

Appellant comments (in blue) upon Bury MBC Appeal Statement

Town and Country Planning Act 1990

Appeal by Mr H Khan

Site Address: Performance House , Heywood Street, BURY, BL9 7DZ

APP/T4210/W/24/3341939

Statement of Case – Bury Council

Appeal ref: APP/T4210/W/24/3341939 – Performance House, Heywood Street, Bury, BL9 7DZ

Local Planning Authority (LPA) ref.: 70461

The case for the LPA with the reasons for refusal are considered in detail in the Officer Report previously forwarded and the LPA therefore respectfully requests that the appeal is dismissed.

Comment on the unauthorised car wash use

The Location Plan (Ref. HK251023 A) indicates that the appellant owns and controls all of the land outlined in blue, which includes the present unauthorised hand car wash operation. The LPA first corresponded with the agent about this on 30/11/2023 and subsequently directly with the appellant and the operator since 25/01/2024, which has included a request to submit a retrospective planning application.

To date, despite requests by the LPA, an application has not been submitted.

The LPA considers that it is justified and reasonable to consider the proposal subject to the appeal in the context of the operating unauthorised use, as there has not been any confirmation that this use will cease or an application will be submitted. The adequacy of the car parking arrangements, vehicle manoeuvres on the highway on the surrounding streets and in close proximity to the Heywood Street/Mason Street junction, traffic flow on the adopted road network and road safety are material planning considerations and need to be considered in the context of all operations at the site, regardless of the planning status of neighbouring uses sharing the same access and yard area. To neglect to consider the proposal in the whole site context would be remiss.

The LPA states in its officer report that the proposed development requires 12 parking spaces and concedes that such a number is indicated on the submitted plans. It states: -

‘Parking provision

Supplementary Planning Document 11 indicates that the proposal should provide a maximum of 12 spaces and that the development should be appropriately provided for servicing and manoeuvring. Whilst the number of spaces to be provided would meet the maximum requirements of SPD11 in relation to the proposed development, as noted by the Highway Officer, the proposal fails to demonstrate how parking would adequately and assimilate with the hand car wash use or how the site would be serviced and how vehicles could manoeuvre safely within the site without unacceptable detriment to highway safety’.

In its appeal statement, as above, the LPA adds that *‘The adequacy of the car parking arrangements, vehicle manoeuvres on the highway on the surrounding streets and in close proximity to the Heywood Street/Mason Street junction, traffic flow on the adopted road network and road safety are material planning considerations and need to be considered in the context of all operations at the site, regardless of the planning status of neighbouring uses sharing the same access and yard area. To neglect to consider the proposal in the whole site context would be remiss’.*

However, the LPA concedes that the correct number of parking spaces is shown on the submitted drawings, in accordance with its SPD 11 and which is there to ensure that vehicle manoeuvres on the highway and on the surrounding streets are not detrimental to highway safety.

The LPA considers that the submitted details should be considered alongside the unlawful use of part of the site for a car wash. That cannot be right. The car wash has no planning approval, nor has it any lawful use through the passage of time. In fact, it is a new development and is likely to be an ephemeral one. The LPA has enforcement powers with regard to its use if it thinks this is required even now. Should the appeal be allowed, and the LPA considers that the car wash adversely

affects highway safety it would have greater reason to use its enforcement powers. But it is not reasonable to determine the appeal proposal on the basis of a separate unlawful use and where it can use its enforcement powers.

But in any event, we have shown on the submitted plans that the two uses can exist side by side without any harm to highway safety.

Should the appeal be allowed, then either an application would then be made for the car wash and where the LPA would be able to determine it in the light of the appeal decision, or else the LPA could proceed directly to an enforcement notice if it considered that the unlawful use was leading to an adverse impact upon highway safety.

Other Matters

The LPA makes no comment upon our response to the two other reasons for refusal and relating to a reduction in carbon emissions (where we have suggested a condition) or to digital infrastructure (but where the LPA proposes a condition).

Conditions

Should the Inspector be minded to allow the appeal, please find below suggested conditions:

- Commencement of development within 3 years.
- To be carried out in accordance with the approved plans.(Location plan ref:HK.251023 and 'proposed floor plans and elevations)
- Details of external mates for the extension to be agreed prior to the erection of any external walls.

Agreed

- The car park to be set out prior to the first use of any part of the development and maintained and retained for the use of the development thereafter.

Agree

- Prior to the first use of the development, agreement in writing and installation of a scheme of electric vehicle charging points and retention and maintenance in working order thereafter.

Agreed

- Prior to the first use of the development, agreement in writing of a scheme of full fibre connections to all approved units and retention thereafter.

Agreed

In addition, we have agreed in our appeal statement to a condition regarding a reduction in carbon emissions such as : -

Prior to the first use of the development, agreement shall be obtained in writing from the local planning authority for a scheme for a reduction in carbon emissions, as required by Policy JP-S2 of the Places for Everyone Joint Development Plan, and shall be implemented before any such first use.

Steven Hartley BA(Hons), Dist.TP (Manc), DMS, MRTPI, MRICS

HP and DA Ltd

July 2024