

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 30/09/2024	Ref: 70819/FUL
Registration: 08/07/2024	LDFC: 31/07/2024	Expiry Date: 02/09/2024
Site Visit: 17/07/2024	Site Notice: 01/08/2024	Press Date: 01/08/2024
Objections: 0	Con Area: N/A	Adv Type: DEPA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Creation of a car park with 40 no. parking spaces on vacant land

Location: Land between 69-97 Rochdale Road & York Street, Bury, BL9 7AX

Description

The application relates to a vacant piece of land, approx 1000sqm in area which is located on Rochdale Road. Over recent years, the site has been intermittently used for parking although according to google street view there have been periods (more recently August 2023 and September 2021) where it has been unused and become overgrown and vegetated.

The site has roads to all boundaries and there are commercial properties to the north east and west with a main dual carriageway running along the length of the southern boundary. The access into the site is from the single unmade road to the north known as Back Rochdale Road where there is an opening into the site approx half way along. The site has been surfaced in compacted gravel.

The application seeks the creation of a 40 no space car park.
Parking bay numbers to demarcate the spaces would be attached to the 0.85m high wooden fence which forms the perimeter of the site.
Access would remain as existing from Back Rochdale Road through a height restriction gate. The stoned surface would be retained.

The applicant states the car park would be private and used to serve the community and the nearby mosque.

The site is allocated for Offices under UDP Policy EC5/1 and the application has been advertised as a Departure from the Development Plan.

Relevant Planning History

24/0170 - Change of use of land to car park - 10/07/2024

60798 - Proposed development of 6 no. shops (Class A1) and 24 no. flats in 3 and 4 storey building - Approved 3/4/2017

64331 - 5 no. shops, 1no. cafe and 9 no. apartments - Approved 23/8/2019

62576 - Variation of condition no. 2 (approved plans) and condition no. 3 (materials) of planning permission 60798 - 25/6/2018

Publicity

Letters sent to 23 properties on 9/7/24

Advertised as a Departure of the Development Plan - press advert and site notice 1/8/24.

No responses received

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to condition

Greater Manchester Ecology Unit - No objection subject to condition.

United Utilities - No objection subject to condition

Pre-start Conditions - Applicant/Agent has agreed with pre-start conditions

Development Plan and Policies

NPPF	National Planning Policy Framework
EC5/1	Office Development in Bury Town Centre
Area	Rochdale Road/Lord Street/York Street
BY10	
S3/1	New Retail Dev Opportunities Within or Adj Town Centres
EN1/2	Townscape and Built Design
EN1/7	Throughroutes and Gateways
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-S4	Flood Risk and the Water Environment
JP-C8	Transport Requirements of New Development
HT2/4	Car Parking and New Development

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.

Principle - Employment

The site is allocated in Bury's Unitary Development Plan (UDP) under Policies EC5/1 and S3/1 as a small opportunity site suitable for office development (EC5/1/2) and retail development (S3/1/14).

However, the site has not come forward for either type of development since the UDP was adopted and has been used as an informal car park since February 2024 for the nearby Mosque.

This proposal would formalise these car parking arrangements and ensure the car park is managed and landscaped in an appropriate manner.

The proposal is contrary to the uses which the site has been allocated for in the UDP. However, on balance, the proposal is considered to be acceptable for the reason set out above.

Layout

The development does not propose any significant changes to the existing layout. Apart from being cleared of vegetation and surfaced in a compacted gravel, the existing 0.85m perimeter fence would be retained around the circa 1000sqm car park and a vehicular access from Back Rochdale Road created to serve as the entrance/exit via a lockable gate.

The parking bays would be demarcated by bay numbers displayed on the perimeter fence rather than as a physical surface marking and there would be ample space around the car park to manoeuvre and exit the site onto the back street. A new opening at the north west corner of the site would facilitate pedestrian access to and from the car park.

The operation and layout of the car park would therefore be considered acceptable and there would not be an adverse impact on the amenity of adjacent occupiers or road users.

As such, the proposed development would comply with EN1/2, JP-C5 and JP-C6.

Highway issues

Back Rochdale Road would provide access to the site. This road serves a car spares business and car repair garage but is wide enough to facilitate 2 way car movements. The road has a cobbled surface and within a controlled parking zone area which automatically slows traffic down.

The site would facilitate 40 spaces but it is likely that comings and goings would be staggered and in any event and the access onto the back street would limit the number of cars which could arrive/leave at the same time.

The Highway Section have raised no objection subject to a condition including the submission of a scheme for remedial and re-construction of footways and the adopted highway. The applicant has conformed agreement.

As such the proposed development would be acceptable and comply with policies HT2/4, JP-C5, JP-C6 and JP-C8.

Ecology

Summary

The only ecological issue is biodiversity net gain.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)

Section 180 of the NPPF 2023 states that the planning policies and decisions should contribute to and enhance the natural and local environment. 10% BNG is mandatory under Schedule 7A of the Town & Country Planning Act 1990 (as inserted by schedule 14 of the Environment Act 2021).

A metric has been provided indicating the site was bare ground and will remain bare ground. Both in the opinion of GMEU are incorrect, with streetview clearly showing a brownfield site in 2023, with scattered early successional vegetation and the post development habitat would be regarded as artificial unvegetated surface, ie a low value habitat replaced with a habitat with no value. Current guidance for calculating BNG where site clearance occurred in advance is:

"Where unauthorised degradation of the on site habitat has taken place on the land between 30 January 2020 and the date of the application, the biodiversity pre-development value of the on site habitat should be calculated as the biodiversity value of the habitat on the date immediately before the carrying out of these degradation activities. The relevant date should therefore be set as a date immediately before these activities. Unauthorised degradation of on site habitat is any degradation which is not in accordance with a previous planning permission."

GMEU have run a metric based on the area of the development. This would result in a loss of 0.2 biodiversity units and an overall shortfall to achieve 10% of 0.22 BU. This is based on the site being a brownfield site in low ecological condition and the current site having no ecological value. ie unvegetated unsealed artificial surface.

Some on site mitigation is achievable through urban tree planting. It will take 18 native trees planted around the perimeter of the site to achieve 10% BNG assuming they achieve moderate condition and survive for 30 years. This appears achievable if planted around the perimeter of the site. Alternatively the applicant may wish to use part of the car park as a mitigation and enhancement area.

The applicant has provided a Biodiversity Impact Assessment which proposes to provide 18 native trees within the site. GMEU are satisfied that this will achieve 10% biodiversity net gain. As the application is retrospective, the statutory condition cannot in practice be applied. GMEU therefore recommend the tree planting be conditioned to be implemented within the next tree planting season (November 2024 to March 2025).

As such the proposed development would be acceptable and comply with JP-G8 and chapter 15 of the NPPF.

Drainage - United Utilities have been consulted on the application and have requested the

submission of a drainage plan prior to determination or alternatively a pre-commencement condition. A condition has been recommended to which the applicant has agreed.

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 -
Location and block plans SHT 1 of 3
Existing floor plan SHT 2 of 3 rev A
Proposed floor plan SHT 3 of 3 rev A
Proposed floor plan SHT 3a of 3 rev A
Proposed highway restoration plan SHT 3b of 3 rev A
Proposed tree planting P2042.24.E02
Biodiversity Impact Assessment by Ascerta dated September 2024
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 Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
(iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
(iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
(v) Foul and surface water shall drain on separate systems.
The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.
Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

- 4 The tree planting shown on approved plan - Proposed tree planting P2042.24.E02 contained within the Biodiversity Impact Assessment by Ascerta dated September 2024A shall be implemented within the next available tree planting season, ie November 2024 to March 2025. Any trees removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees of a similar size or species to those originally required to be planted.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies EN1/2 - Townscape and Built Design, PfE Policy JP-G8 and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 5 Notwithstanding the details indicated on the approved plans, full details of the following highway remedial works around the perimeter of the site to a scope and specification to be agreed with the Highway Authority shall be submitted to the Local Planning Authority within 2 months of the date of this decision:

1. A scheme of highway reconstruction/resurfacing works for the footway on Back Rochdale Road and the un-named side street linking Back Rochdale Road with Rochdale Road in order to facilitate the proposed development and site access arrangements, incorporating the demarcation of the limits of the adopted highway with edgings and all associated highway and highway drainage remedial works;
2. Formation of a heavy duty access onto Back Rochdale Road to serve the proposed car park;
3. A scheme of highway remedial works on Rochdale Road and York Street to reinstate/repair the adopted footways abutting the site as a result of the construction of the development and following removal/replacement of any affected existing edgings, incorporating the demarcation of the limits of the adopted highway with edgings and all associated highway and highway drainage remedial works;
4. Measures/surfacing details to prevent the spread of loose stone/gravel surfacing around the perimeter of the site and at the junction of the car park access with Back Rochdale Road;
5. Confirmation of the position of a segregated pedestrian access to the car park from the adopted highway, incorporating all associated alterations to the site boundary treatment.

The approved scheme shall be implemented within 3 months of the approval of the scheme.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to Policies EN1/2, JP-C5, JP-C6 and JP-C8.

<u>Case Officer</u> JT 30/9/24	<u>Date</u>	<u>Sign off Officer</u> DM 30/09/24	<u>Date</u>
-----------------------------------	-------------	--	-------------