

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 01/09/2022	Ref: 68385/FUL
Registration: 27/05/2022	LDfC: 23/06/2022	Expiry Date: 22/07/2022
Site Visit: 10/06/2022	Site Notice: 10/06/2022	Press Date: 02/06/2022
Objections: 0	Con Area:	Adv Type: ARW
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Variation of conditions 6 and 10 following approval of planning permission 67859; Condition 6 - Existing condition - Prior to the occupation the applicant shall provide electric vehicle (EV) charging points for 20% of the proposed parking spaces. EV charge points shall be 7kW as a minimum. Proposed condition 6 - Within 3 months of occupation the applicant shall provide electric vehicle (EV) charging points for 20% of the proposed parking spaces. EV chargepoints shall be 7kW as a minimum.

Condition 10 - Existing condition - The repositioned car and cycle parking facilities indicated on approved plan references 21508.IN.01 Revision C and 2118-MED-XX-XX-DR-A-3-103-H shall be surfaced, demarcated and / or made available for use prior to the development hereby approved being brought into use and thereafter maintained at all times. Proposed condition 10 - The repositioned car and cycle parking facilities indicated on approved plan references 21508.IN.01 Revision C and 2118-MED-XX-XX-DR-A-3-103-H shall be surfaced, demarcated and / or made available for use within 3 months of the hereby approved being brought into use and thereafter maintained at all times.

Location: Castlebrook High School, Parr Lane, Bury, BL9 8LP

Description

The application relates to a High School site which was granted planning permission in 2017 for a new school building and associated sports facilities. The development has now been completed and the new school has been in operation for a couple of years.

Car parks are located to the north west of the main school building with overflow parking adjacent to the Sports Hall and a row of 7 disabled parking spaces were to be located to the north of the school building across the internal access road.

The site has a Public Right of Way (PRoW) running in a west to easterly direction through the centre of the school site, between the school buildings and the land to the north (where the former school was located). The PRoW leads to an underpass at the motorway and playing fields beyond.

A planning permission was granted (ref 67859) for the erection of a modular building to provide 6 no. additional classrooms. The works also involved relocating the disabled parking spaces to a grassed area in front of the school. Cycle shelters and bin store were also to be relocated. The re-configuration and addition of the new educational facility of this part of the site would necessitate the diversion of the PRoW. The justification provided for the additional classrooms was to meet the increased demand for pupil places.

Due to the phasing and nature of the build out of the development and availability of land within the school grounds, the proposed location of some of the parking spaces associated with the development would be needed to facilitate the on-site compound. This would affect the implementation and compliance with two of the conditions which were recommended on the approved scheme (ref 67859), those for the provision of EV charge

points prior to occupation of the building and availability of the car park prior to the occupation of the building.

This application therefore seeks to vary the wording of conditions 6 and 10 for the EV charge points and car park to be made available for use within 3 months of the occupation of the modular building.

In addition to varying the time of the delivery of the car park and EV chargepoints, the applicant also seeks to amend the location of the 7 disabled parking which were to be located in front of the school entrance. It is now proposed to provide 4 disabled spaces at the school entrance and 3 disabled spaces at the end of the linear row of parking bays which are located along the internal access road. As a result, the four displaced parking spaces would be provided in the overflow car park to the north. There would be no nett loss of parking provision for the school site.

Relevant Planning History

52670 - Extension to existing construction hall to provide additional facilities - Approve with Conditions 23/07/2010

53677 - Single storey extension - Approve with Conditions 12/04/2011

61515 - Demolition of existing main school building and erection of new (relocated replacement) main school building, relocated hard surface games areas, car parking and landscaping and new substation - Approve with Conditions 11/09/2017

63378 - Variation of condition of planning permission 61515 for erection of new main school building:

Revised site layout plan to show amendments to the habitat zone and parking layout - Approve with Conditions 15/01/2019

67859 - Siting of a 6 no. classroom modular building with associated landscape works including relocated car parking, playground and athletics facility - Approve with Conditions 16/03/2022

68079 - Erection of Two storey special education needs and disability school (SEND) including hard and soft landscaping, multi use games area (MUGA), creation of on-site car parking and creation of new vehicular access on Parr Lane with a pick up and drop off area - Approved 15/6/22

Publicity

Site notice posted 2/6/22

Press notice - 2/6/22

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection.

Environmental Health - Contaminated Land - No objections

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

Unitary Development Plan and Policies

NPPF National Planning Policy Framework

EN1/1 Visual Amenity

EN1/2 Townscape and Built Design

EN1/5 Crime Prevention

EN7/2 Noise Pollution

HT4 New Development

HT5 Accessibility For Those With Special Needs

HT5/1 Access For Those with Special Needs

HT6 Pedestrians and Cyclists

HT6/1 Pedestrian and Cyclist Movement

HT6/2 Pedestrian/Vehicular Conflict

CF2 Education Land and Buildings

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 - The principle of the development for the modular building has been accepted by the grant of planning permission ref 67859.

Layout - The proposed change to the layout of the school site would involve the reconfiguration of the car park.

Instead of providing 7 disabled spaces next to the school entrance, it is proposed to provide

4 disabled spaces. The other 3 disabled bays would be located next to the row of parking spaces which are laid out in a row parallel to the internal access road. The applicant states that this approach has been taken to provide a more even distribution of disabled parking between the main parking area and school entrance. Both these areas would be supported by level access to the main school entrance.

It is ultimately for the school to manage this arrangement and as the total provision of 7 no disabled spaces for the school would remain as previously approved, on balance this would be considered acceptable.

Four general parking spaces displaced by the proposed disabled parking would be re-provided in the overflow car park to maintain the same level of parking which was originally approved overall for the school site.

It is therefore considered that the revised parking layout would not have a detrimental impact on the overall arrangements for the school site and as such considered acceptable.

Delivery of the scheme - In terms of delivery of the scheme, the applicant proposes to make available the parking and EV charge points associated with the development within 3 months of occupation of the modular building as opposed to prior to occupation. This is due to the phasing programme of the development and space required to accommodate the construction compound in an area which would not impact on the safeguarding of children or obstruct access for pedestrians or vehicles.

It is considered that a delay of 3 months would not be a significant length of time to detrimentally impact on the existing overall parking provision for the school or cause significant concern in terms of air quality section. The Highway and EH Air Quality Section have raised no objection to the revised timings of delivery of the parking or EV charge points.

The applicant have since confirmed that 3 of the 4 disabled spaces have already been provided for the school site to ensure ongoing parking for all users to the school site.

In light of the above, it is considered the proposed revised parking layout and amendments to conditions 6 and 10 would be acceptable.

Public Right of Way (PRoW) - There is an existing PRoW which has historically run through the school site in a west to easterly direction. Following the works to construct the main school building the PRoW route was obstructed and remained so on completion of the school. The siting of the disabled parking spaces and cycle store associated with the development for the modular building also obstructed the PRoW, requiring its diversion.

The solution to this was for the school to seek a diversion of the PRoW and this was proposed by the applicant and a condition was added to the original consent requiring submission of details of the diverted route together with details of surfacing be submitted. The diversion would also need to be applied for under a separate procedure and process away from Planning and Highway Authority jurisdiction. Acceptability of the diversion would therefore be pursued through the Planning Inspectorate using Section 247 Town and Country Planning Act 1990.

This was accepted in principle.

The proposed revised layout of the parking provision and position of the cycle store would continue to obstruct the PRoW and therefore still needs to be diverted and as such the condition requiring its diversion would be included for this application.

The PRoW Officer has raised no objection to this approach.

Drainage - A drainage strategy has been submitted on the previous application and UU

confirmed the proposals would be acceptable in principle with a condition recommended for the implementation.

There is UU infrastructure which crosses part of the site, however, the relocation of the cycle shelter and refuse compound would appear not to obstruct access to the water main.

For certainty, UU have requested a condition that details are provided to ensure the infrastructure is not damaged or obstructed by the proposed development.

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 planning permission ref 67859 (3 years from 16/3/22)
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings Site location plan
2118-MEB-XX-XX-DR-A-3-100-A;
Proposed roof plan 2118-MEB-XX-XX-DR-A-3-101-E
Proposed plans and elevations 2118-MEB-XX-XX-DR-A-3-102-C
Proposed site plan 2118-MEB-XX-XX-DR-A-3-103 - J
Proposed revisions to car parking provisions Uns/Mod/Bays/01 rev A
Foul & Surface Water Drainage Design Drawing 105363-CUN-S0-XX-DR-C-52-000,
Rev C12 - Dated 16/07/2019
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 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) 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.

- 4 Where during any works on site, unforeseen contamination is suspected or found, or contamination is caused, works on the site shall cease and the Local Planning Authority shall be notified immediately. The developer shall then produce a risk assessment and submit remediation proposals, if required, for approval to the Local Planning Authority. On approval of the remediation strategy, the development shall then be carried out in accordance with the approved details and process including any required timescales.
Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 5 If during the works on site, excess or waste soil material is removed from site, details of where and how the soil material was disposed of, including copies of waste transfer documentation, shall be submitted to the Local Planning Authority for approval.
Reason. This is to secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to the National Planning Policy Framework.
- 6 Within 3 months of occupation the applicant shall provide electric vehicle (EV) charging points for 20% of the proposed parking spaces. EV chargepoints shall be 7kW* as a minimum.

*Mode 3, 7kW (32A) single phase, or 22kW (32A) three phase, and for 50kW Mode 4 rapid charging may be required. British Standard BS EN 61851-1:2011 to be used (note this version is due to be replaced by BS EN 61851-1:2019 on 5 July 2022).
Reason. In accordance with the NPPF, to encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life.
- 7 The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Foul & Surface Water Drainage Design Drawing 105363-CUN-S0-XX-DR-C-52-000, Rev C12 - Dated 16/07/2019 which was prepared by GallifordTry. No surface water will be permitted to drain directly or indirectly into the public sewer. 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 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.
- 8 No construction shall commence 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 by the Local Planning Authority in writing. 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 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.

- 9 The development and diversion of Part of Public Footpath Numbers 101 Bury and 7 Whitefield hereby approved shall be carried out in accordance with the details submitted for condition 9 on application ref 67859 for the surfacing and engineering operations required in association to divert the PRow. The details approved shall not be commenced unless and until full details of the diversion of Part of Public Footpath Numbers 101 Bury and 7 Whitefield, has been submitted to the Local Planning Authority and the required diversion order has been secured. The diversion of the PRow shall be implemented to an agreed programme with the Local Planning Authority

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the public right of way network, all in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design, CF2 - Education Land and Buildings and HT6/1 - Pedestrian and Cyclist Movement.

- 10 The repositioned car and cycle parking facilities indicated on approved plan reference Uns/Mod/Bays/01 Revision A shall be surfaced, demarcated and/or made available for use within 3 months of the development hereby approved being brought into use and thereafter maintained at all times.

Reason. To ensure adequate off-street car and cycle parking facilities are maintained 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> JT 1/9/22	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
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