

**DELEGATED REPORT**

|                                  |                                   |                                |
|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Jennie Townsend | <b>Date of report:</b> 20/05/2025 | <b>Ref:</b> 71615/FUL          |
| <b>Registration:</b> 10/03/2025  | <b>LDFC:</b> 04/04/2025           | <b>Expiry Date:</b> 05/05/2025 |
| <b>Site Visit:</b>               | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 0             | <b>Con Area:</b> N/A              | <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:** Variation of condition no. 2 (approved plans) following approval of planning permission 70977 - to extend the building by 4.25 metres to the side towards the associated car park

**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 adjacent to the junction between Heywood Street and Mason Street. Part of the building has been approved for a use as a cafe at ground floor with office at first floor under ref 68430.

The south of the building is the associated yard for the storage of cars and parking. This area of the site had also been subject of an unauthorised car wash.

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.

Planning permission was granted in October 2024 for the change of use of part of the showroom (sui generis) to retail (Class E(a)) and office (Class E(g)(i)), a single storey extension and external alterations.

The retail element comprised 3 no units of 1 no. 112 sqm and 2 no. 56 sqm units (following the extension), and 114 sqm of office space.

Parking for 12 cars was provided within the yard area to the south set in two separate rows to the Heywood Street and Parker Street boundaries.

Bins would be stored at the side of the building.

This application seeks a variation of condition no.2 of the approved plans, to extend the building by 4.25m to the side towards the yard and parking area and provide 3 no additional parking spaces.

**Relevant Planning History**

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

and allowed on appeal 12/09/2024.

70710 - 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. Refused 19/06/2024.  
Dismissed at appeal 30/10/24

70977 - 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 - Approve with Conditions 28/10/2024

**Publicity**

Letters sent to 23 properties on 13/3/25.

No response received

**Statutory/Non-Statutory Consultations**

**Traffic Section** - No objection subject to conditions

**Environmental Health - Contaminated Land** - No objection subject to condition

**Waste Management** - No response

**United Utilities (Water and waste)** - No objection.

**Pre-start Conditions** - Agreed

**Development Plan and Policies**

|       |                                           |
|-------|-------------------------------------------|
| NPPF  | National Planning Policy Framework        |
| 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           |
| 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-C5 | Streets For All                           |
| JP-C6 | Walking and Cycling                       |
| JP-C8 | Transport Requirements of New Development |
| JP-P1 | Sustainable Places                        |
| 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), 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.

### **Principle**

The principle of the proposed development has been accepted by the grant of planning permission 70977.

The main issue is the impact of the proposed extension on the visual amenity of the area and any related access, servicing or parking issues.

### **Visual amenity**

The existing building is utilitarian and functional in character and appearance with the glazed elevation to Heywood Street the most interesting feature. The proposed extension would continue the scale, form and proportions with a glazed frontage along Heywood Road and as such would assimilate well within the streetscene.

The proposed extension would therefore be acceptable and comply with Policy EN1/2.

### **Highway issues**

The site would continue to be accessed from Heywood Road and 15 no parking spaces would be located along the boundary with Heywood Street and Parker Street.

The yard which is used for the turning and servicing of the site would be reduced in size due to the siting of the proposed extension. Plans and a tracked plan have been submitted which show there would be adequate space for vehicles, service vehicles and waste collection vehicles to manoeuvre within the site and exit in a forward gear and by removing a canopied area within the yard, 3 no additional spaces would be provided.

The Highway Section have raised no objections subject to conditions.

As such, the proposed development is considered to be acceptable and would comply with policies EN1/2, JP-C5, JP-C6 and JP-C8.

**Drainage**

United Utilities (UU) have been consulted on the proposals and have no objection in principle and advise the applicant consider their drainage plans in accordance with the drainage hierarchy.

UU have identified that a large diameter trunk main located in the vicinity of the site and require an access strip.

UU have also identified that a public sewer crosses the site and will not permit building over it.

The applicant has been sent UU's response letter for information.

**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 from the date of the grant of the original consent planning reference 70977 on 28/10/24.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered -  
Location plan Ref: HK.210724.A.  
100/004 rev 1 Proposed ground floor plan and proposed site plan received 6/5/25  
100/005 rev 1 Proposed first floor plan  
100/006 rev 1 Roof plan  
100/007 rev 1 Proposed elevations  
Swept path analysis using 9.86m large refuse vehicle 3196-001 - for tracking purposes only and NOT the approved site layout.

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 and Places for Everyone Joint Development Plan listed.

- 3 Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

Reason. To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 4 The development hereby approved shall be carried out in accordance with the Digital Connectivity statement submitted for planning permission ref 70977 and the measures implemented prior to first occupation and thereafter maintained.

Reason. To ensure that the development is fully serviced for full fibre digital connectivity, pursuant to Places for Everyone Joint Development Plan Document Policy JP-C2.

- 5 The development hereby approved shall be carried out in accordance with the Carbon and energy statement submitted for planing reference 70977 a.

Reason. To ensure that the development minimises regulated operational carbon emissions, pursuant to Places for Everyone Joint Development Plan Document Policy JP-S2.

- 6 No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason. No material details have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to Places for Everyone Joint Development Plan Document Policy JP-P1 and Bury Unitary Development Plan Policy EN1/2.

- 7 Prior to first use of the development hereby approved, the applicant shall provide electric vehicle (EV) charging points (minimum 7kW\*) for a minimum of 20% of the proposed parking spaces. Certification and photographic evidence of the installation of the agreed electric vehicle charge points shall be submitted.

\*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 61851-1:2019 to be used. Further information regarding minimum standards can be found at <https://www.gov.uk/transport/low-emission-and-electric-vehicles>.

Reason. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable and to safeguard residential amenity, public health and quality of life with respect to Local Air Quality, in accordance with the principles of the National Planning Policy Framework (December 2024) and Places for Everyone Policy JP-S5 (Clean Air).

- 8 Notwithstanding the details indicated on the approved plans, no development shall commence unless and until full details of the following, have been submitted to and agreed in writing by the Local Authority:

1. Submission of a photographic dilapidation survey of the existing adopted

highway that abuts the site and the proposed development areas;

2. Proposed alterations to the existing site access onto Heywood Street, incorporating a replacement sliding gate and all associated highway remedial works;
3. Proposed extension foundations confirming no encroachment under the adjacent adopted highway;
4. Extent of boundary wall alterations and replacement railings, demarcation of the limits of the adopted highway and all associated highway remedial works.

The details subsequently approved shall be implemented to an agreed programme and prior to the extension of the building hereby approved being brought into use.

Reason. To ensure good highway design and to maintain the integrity of the adopted highway, in the interests of highway safety pursuant to Policies EN1/2, EC4/1, JP-C5 and JP-C8.

- 9 The turning facilities indicated on approved plan reference 100/004 Revision -1 bounded by the proposed parking spaces shall be provided before the development hereby approved 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 minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Policies EN1/2, EC4/1, JP-C5 and JP-C8.
- 10 The car parking indicated on approved plan reference 100/004 Revision -1 shall be surfaced, demarcated 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.
- 11 The refuse storage and access arrangements to be provided within the curtilage of the site indicated on approved plan reference 100/004 Revision -1 shall be made available for use prior to the development hereby approved being brought into use and thereafter maintained at all times.  
Reason. To ensure that adequate bin storage arrangements are provided within the curtilage of the site, clear of the adopted highway pursuant to Policies EN1/2, EC4/1 and JP-C8.
- 12 The development hereby approved shall not be commenced unless and until facilities for the storage of construction materials have been provided within the curtilage of the site. The facilities shall be retained for the intended purpose and the area identified shall not be used for any other purposes other than the storage of construction materials for the duration of the construction period.  
Reason. To maintain the integrity of the adopted highway and ensure adequate off highway materials storage arrangements are provided for the duration of the construction period, in the interests of highway safety pursuant to Policies EN1/2, EC4/1 and JP-C8.
- 113 The external finishing materials for the proposal hereby approved shall match those of the existing building.  
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

|                                   |             |                         |             |
|-----------------------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u><br>JT 20/5/25 | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|-----------------------------------|-------------|-------------------------|-------------|

