

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 09/01/2024	Ref: 70202/FUL
Registration: 14/11/2023	LDfC: 07/12/2023	Expiry Date: 09/01/2024
Site Visit: 30/11/2023	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: 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

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).

There is a large yard to the south of the building and a section of this fronting Heywood Street (including the access into the site) falls within the application site. Presently, there is an unauthorised car wash facility operating within that part of the associated yard that falls outside of the application site.

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.

The proposal is for the 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.

It would comprise:

- 2 no. retail units of a 112 sq.m each (following extension)
- 114 sq.m office (following the extension)

The proposal indicates that parking would be provided for 8 no. vehicles set out in a row along the Heywood Road frontage.

The proposal lacks any details of the layout and use of the remainder of the yard (considering either the remainder of the lawful car sales use of the yard or the unauthorised car wash facility presently operating at the site).

Relevant Planning History

56430 - Double-sided, internally illuminated advertising panel to existing bus shelter - Approve with Conditions 30/07/2013

56759 - Retrospective application for steel boundary fence at front & sides. - Approve with Conditions 07/11/2013

58997 - Change of use of existing car garage (Sui Generis) to restaurant (Class A3) - Withdrawn - Invalid 07/08/2015

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

Publicity

Direct neighbour notification undertaken. No representations received.

Statutory/Non-Statutory Consultations

Environmental Health - Contaminated Land: No objection subject to conditions.

Traffic Section: Objection. The red-edged site includes parking for the whole site, but not the aisle/access to it. Furthermore, the parking layout is not accurate, not allocated for the proposed uses and no servicing facilities are detailed or tracked.

Waste Management: No comments received.

United Utilities (Water and waste): No comments received.

Pre-start Conditions - Not relevant

Unitary 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
S2/6	Food and Drink
TC2/2	Mixed Use Development
TC3	Bury Town Centre
Area	Rochdale Road/Lord Street/York Street
BY10	
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework
HT6/2	Pedestrian/Vehicular Conflict

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.

ASSESSMENT

Principle

The site falls at the periphery of, but within the defined boundary of Bury town centre. The proposed uses of the unit are defined as main town centre uses in the NPPF. UDP policies TC2/2 and BY10 states that the Council will encourage and support compatible mixed use development within the town centres, including Class E uses.

Therefore, the principle of development is acceptable, subject to consideration of the following matters.

Design and layout

The existing building is utilitarian in character and appearance, with the most architecturally attractive feature being the glazed elevation to Heywood Street. The proposed extension 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

As set out in the consultation response from the Highway Officer, the application site includes parking for the whole site, but excludes the aisle/access to those spaces (this would appear to fall within the area presently used by the unauthorised car wash facility). Furthermore, the parking layout is not accurate (the spaces are too narrow to adequately accommodate vehicles), not allocated for the proposed uses and no servicing facilities are detailed or tracked that would enable a proper and robust assessment of the highway impacts of the proposal. Therefore, the proposal does not demonstrate that the development would not have unacceptable impacts on the highway network.

For these reasons, the proposed development would be detrimental to highway safety and would therefore fail to accord with Policies EN1/2, HT6/1 and HT6/2 of the Bury Unitary Development Plan.

Conclusion

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be refused.

Recommendation: Refuse

Conditions and Reasons:

- 1 The application and submitted plans contain insufficient detailed information to enable a proper assessment of the parking, servicing and access impacts of the proposal and existing adjacent use. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/2, HT2/4, HT6/1 and HT6/2.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	09/01/2024	DM	09/01/24