

DELEGATED REPORT

Report by Helen Leach	Date of report: 16/02/2023	Ref: 68944/FUL
Registration: 02/11/2022	LDfC: 10/12/2022	Expiry Date: 28/12/2022
Site Visit: 14/11/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIRD

Proposal: Erection of 1 no. drive thru coffee unit and associated works

Location: Asda Stores Ltd, Park 66, Pilsworth Road, Bury, BL9 8RS

Description

The application site relates to part of the car park for the Asda store and is located in the south eastern corner. The site contains over 600 parking spaces and trolleys, collection points and a recycling point. The site is accessed from Pilsworth Road via a roundabout. There is a pedestrian access from the roundabout to the retail store and a second pedestrian access marked through the car park.

There are a number of industrial and retail buildings to the south of the site. To the west, there is a hot food takeaway, pub and hotel, with office and industrial buildings beyond. To the north is junction 3 of the M66 motorway and the motorway forms the boundary to the east.

The proposed development involves the erection of a building for use as a drive through coffee shop with associated works.

The proposed development involves the erection of a building, to be used as a coffee shop and drive thru facility on the north eastern corner of an existing car park. The building would be single storey and would be constructed from timber boarding and composite panels. The site would be accessed through the car park from Pilsworth Road.

Relevant Planning History

53255 - New height restriction barrier across the existing access road and pedestrian guard railing around the southern perimeter of the site at Asda Stores, Park 66, Bury. Approved with conditions - 5 January 2011.

54744 - Proposed new home shopping facility at Asda Stores, Park 66, Bury. Approved with conditions - 3 February 2012.

54745 - 4 no. externally illuminated fascia signs to home shopping facility and 2 no. non-illuminated directional signs at Asda Stores, Park 66, Bury. Approved with conditions - 3 February 2012.

55250 - 5 no. car park banner signs at Asda Stores, Park 66, Bury. Approved with conditions - 6 July 2012.

59335 - Use of car parking spaces as hand car wash/valeting business at Asda Stores, Park 66, Bury. Approved with conditions - 13 January 2016

66563 - Replacement of existing Click and Collect facility and lockers with 3 no. Grocery Collection facility with canopy; Minor car parking adjustments; Relocation of staff smoking shelter at Asda Stores, Park 66, Bury. Approved with conditions - 13 April 2021.

Publicity

The neighbouring properties were notified by means of a letter on 9 November 2022.

There has been no response.

Statutory/Non-Statutory Consultations

Traffic Section - No objections, subject to the inclusion of conditions relating to a construction traffic management plan, access facilities and car parking.

Drainage Section - No response.

Environmental Health - Contaminated Land - No objections, subject to the inclusion of conditions relating to contaminated land.

Environmental Health - Commercial Section - No response.

Environmental Health - Pollution Control - No response.

Transport for GM - No objections.

United Utilities - Require confirmation it would not impact upon aqueduct.

Recommend condition to ensure water main is not damaged.

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

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN1/8	Shop Fronts
EN7	Pollution Control
EN7/2	Noise Pollution
EN7/5	Waste Water Management
S2/6	Food and Drink
HT2/4	Car Parking and New Development
HT5/1	Access For Those with Special Needs
HT6/2	Pedestrian/Vehicular Conflict
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) 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.

Principle (Retail) - The proposed development involves the erection of a coffee shop (Class E), including a drive thru facility on the car park to Asda.

Paragraph 85 of the NPPF states that:

'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

a) define a network and hierarchy of town centres and promote their long-term vitality and viability - by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

Paragraph 87 states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses, which are neither in an existing centre nor in accordance with an up to date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The proposed coffee shop would be classed as a town centre use (Class E) under the use classes order. The application site would be located outside of the town centre, adjacent to junction 3 of the M66 motorway and as such, a sequential assessment is required and has been submitted as part of the planning statement.

The planning statement states that the proposed development would be sited within a conglomeration of foodstores and retail warehouse development, with a range of employment uses nearby.

The closest town centres are local centres comprising Parkhills, Unsworth Pole/Parr Lane and Sunnybank Road. The area around Parkhills is densely developed with traditional terraced development. As such, there are no units suitable for conversion for a drive-thru operation or any sites suitable for redevelopment.

At Unsworth/Pole Lane centre, there is a convenience store and several smaller individual units. There is a limited amount of on-street parking and a larger car park, which is reserved for patrons of the local pub. There are no sites suitable for a drive-thru facility available for conversion or redevelopment.

At Sunnybank Road, there is shopping parade with car parking, a public house and a clinic/library. Again, there are no sites suitable for a drive-thru facility available for conversion or redevelopment.

The sequential assessment has demonstrated that there are no suitable sites within the nearest shopping centres or on the edge of centre and as such, the proposed development has satisfied the sequential test.

Due to its location close to retail and employment uses, the proposed development would provide an essentially local service for customers of the nearby stores and increase the range of refreshment options to the employees of the nearby employment uses. As such, the proposed development would not impact significantly upon the vitality and viability of the nearby shopping centres. Therefore, the proposed development would be acceptable in principle and would be in accordance with the NPPF.

Drive thru facility - The proposed drive thru facility would be similar to that of a hot food takeaway establishment and as such, Policy S2/6 is considered to be applicable.

Policy S2/6 states that the the Council when considering all proposals which involve restaurants, hot food takeaways, cafes, snack bars, wine bars, and public houses, together with any other uses within Class A3, will have regard to the following factors:

- the amenity of nearby residents by reason of noise, smell, litter, and opening hours;
- whether or not the proposal would result in an over concentration of Class A3 uses, which could adversely change the nature or character of a centre as a whole;
- parking and servicing provision associated with the proposed development and its effects in terms of road safety, traffic generation and movement;
- provision for the storage and disposal of refuse and customer litter;
- the environmental impact of any ventilation flues and/or ducting.

The proposed development would be located on a car park for a food store. The other uses on the car park are a food supermarket and a fast food restaurant. The proposed development would complement these uses and would not lead to an over concentration of such uses. The issues relating to amenity, parking, service provision and refuse will be discussed later in the report. Therefore, the proposed development would be in accordance with Policy S2/6 of the Bury Unitary Development Plan.

Design and layout - The proposed building would be located in the south west corner of the existing car park. The proposed building would be single storey with a flat roof. The proposed design is simple and modest in appearance. The proposed retail building would be constructed from timber boarding and composite panels, which are considered to be appropriate. There would be glazing to all four elevations, but the north and south elevations would be predominantly glazed, providing an active frontage. As such, the proposed development would be appropriate in terms of height, scale and form and would not be a prominent feature in the streetscene. Therefore, the proposed development would be in accordance with Policies EN1/2 and S2/6 of the Bury Unitary Development Plan.

Noise - The proposed coffee shop would be open from 07.00 to 23.00 on a daily basis. The existing supermarket is open on a 24 hour basis and is located in a commercial area. The proposed development would not generate any more noise than the current use of the site. Therefore, the proposed development would not have a significant adverse impact upon the amenity of the neighbouring properties and would be in accordance with Policy EN7/2 of the Bury Unitary Development Plan.

Highways issues - The proposed development would be accessed via the existing access to the Asda site and through the existing car park. A tracking diagram has been submitted, which shows that the delivery vehicles can manoeuvre safely in the car park. While there is no clear pedestrian route between the proposed coffee shop and the supermarket, there are connections between the car park and a riverside path, which would provide a safe pedestrian route between the two buildings. The Traffic Section has no objections, subject to the inclusion of conditions relating to a construction traffic management plan, access facilities and car parking. Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policies EN1/2 and HT6/2 of the Bury Unitary Development Plan.

Parking - SPD11 states that the maximum parking standards for an A1 retail use would be 1 space per 25 square metres, which would equate to 8 spaces.

The proposed development would relate to a specific part of the wider car park. Currently, there are 47 spaces and following the proposed development 20 spaces would be retained, resulting in a loss of 27 spaces.

The wider car park would contain over 600 spaces following the proposed development. Given the size of the wider car park, it is considered that it would be able to accommodate the parking demands from the supermarket and the proposed coffee shop. Therefore, the proposed development would be in accordance with Policy HT2/4 of the Bury Unitary Development Plan and SPD11.

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 numbered 1, 4, 5b, 6, 7, 8 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 Details/Samples of the (materials/bricks) to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Only the approved materials/bricks shall be used for the construction of the development.
Reason. No material samples have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/1 Visual Amenity.

- 4 No development shall commence unless and until:-
- A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 5 Following the provisions of Condition 4 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 6 No construction shall commence unless or until, details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development, have been submitted to and approved in writing by the Local Planning Authority. The details shall outline the potential impacts on the water main from construction activities and the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

Reason. In the interest of public health and to ensure protection of the public water supply pursuant to Policy EN7/4 - Groundwater Protection of the Bury Unitary Development Plan.

- 7 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:
Photographic dilapidation survey of the adopted highways abutting the site and proposed access point(s) in the event that subsequent remedial works are required following construction of the development and as a result of statutory undertakers connections to the site;
Access point(s) for construction traffic from the adopted highway/unadopted service road in a position(s) to be agreed and all temporary works required to facilitate access for ground works/construction vehicles;
If proposed, details of site hoarding/gate positions clear visibility splays onto the adopted highway/at the existing junction of Park 66 with the unadopted service road;
The provision, where necessary, of temporary pedestrian facilities/protection measures;
A scheme of appropriate warning/construction traffic speed signage in the vicinity of the site and its access;
Confirmation of hours of operation, delivery & construction vehicle sizes and number

of vehicle movements;

Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site and measures to control/manage delivery vehicle manoeuvres;

Parking on site or on land within the applicant's control of operatives' and construction vehicles, together with storage on site of construction materials;

Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented prior to the development hereby approved being brought into use.

Reason. To maintain the integrity of the adopted highway, mitigate the impact of the construction traffic generated by the proposed development on the adjacent highways, ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and ensure that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to Policy EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan.

- 8 The vehicular and pedestrian access arrangements, turning facilities and bin storage/collection arrangements within the curtilage of the site indicated on approved plan reference 5b, incorporating all associated highway remedial works at the interface of the proposed pedestrian access with Park 66 and signage/road markings, shall be provided/implemented before the development is brought into use and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.

Reason. To ensure good highway design in the interests of road safety pursuant to Policy EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan.

- 9 The amended car parking indicated on approved plan reference 5b shall be surfaced and made available for use prior to the development hereby approved being brought into use 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.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 16/02/2023			