

**DELEGATED REPORT**

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|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Dean Clapworthy | <b>Date of report:</b> 04/10/2024 | <b>Ref:</b> 70602/FUL          |
| <b>Registration:</b> 15/04/2024  | <b>LDfC:</b> 15/05/2024           | <b>Expiry Date:</b> 10/06/2024 |
| <b>Site Visit:</b> 02/05/2024    | <b>Site Notice:</b> 02/05/2024    | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 1             | <b>Con Area:</b> N/A              | <b>Adv Type:</b> PI            |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> COUS        |

**Proposal:** Temporary change of use (for 5 years) of former ticket sales office to web-based car sales office (Sui Generis) with associated car parking and 2m high open mesh fence

**Location:** Former Bury FC Ticket & Retail Sales Unit, Gigg Lane, Bury, BL9 9HU

**Description**

The proposal relates to the former ticket office that served Bury Football Club with associated forecourt informal parking area. It is positioned fronting the football ground complex at the boundary to Gigg Lane and is bounded by Berkshire Court to the east, the access into the front of ground parking area (and other parking areas) at the west and the former social club building to the south (which is contiguous with the former ticket office building). Dwellings oppose the site to the north and east.

The Gigg Lane site has become fragmented in ownership with a number of businesses operating from the site, including children's nursery/club (in the former club shop) and a motorcycle training centre (on the main car park).

The proposal is for a temporary change of use (for 5 years) of the former ticket sales office to a web-based car sales office (Sui Generis) with associated car parking and a 2m high open mesh fence to the north, east and west boundaries (black colour).

Opening hours are proposed as:

- 09:30 - 18:00 Monday to Friday
- 09:30 - 17:00 Saturdays (closed on all match days)
- 10:30 - 16:00 Sundays (closed on all match days)

The supporting Design and Access Statement notes that the site was previously subject to vandalism, fly-tipping and unauthorised car parking and that the proposal would provide temporary mitigation (for 5 years) whilst a longer term development proposal is established.

Cars for sale are not delivered to site by large car transporters, but are brought to site either on a single loader truck or driven to the site following preparation off-site. Rather than relying on passing trade, the internet based model engages the customers online and generates low levels of customer patronage at the site.

Since originally submitted, the proposal has been amended to re-position the fencing outside of the visibility splays and reorganise the parking/display arrangements.

**Relevant Planning History**

None relevant.

**Publicity**

20 direct neighbour notification letters issued 22/04/2024

Site Notice posted 02/05/2024

One representation received objecting to the proposal, raising the following matters:

- The development has already been completed without obtaining the necessary planning permission, which sets a precedent for future developments.
- The development lacks adequate parking provisions, which can lead to congestion, inconvenience for residents, and negatively impact the surrounding area.
- Noise from vehicle movements poses a significant disturbance to neighbouring properties, affecting the quality of life for residents and is unacceptable.
- Visual impacts as the design and aesthetics of the development are not in harmony with the existing character of the neighbourhood. The proposed structure stands out as an eyesore and detracts from the overall visual appeal of the area.
- The development's proximity to neighbouring properties raises concerns about privacy and light nuisance. It may adversely affect the well-being and enjoyment of neighbouring residents.

### **Statutory/Non-Statutory Consultations**

**Traffic Section:** No objection, subject to conditions relating to a fixed term period, agreement of footway reinstatement, delivery management and relocation of fencing, provision of turning facilities and parking.

**Pre-start Conditions** - Not relevant.

### **Development Plan and Policies**

|       |                                                        |
|-------|--------------------------------------------------------|
| EC4/1 | Small Businesses                                       |
| EC6/1 | New Business, Industrial and Commercial                |
| EN1/2 | Townscape and Built Design                             |
| EN1/5 | Crime Prevention                                       |
| EN7/2 | Noise Pollution                                        |
| RT1/1 | Protection of Recreation Provision in the Urban Area   |
| S4/4  | Car Showrooms, Car Sales Areas and Petrol Filling Stns |
| HT2/4 | Car Parking and New Development                        |
| HT6/1 | Pedestrian and Cyclist Movement                        |
| JP-S2 | Carbon and Energy                                      |
| JP-P1 | Sustainable Places                                     |
| JP-C2 | Digital Connectivity                                   |

### **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**

### **Principle of development**

UDP Policy RT1/1 states that development will not be allowed where it would result in the loss of existing and proposed outdoor public or private recreation facilities, including playing fields, sports grounds, parks and gardens, children's play areas, allotments and golf courses.

The allocation relates to the full football ground and associated facilities. The ownership of the site has since become fragmented, as noted in the description of the proposal. The ticket sales has been relocated to the main stand, so no Bury FC functions have been lost from the site. Additionally, the football club do not own the site and therefore no football associated activities can take place there. As such, whilst the land is allocated as protected recreation land, the recreation facilities have already been re-provided and as such, the proposed development would not result in the loss of existing recreation facilities.

Policy S4/4 is now rather dated and does not necessarily reflect contemporary small scale internet based car sales operations. The issues of disruption to the free flow of traffic, car parking, pedestrian facilities and the amenity of the neighbouring properties will be assessed later in the report.

Given the limited scale of the site and the factors noted above, it is not considered that the proposal would conflict with the aims of the above UDP Policy or paragraph 103 of the NPPF.

### **Design and visual amenity**

The alterations to the site are limited to the erection of the 2m weld mesh security fencing and the resurfacing of the former car park.

Due to the form of the fencing (weldmesh), it does not form a prominent feature in the street scene and from the principle view point of Gigg Lane, it is set against the utilitarian former ticket office (the proposed sales office). The re-surfacing (in black top) of the parking/display area visually improves the previously broken surface.

Given these factors, the proposal would overall improve the visual amenities of the area.

**Access, parking and highway safety**

The proposal has been amended to respond to the Highway Authority's concerns about the impact on visibility from Berkshire Court and the access from the main car park from the football club. The proposal results in the removal of some informal car parking that served the football club. However, this is not in separate ownership, and would not be available for use of the football club, regardless of the proposal.

Subject to the amended proposals and the imposition of the recommended conditions, the proposal would not have unacceptable impact on access and road safety.

**Neighbouring amenity**

The proposal relates to the former ticket sales office and car park to the football club. Given the business model and character of the proposed car sales business, it is not considered that the proposal would have any unacceptable impacts on neighbouring amenity.

**Other matters**

Digital connectivity

The site is serviced by super fast fibre broadband, 4g/5g mobile networks and landline telephone cables. The tenant is currently connected to fibre broadband.

Carbon and Energy

The continued use of the building as a car sales office is similar in nature and character as the former ticket sales office.

**Representation**

NPPF paragraph 97 states that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Library services would continue to serve Radcliffe in the interim period and thereafter within the new Radcliffe Hub.

**CONCLUSION**

The development has been assessed as not having any unacceptable impacts upon visual amenity, general amenity or highway safety and would provide a beneficial temporary use of the building, which had been subject to decline and vandalism.

Given the above, the proposal would be compliant with the above stated local plan policies and the NPPF. Therefore, in accordance with the Section 38(6) of the Planning and Compulsory Purchase Act, the proposal merits approval.

**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 This decision relates to drawings  
Location Plan dated 15/03/2024  
Site Location Plan (Dwg No. S1-XX-DR-A-0801)  
Proposed Block Plan (Dwg No. S1-XX-DR-A-810)  
Site Plan as Proposed with Site Lines and Vehicle Tracking (Dwg No. S1-XX-DR-A-0814 B)  
Proposed elevations (dwg no. S1-XX-DR-A-0813)  
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 and Places for Everyone Joint Development Plan listed.
- 2 The permission hereby granted is for a limited period only, namely for a period expiring 5 years from the date of this decision notice, and the use comprising the development for which permission is hereby granted is required to cease.  
Reason. In view of the temporary nature of the development and in order to retain control over its continued use having regard to the particular nature of the site and surroundings pursuant to the principles of the National Planning Policy Framework and Bury Unitary Development Plans listed.
- 3 Notwithstanding the details indicated on the approved plans, within 3 months of the date of this permission, the following shall be submitted to and agreed with the Local Planning Authority:
  1. Reinstatement of the redundant vehicular access onto Gigg Lane to adjacent footway levels to a specification to be agreed with the Highway Authority and incorporating the demarcation of the limits of the adopted highway.
  2. Delivery Management Plan confirming the location of all off-site vehicle preparation facilities and vehicle delivery arrangements made by individual members of staff rather than commercial vehicles that cannot be accommodated within the curtilage of the application site, as stated in the supporting information.
  3. Relocation of the open mesh fence erected adjacent to the adopted highway clear of the visibility splays shown at the junctions of the shared site access and Berkshire Court with Gigg Lane and clear of adequate visibility splays at the back edge of the footway at both junctions, incorporating any remedial works on the adopted highway and at the back edge of the footway required as a result of the relocation of the fence.

The details and Delivery Management Plan subsequently approved shall be implemented in accordance with the approved details within 2 months.

Reason. To ensure good highway design and to maintain the integrity of the adopted highway, ensure the intervisibility of the users of the adjacent junctions onto the highway, minimise the potential for the adopted highways adjacent to the site be obstructed by delivery vehicles and in the interests of highway safety, pursuant to Bury Unitary Development Plan Policies EN1/2 and HT6/1.
- 4 Subject to the provisions of Condition 3, the turning facilities within the curtilage of the 'Forecourt Area' indicated on the approved plans shall be provided within 6 months of the date of this permission and the areas used for the manoeuvring of

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vehicles shall subsequently be maintained free of obstruction at all times.

Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety, pursuant to Bury Unitary Development Plan Policies EN1/2 and HT6/1.

- 5 Subject to the provisions of Condition 2, the car parking indicated on the approved plans shall be surfaced, demarcated and made available for use within 6 months of the date of this permission and thereafter maintained at all times.

Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety, pursuant to Bury Unitary Development Plan Policies EN1/2 and HT6/1.

| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|---------------------|-------------|-------------------------|-------------|
| DC - 04/10/2024     |             | HL 04/04/24             |             |