

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 14/06/2024	Ref: 70710/FUL
Registration: 02/05/2024	LDfC: 31/05/2024	Expiry Date: 27/06/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of part car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)) single storey extension and external alterations

Location: Performance House, Heywood Street, Bury, BL9 7DZ

Description

The proposal relates to a part single storey/part two storey commercial building most recently used for car sales (the authorised use) adjacent to the junction between Heywood Street and Mason Street (a part of the building has been approved for use as a cafe at ground floor with a first floor office under 68430).

The large yard to the south of the building, which was previously partially included in applications 70202 and 70461, is not included in the application boundary. Presently, there is an unauthorised car wash facility operating within that part of the land falling within the applicants ownership.

The site falls within Area BY10 of Bury town centre, as defined by the Unitary Development Plan. The secondary retailing area of the town centre falls to the north of Mason Street.

The proposal is for the change of use of part of the car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)) with a single storey extension and external alterations.

It would comprise:

- 2 no. retail units of a 112 sq.m each (following extension)
- 114 sq.m office (following the extension)

12 car parking spaces are intended to be provided on the existing car parking area to the west of the building, which is accessed from Mason Street, along with bin storage provision. The same access, car park also serves the adjacent industrial unit to the south. Cycle storage provision is intended to be provided in an enclosed area bounded by railings to the immediate north of the building.

Since the original submission, the agent has clarified some matters relating to the potential location of cycle and refuse storage and electric vehicle charging.

Relevant Planning History

56430 - Double-sided, internally illuminated advertising panel to existing bus shelter - Approve with Conditions 30/07/2013.

56759 - Retrospective application for steel boundary fence at front & sides. - Approve with Conditions 07/11/2013.

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58997 - Change of use of existing car garage (Sui Generis) to restaurant (Class A3) - Withdrawn - Invalid 07/08/2015.

66130 - Change of use from vacant car sales showroom to retail warehouse - Refused 24/03/2021.

68430 - Change of use for part of car showroom (Sui Generis) to cafeteria (Class E) and use of mezzanine area as an office with external staircase - Approved 26/08/2022.

70202 - Change of use of part of car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)), single storey extension and external alterations - Refused 09/01/2024.

70461 - Change of use of part of car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)), single storey extension and external alterations. Refused 03/04/2024 (subject to an undetermined appeal).

Publicity

22 addresses directly notified on 09/05/2024.

One representation received objecting to the proposal:

- Parking in the area is insufficient and new commercial uses should be served with adequate parking provision, as it can lead to inconvenience for residents but also lead to increased traffic congestion, safety hazards, and potential conflicts with neighbouring residents.
- There are no double yellow lines to prevent drivers from parking directly outside the premise or on the path.
- There is no permit system for the residents, with high street chains such as 'Mother Hubbards opening directly in front of our property, this is already going to create a parking issue for ourselves.
- We request Double yellow lines to be implemented directly outside Performance House and Permit system to be implemented.

Statutory/Non-Statutory Consultations

Environmental Health - Contaminated Land: No objection, subject to conditions relating to contamination and electric vehicle charging points.

Traffic Section: Objection, due to:

- Inadequate servicing and car parking arrangements/provision to the detriment of the free flow of traffic and road safety;
- The remote location of the proposed car parking which is sub-standard in terms of accessibility for the pedestrians/customers likely to be generated, which is likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and pedestrian and road safety;
- The proposal would result in the loss of existing, approved car parking provision for the existing industrial use located on Parker Street, which is likely to lead to vehicles parking and carrying out manoeuvres on the highway on the surrounding streets, to the detriment of highway safety;
- The application and submitted plans contain insufficient information to enable the proposed refuse collection arrangements within the curtilage of the site to be properly assessed in relation to Waste Management's 'Guide to Refuse Collection Requirements & Storage Methods for New Developments';
- The application and submitted plans contain insufficient information to ensure that the bin storage area to the north of the building will not be able to be accessed by vehicles illegally crossing the adopted footway.

Waste Management: No comments received.

United Utilities (Water and waste): No objection, subject to condition relating to surface water drainage.

Pre-start Conditions - Not relevant

Development Plan and Policies

EC4/1	Small Businesses
EC5/1	Office Development in Bury Town Centre
EC6/1	New Business, Industrial and Commercial
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
HT6/1	Pedestrian and Cyclist Movement
HT6/2	Pedestrian/Vehicular Conflict
S2/6	Food and Drink
TC2/2	Mixed Use Development
TC3	Bury Town Centre
Area	Rochdale Road/Lord Street/York Street
BY10	
JP-S2	Carbon and Energy
JP-S5	Clean Air
JP-C2	Digital Connectivity
JP-C6	Walking and Cycling
JP-P1	Sustainable Places
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), 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.

ASSESSMENT

Principle

The site falls at the periphery of, but within the defined boundary of Bury town centre. The proposed uses of the unit are defined as main town centre uses in the NPPF. UDP policies TC2/2 and BY10 states that the Council will encourage and support compatible mixed use development within the town centres, including uses that now fall within the group umbrella of Class E.

Therefore, the principle of development is acceptable, subject to consideration of the following matters.

Design and layout

The existing building is utilitarian in character and appearance, with the most architecturally attractive feature being the glazed elevation to Heywood Street. The proposed extension would assimilate appropriately in relation to scale, form, proportions and finishes.

The proposed external alterations would not therefore have any unacceptable impacts upon visual amenity and the character and appearance of the area and would be in accordance with UDP policies EN1/2 and EN1/8.

Impact upon residential amenity

There are residential neighbours on the opposing side of Heywood Street. The main sources of noise would be from deliveries and cars visiting the site. The lawful car sales use has no time limiting conditions in relation to operating hours and given the town centre location and the commercial character of the area, the area is inherently vibrant.

The proposal would not have any unacceptable impacts on nearest sensitive receptors and the proposed development would not conflict with policies EN7/2 and S2/6 of the Bury Unitary Development Plan.

Highways issues

The proposed parking area has been in use in association with the adjacent industrial business to the south of the car park and was included in planning applications 53730 and the subsequent amendment 54824 relating to that business.

This application intends to utilise parts of that same car park, utilising the same access from Mason Street, but reallocate 12 spaces and an area for refuse storage to the current proposal. Customers and staff using the car park would, once parked, be required to exit the car park via the vehicular access (without dedicated footways within and when exiting the car park) and thereafter walk on footways around the boundary of the site to the eastern elevation of the building to gain access. It is not clear how users/staff of the proposed office would gain access, as this has not been addressed by the agent (and noting that the entrance would be on the south elevation, suggesting a requirement to also cross the yard area partly occupied by the unauthorised car wash to the south). The journey from the proposed cycle storage area to the proposed retail units would be more straightforward, but more complicated for accessing the proposed office.

Furthermore, it is not been demonstrated how servicing would be facilitated within the application site. Whilst an area on Heywood Street to the frontage of the site is not subject to waiting limits, there is a right turning lane into Ormrod Street for northbound traffic and a pedestrian island preceding it.

PfE policy JP-C6 supports a range of measures to help deliver a higher proportion of journeys by walking and cycling by 3) ensuring routes are direct, easily navigable and integrated. Policy Jp-P1 states that development should be socially inclusive, safe, functional and convenient and legible, being easy to understand and navigate. UDP policy HT6/1 seeks to ensure that pedestrians and cyclists are able to move safely and conveniently.

The Highway Officer has objected to the proposal as noted above. For the reasons set out above, for visitors arriving by private vehicle or bicycle (including servicing), the proposal would not be legible or easy to navigate, safe or convenient and would be likely to result in vehicle manoeuvres and movements that would be detrimental to the free flow of traffic and pedestrian and highway safety.

The proposal would not therefore comply with the above development plan policies.

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 above, the proposed parking would not be safe or convenient.

Other matters

Electric vehicle charging and cycle storage could be secured by condition.

The requirements of PfE policies JP-S2 and JP-C2 have been addressed in the submission.

Conclusion

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be refused.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise

sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed servicing and car parking arrangements/provision is inadequate and is likely to lead to vehicles parking and carrying out manoeuvres on the highway on the surrounding streets and in close proximity to the Heywood Street/Mason Street junction, to the detriment of the free flow of traffic and road safety, contrary to Bury Unitary Development Plan Policies EN1/2, HT2/4, HT6/1 and HT6/2 and Supplementary Planning Document 11 and Places for Everyone Joint Development Plan Document policies JP-C6 and JP-P1.
- 2 The remote location of the proposed car parking is sub-standard in terms of accessibility for the pedestrians/customers likely to be generated by the proposed development, especially those with mobility impairments and in view of the need to load goods from the retail use to a parked car or access the office, which is likely to lead to vehicles parking and carrying out manoeuvres on the highway on the surrounding streets and in close proximity to the Heywood Street/Mason Street junction, to the detriment of the free flow of traffic and pedestrian and road safety, contrary to Bury Unitary Development Plan Policies EN1/2, HT2/4, HT6/1 and HT6/2 and Supplementary Planning Document 11 and Places for Everyone Joint Development Plan Document policies JP-C6 and JP-P1.
- 3 The application and submitted plans contain insufficient information to enable the proposed refuse collection arrangements within the curtilage of the site to be properly assessed in relation to Waste Management's 'Guide to Refuse Collection Requirements & Storage Methods for New Developments', as required by Policy EN1/2 of the Bury Unitary Development Plan and Policy JP-C6 of the Places for Everyone Joint Development Plan Document.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	14/06/2024	DM -	19/06/2024