

**DELEGATED REPORT**

|                                  |                                   |                                |
|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Dean Clapworthy | <b>Date of report:</b> 18/08/2022 | <b>Ref:</b> 68515/FUL          |
| <b>Registration:</b> 28/06/2022  | <b>LDfC:</b> 22/07/2022           | <b>Expiry Date:</b> 23/08/2022 |
| <b>Site Visit:</b> 14/07/2022    | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 0             | <b>Con Area:</b>                  | <b>Adv Type:</b> N/A           |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> COUS        |

**Proposal:** Change of use of whole building from college (Use Class F1 (a)) to new indoor golf simulator centre and cafe/bar (Mixed use of Class E and sui generis) including alterations to the external elevations of the building and associated works.

**Location:** Link House, 35 Walmersley Road, Bury, BL9 5AE

**Description**

The proposal relates to a utilitarian commercial building positioned on the inside west of the junction between the strategic roads of Peel Way and Walmersley Road, immediately juxtaposed to the north of Bury town centre. The site is also bounded to the west and north by Fox Street and Moor Street. It is surrounded by other commercial uses, including bulk retail sheds, main town centre uses in traditional terraces and associated car parking, being located within the local shopping centre of Walmersley Road/Moorgate, which extends north from Bury town centre. The building was most recently in use as a military college (Use Class F1(a)) and is finished in red brick and grey cladding. Associated car parking is split between two areas of car parking to the immediate south and north of the building.

The proposal is for the change of use of the building to an indoor golf simulator centre with cafe/bar (Mixed use of Class E and sui generis) including alterations to the external elevations of the building and associated works.

The proposal would comprise:

- Golf/cafe/bar at ground floor and golf simulators, back of house and office accommodation at first floor. The cafe/bar would accommodate around 57 covers
- Externally, replacement black cladding, installation of 5no. condensor units to the rear elevation, replacement black windows to various (but not all) elevations and down lighters to the principal (east) elevation

The business is intended to operate between 08:00 to 22:00 seven days a week. Submitted plans indicate that 37no. car parking spaces would be provided across the separate parking areas, including 2 no. disabled vehicle bays.

Amended secure cycle storage would be provided for 8no. bicycles close to the main entrance into the building.

**Relevant Planning History**

68516 - Building mounted hoarding size sign with seasonal message change Free standing 'Welcome' sign to car park Various business and corporate identity signage to be applied to the external elevations including a pair of canopy fascia signs to the entrance canopy - Currently invalid

62820 - 7 No. non-illuminated pole mounted car park management signs - Approve with Conditions 28/06/2018

62819 - 1 No. automatic number plate recognition camera mounted on 5 metre high column  
- Approve with Conditions 28/06/2018

62106 - Change of use of 2 no. first-floor offices from D1 (non-residential institutions) to A2 (financial and professional services) - Approve with Conditions 20/12/2017

61875 - Certificate of lawfulness for proposed change of use for two first floor offices at 35 Walmersley Road - Refused 02/10/2017

58165 - Lawful Development Certificate for a proposed use of Link House as a place of worship, church hall, creche, day nursery, non residential education and training centre under Use Class D1 - Lawful Development 12/12/2014

### **Publicity**

The proposal has been advertised by direct neighbour notification. No representations have been received.

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

Traffic Section: No objection, subject to a condition relating to car parking

Planning Policy Manager: No comments received

Environmental Health - Commercial Section: No comments received

### **Unitary Development Plan and Policies**

|       |                                    |
|-------|------------------------------------|
| EC4   | Small and Growing Businesses       |
| EC4/1 | Small Businesses                   |
| EN1   | Built Environment                  |
| EN1/2 | Townscape and Built Design         |
| EN1/7 | Throughroutes and Gateways         |
| S1    | Existing Shopping Centres          |
| S1/4  | Local Shopping Centres             |
| HT2/4 | Car Parking and New Development    |
| HT6/1 | Pedestrian and Cyclist Movement    |
| NPPF  | National Planning Policy Framework |
| SPD11 | Parking Standards in Bury          |

### **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.

## **ASSESSMENT**

### **Principle of development**

The site was most recently occupied by a military college, which is not a main town centre use as defined in the glossary of the National Planning Policy Framework (NPPF). Thus, it represented a non-conforming use in the local shopping centre (which borders Bury town centre). The proposed use would not therefore reduce the retail offer in Walmersley Road/Moorgate local centre and comprises a mix of defined town centre uses within the building that would support the immediately broad function of the immediately adjacent Bury town centre.

### **Design and visual amenity**

The present building is a rather bland utilitarian commercial style building that is passively routine in the street scene. The proposed alterations to the building largely relate to the areas of the elevation subject to rather jaded grey cladding. The proposed black cladding and windows (with the window vinyl) would give the whole building a 'refresh' and contemporary appearance, thus improving the appearance of this main strategic route and the immediate locality.

### **Access, parking and highway safety**

The site is located in a highly sustainable location at the immediate northern edge of Bury town centre and within a local centre. The existing parking at the site would be improved and 2no. disabled spaces provided and 8no. secure cycle spaces provided in an overlooked area close to the front entrance. This would comply with the parking requirements as set out in SPD 11 (exceeding the cycle storage standard).

The Highway Officer is satisfied with the proposal and recommends that the parking arrangements as indicated are implemented in accordance with the details and that controls

are introduced over the down lighting to ensure no harm is caused to highway safety. Subject to such, the proposal would be in compliance with the above UDP policies and the NPPF.

### **Amenity**

The building is isolated from sensitive receptors, being bounded entirely by commercial uses and by strategic and busy gateways into Bury town centre. The proposed uses within the building would not therefore have any unacceptable impacts on amenity. It would not therefore be necessary or reasonable to limit operating hours to those indicated in the submission.

### **Conclusion**

The proposed use would support the role and function of Bury town centre without detriment to highway safety or amenity and would improve the appearance and character of the street scene at this prominent gateway site. Given this, the proposal would be compliant with the above stated policies, SPD11 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 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:  
Site Location Plan dated 31/05/2022  
Proposed Exterior Elevations (Dwg no. VT289\_01A C)  
Proposed Car Parking Layout (Dwg no. VT289\_01B B)  
Proposed Ground Floor Demolition Plan (Dwg no. VT289\_03 A)  
Proposed First Floor Demolition Plan (Dwg no. VT289\_05 B)  
Proposed Ground Floor General Arrangement (Dwg no. VT289\_04 A)  
Proposed First Floor General Arrangement (Dwg no. VT289\_06 B)  
Proposed Kitchen Layout (Dwg no. NWCE3570JG 3)  
Kitchen Plan - Mechanical Services Layout (Dwg no. HUKD-M-03)  
External Up Lights (Dwg no. HUB-009 0)  
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 external finishing materials for the proposal hereby approved shall be as detailed within the approved application particulars.  
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to policies EN1/2 and EN1/7 of the Bury Unitary Development Plan.

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- 4 The car parking and secure cycle storage indicated on the approved drawing VT289\_01B B shall be surfaced, demarcated and made available for use prior to the use hereby approved commencing and thereafter maintained at all times.  
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 5 If when any of the new external lighting units hereby approved are illuminated they cause glare or light spillage which the Council as the Local Planning Authority considers to be to the detrimental to highway safety or residential amenity, baffles and/or cut-offs shall be installed on the units and adjustments shall be made to the angle of the lighting units and the direction of illumination, which shall thereafter be retained in accordance with details which have received the prior written approval of the Local Planning Authority.  
Reason. To avoid undue distraction to traffic in the interests of road safety, and to protect the amenity of adjoining occupiers, pursuant to Policu EN1/2 of the Bury Unitary Development Plan.

|                     |             |                         |             |
|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| DSC                 | 18/08/2022  |                         |             |