

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 28/10/2024	Ref: 70977/FUL
Registration: 02/09/2024	LDfC: 24/09/2024	Expiry Date: 28/10/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of part car showroom (Sui Generis) to retail (Class E(a))and office (Class E(g)(i)) single storey extension and external alterations

Location: Performance House, Heywood Street, Bury, BL9 7DZ

Description

The proposal relates to a part single storey/part two storey commercial building most recently used for car sales (the authorised use) adjacent to the junction between Heywood Street and Mason Street (a part of the building has been approved for use as a cafe at ground floor with a first floor office under 68430).

The large yard to the south of the building, which was previously partially included in applications 70202 and 70461, is not included in the application boundary. Presently, there is an unauthorised car wash facility operating within that part of the land falling within the applicants ownership.

The site falls within Area BY10 of Bury town centre, as defined by the Unitary Development Plan. The secondary retailing area of the town centre falls to the north of Mason Street.

Change of use of part car showroom (Sui Generis) to retail (Class E(a))and office (Class E(g)(i)) single storey extension and external alterations

It would comprise (following the extension):

- 3 no. retail units of 1no. 112 sq.m. unit, and 2no. 56 sq.m. units each (following extension)
- 114 sq.m office.

The proposal indicates that parking would be provided for 12 no. vehicles set out within the yard area to the immediate south in two separate rows adjacent to the Heywood Street and Parker Street boundaries. An existing container would be required to be removed to facilitate two of the spaces.

The former unauthorised hand car wash at the site no longer operates and vehicle sales currently take place (the current lawful use).

Relevant Planning History

66130: Change of use from vacant car sales showroom to retail warehouse - Refused 24/03/2021

68430 - Change of use for part of car showroom (Sui Generis) to cafeteria (Class E) and use of mezzanine area as an office with external staircase - Approved 26/08/2022.

70202 - Change of use of part of car showroom (Sui Generis) to retail (Class E(a)) and

office (Class E(g)(i)), single storey extension and external alterations - Refused 09/01/2024.

70461 - Change of use of part of car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)), single storey extension and external alterations. Refused 03/04/2024 and allowed on appeal 12/09/2024.

70710 - Change of use of part car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)) single storey extension and external alterations. Refused 19/06/2024 (subject to a undetermined appeal).

Publicity

22 addresses directly notified on 09/05/2024.

One representation received objecting to the proposal:

- Parking in the area is insufficient and new commercial uses should be served with adequate parking provision, as it can lead to inconvenience for residents but also lead to increased traffic congestion, safety hazards, and potential conflicts with neighbouring residents.
- There are no double yellow lines to prevent drivers from parking directly outside the premise or on the path.
- There is no permit system for the residents, with high street chains such as 'Mother Hubbards opening directly in front of our property, this is already going to create a parking issue for ourselves.
- We request Double yellow lines to be implemented directly outside Performance House and Permit system to be implemented.

Statutory/Non-Statutory Consultations

Environmental Health - Contaminated Land: No objection, subject to conditions relating to contamination and electric vehicle charging points.

Traffic Section: No comments provided.

Waste Management: No comments received.

United Utilities (Water and waste): No objection, subject to condition relating to surface water drainage.

Pre-start Conditions - Not relevant.

Development Plan and Policies

EC4/1	Small Businesses
EC5/1	Office Development in Bury Town Centre
EC6/1	New Business, Industrial and Commercial
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
HT6/1	Pedestrian and Cyclist Movement
HT6/2	Pedestrian/Vehicular Conflict
S2/6	Food and Drink
TC2/2	Mixed Use Development
TC3	Bury Town Centre
Area	Rochdale Road/Lord Street/York Street
BY10	
JP-S2	Carbon and Energy

JP-S5	Clean Air
JP-C2	Digital Connectivity
JP-C6	Walking and Cycling
JP-P1	Sustainable Places
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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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, the proposed parking provision would be as set out in the allowed appeal at 70461 and would serve the same area of commercial floor space and would therefore be **Principle**.

The site falls at the periphery of, but within the defined boundary of Bury town centre. The **Other matters** of the unit are defined as main town centre uses in the NPPF. UDP policies EN1/2 and EN1/8 state that the storage, digital connectivity and energy and carbon saving developments within the town centres, including uses that now fall within the group umbrella of Class E.

Response to objections

As previously noted, planning permission has been allowed on appeal for a considerably similar proposal, which constitutes a fall back position.

Design and layout

The existing building is utilised in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and elevation from Heywood Street. The proposed external works would assimilate appropriately in relation to scale, form, proportions and finishes.

The proposed external alterations would not therefore have any unacceptable impacts upon visual amenity and the character and appearance of the area and would be in accordance with UDP policies EN1/2 and EN1/8.

Impact upon residential amenity

There are residential neighbours on the opposing side of Heywood Street. The main sources of noise would be from deliveries and cars visiting the site. The lawful car sales use has no time limiting conditions in relation to operating hours and given the town centre location and the commercial character of the area, the area is inherently vibrant.

The proposal would not have any unacceptable impacts on nearest sensitive receptors and the proposed development would not conflict with policies EN7/2 and S2/6 of the Bury Unitary Development Plan.

Highways issues

PfE policy JP-C6 supports a range of measures to help deliver a higher proportion of journeys by walking and cycling by 3) ensuring routes are direct, easily navigable and integrated. Policy JP-P1 states that development should be socially inclusive, safe, functional and convenient and legible, being easy to understand and navigate. UDP policies EN1/2 gives consideration to the design and appearance of access, parking and service provision and HT6/1 seeks to ensure that pedestrians and cyclists are able to move safely and conveniently.

The proposed access and parking arrangements would be as set out in the allowed appeal ref. 70461. In that case, the Highway Authority objected, largely on the basis that it would have unacceptable highway impacts due to its combined effect with the then unauthorised car wash facility at the site.

Given that this use no longer operates and that the appeal decision did not support the highway safety reasons for refusal, it would not be a reasonable and sustainable position to similarly object to the proposal on the same grounds. It is not therefore imperative that comments are required from the Highway Authority in this case and a robust decision can be reached without such.

Being located within the defined town centre, close the established residential areas and including the provision of cycle storage at the site,

For these reasons, the proposed development would not conflict with Bury UDP policies EN1/2 and HT6/1 or PfE policy JP-P1.

Parking provision

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 The development hereby permitted shall be carried out in accordance with the following drawings:
Location Plan (Dwg No. HK257023 D) received 03/09/2024
Proposed Floor Plan and Elevations received 23/09/2024
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan and Places for Everyone Joint Development Plan listed.
- 3 Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
Reason. To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims and Paragraphs 180(f), 189 and 190 of the National Planning Policy Framework (December 2023).
- 4 Prior to the first occupation of any part of the development hereby permitted, details shall be submitted to and approved in writing by the local planning authority to demonstrate that full fibre connections to the premises will be provided, unless it is substantiated that this would not be technically feasible and/or viable. The details must also include future-proofing of the premises for full fibre gigabit-capable network connections. The development shall be carried out in accordance with the approved details prior to first occupation and maintained thereafter.
Reason. To ensure that the development is fully serviced for full fibre digital connectivity, pursuant to Places for Everyone Joint Development Plan Document Policy JP-C2.
- 5 An energy statement shall be submitted to and approved in writing by the local planning authority, which shall provide details of a scheme to ensure that regulated operational carbon emissions from the development will, unless the energy statement substantiates that it would not be practicable or financially viable, be net zero. Where net zero would not be practicable or financially viable, the statement shall provide details of a scheme to ensure that carbon emissions are reduced to the

maximum possible extent. The energy statement shall be in accordance with the energy hierarchy which in order of importance shall seek to i) minimise energy demand, ii) maximise energy efficiency, iii) use renewable energy, iv) use low carbon energy and v) utilise other energy sources. The approved scheme shall thereafter be implemented in full prior to the first occupation of the development.

Reason. To ensure that the development minimises regulated operational carbon emissions, pursuant to Places for Everyone Joint Development Plan Document Policy JP-S2.

- 6 Unless substantiation is submitted to and approved in writing by the local planning authority that it would not be practicable or financially viable, the development shall achieve at least BREEAM Level excellent (or equivalent) for the 'Ene 01 - reduction of energy use and carbon emissions' category in accordance with the requirements of the relevant BREEAM scheme. No building shall be occupied until a Final BREEAM Certificate for this category has been issued and provided to the local planning authority.

Reason. To ensure that the development minimises regulated operational carbon emissions, pursuant to Places for Everyone Joint Development Plan Document Policy JP-S2.

- 7 No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason. No material details have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to Places for Everyone Joint Development Plan Document Policy JP-P1 and Bury Unitary Development Plan Policy EN1/2.

- 8 Electric vehicle (EV) charging points for 20% of the proposed parking spaces shall be provided prior to occupation of the development hereby permitted, unless substantiation is submitted to and approved in writing by the local planning authority that it would not be practicable or financially viable. The charge points shall be 7kW (32A) single phase as a minimum. The proposed location of the charge points shall be submitted to and approved in writing by the local planning authority and implemented prior to the first occupation of the approved development. The charging points shall be maintained thereafter.

Reason. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life pursuant to Places for Everyone Joint Development Plan Document Policy JP-S2 and to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 9 The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing titled 'Site Plan, Floor Plans, Elevations' (Dwg No. C01 Rev.1) received 07/05/2024. Thereafter, those spaces shall be retained for the parking of vehicles only.

Reason. To ensure that adequate off-street parking is provided in the interests of road safety and the free-flow of traffic, pursuant to Places for Everyone Joint Development Plan Document Policy JP-C8 and Bury Unitary Development Plan Policy HT2/4.

- 10 The cycle storage indicated in the approved plans shall be provided before the

development hereby approved is occupied and shall thereafter remain available for users of the development.

Reason. To secure satisfactory cycle facilities on site and in accordance with Places for Everyone Joint Development Plan Document Policy JP-C6 and Bury Unitary Development Policy HT6/1.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	28/10/2024	DM -	28/10/2024