage arrangements previously conditions and approved as part of application 67078.

As no servicing and access is 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 can be difficult for cars, 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. The previous application was refused as the servicing and car parking provision for the use proposed was considered to be inadequate and it was considered that it was 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 applicant has addressed this issue within their planning statement by stating that *"there will be only one delivery to the site, which would likely be every Tuesday. Deliveries from the site would be around 5 per week. The use would only require one van, which is currently a Citroen Relay, 5.4 m in length."*

The above however can not be conditioned in perpetuity. The Highway Section have been consulted on the new application and have raised serious concerns about the proposed use and the highway safety implications that this use would bring to the area. As such, they have maintained their recommendation for refusal.

The existing use of the site however also needs to be considered in this instance. The

existing use, as a social club would also attract the need for deliveries. Indeed Google Street View images of the building from 2018 show a number of beer barrels being stored on the public highway off badger street. Any future proposed use for this site, is likely to attract deliveries in some form of another, even residential use. The proposed use would now be an E(g)iii use which specifies that the use would be "any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit." This would suggest a much less intensive use than the previously refused B2 use.

In terms of parking the site is located in a 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, no car parking would be necessary due to its sustainable location. Advertisements for the use of the space as a function room can be seen on the 2018 Street View images that potentially would create more cars parking at the site than the proposed use.

The issue remains however that a condition can not be used to secure the size of vehicle that delivers to the site, despite the acknowledgement that the use E(g)iii is acceptable in principle. 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 such a legal agreement has been undertaken with the applicant to restrict the size of the vehicle that can be used to deliver or collect from the premises.

The proposed development would also 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 could lead to an increase in activities and use for storage purposes of the adjacent highways, to the detriment of the highway safety. This element however can be dealt with by means of a suitably worded condition for the submission of a bin storage plan.

Given the above, it is considered that the issues in relation to access and servicing have been addressed either through the legal agreement or condition. As such the proposal is considered to comply with UDP Policies EC4/1, EC6/1, HT2/4 and HT6/2.

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 450mm.

The previous scheme at the site was refused as the flue was considered to be a prominent and intrusive feature in the street scene.

The applicant's have addressed this reason for refusal within their planning statement by submitting a Google street view showing flues in the street scene. The properties to which these flues relate have not been identified by the applicant, and it has not been confirmed where this image is viewed from however it appears to relate to properties on Walmersley Road with a vantage point taken from Peter Street. These flues are located to the rear of properties along Walmersley Road, and area separated from the vantage point on Peter Street by a car park and rather than principle elevations rather than being visible on a roofscape that is clearly visible from both Peter Street and Badger Street.

The proposed flue has however been reduced significantly in size when compared to the previously refused scheme and now has a diameter of 150mm and would only project approximately 450mm. Whilst the flue would still be visible within the street scene, given the significantly reduced scale it is considered that its impact would not be harmful and would

not detract from the mix used character of the street scene.

It is therefore considered that the proposed development would not have a detrimental impact on the EC4/1 and EN1/2.

Impact on residential development

The nearest residential properties that can be identified on Council mapping would be the terraced houses on Badger Street to the north east, approximately 20m away. 28 Walmersley Road to the south east approximately 26 metres away and the flat above No. 40 Walmersley Road is approximately 18 metres away. The latter property however is screened from the site by the two storey element of the former Conservative Club. The rest of the area is characterised by commercial and business uses.

The application proposes to install a flue on the roof of the single storey building. The previous application was refused for lack of information to allow the proposed use, and the proposed flue and extraction system to be assessed in relation to noise and odour. The current application has been submitted with an Acoustic & Odour Survey and Assessment to address this reason for refusal.

The assessment has identified existing background sound levels in the area and identified that internal sound levels will not result in any adverse impact on the neighbouring properties. Consideration of the proposed extraction system has also been undertaken and a silencer has been recommended as mitigation. The need for an odour control system to be installed within the extraction system has also been identified.

Environmental Health have been consulted on this document and have stated that the application should ensure that the mitigation measures identified for noise and odour must be met to approve the application. This can be secured via conditioned. As such, the proposed development would comply with Policies EC4/1, EN1/2, EN7/1 and EN7/2.

Given the location of the site, and that Use Class E covers a number of uses, and there are provisions within the legislation to allow utilisation of the unit for any use under Class E without consultation with the Local Authority, it is considered appropriate to limit the use of the site to a Class E(g)iii use in this instance to prevent intensification of the site.

Response to Representations

It is considered that the material planning considerations have been covered within the main body of the report.

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 decision relates to drawings numbered (DR)A101, (DR)A100 Revision A, (DR)A200 Revision A, Amended supporting statement (Incorporating the Design & Access Statement), Acoustic & Odour Survey 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 mitigation measures identified for noise and odour within the submitted Acoustic & Odour Survey and Assessment Revised March 2023 shall be implemented in full and available for use before use of the premises first commences.
Reason. To protect the amenity of the occupants of the adjacent premises once the development hereby approved is occupied pursuant to Bury Unitary Development Plan Policies EN7/2 - Noise Pollution, EN7/1 - Atmospheric Pollution, EC4/1 - Small Businesses and EN1/2 - Townscape and Built Design.
- 4 Prior to the use hereby approved being brought into use a scheme for the storage of bins and refuse for the proposed use, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme only shall be implemented in accordance with the approved details.
Reason. Full details of bin and refuse storage have not been submitted to ensure adequate provision for the storage and disposal of refuse pursuant 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.
- 5 The premises shall be used for (Class E(g)(iii) Industrial processes only and for no other purposes, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or as subsequently amended.
Reason. Due to its position, development of this type would not normally be granted consent due to its detrimental effect on the residential amenities enjoyed by nearby residents pursuant to policies of the Unitary Development Plan listed below.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP - 14/11/2023			