

DELEGATED REPORT

Report by Claire Booth	Date of report: 22/12/2023	Ref: 70267/NON
Registration: 23/11/2023	LDFC:	Expiry Date: 21/12/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Non-material amendment following grant of planning permission 69631 (Demolition of rear additions to original building, alterations to rear elevations of remaining buildings and associated hard and soft landscaping incorporating additional car parking) - Amendment to approved landscaping scheme to incorporate boundary fence

Location: Bury College Woodbury Centre, Market Street, Bury, BL9 0BG

Description

Planning permission 69631 granted permission for the demolition of rear additions to original building, alterations to rear elevations of remaining buildings and associated hard and soft landscaping incorporating additional car parking).

This application seeks a non-material amendment to this permission by seeking to erect a boundary fence between car parking spaces and an external amenity area located to the rear of the Woodbury Centre building.

During the course of this application the height of the fence has been reduced in height from 3.5m to 2.0m. The amended plan, WEBS-IT-00-Xi-DRY-L-0002 P02, was received on the 20 December 2023

New Drawing Numbers

WBS-ITR-00-XX-DR-L-0001 P07
WEBS-IT-00-Xi-DRY-L-0002 P02
WBS-ITR-00-XX-DR-L-0003 P06
WBS-ITR-00-XX-DR-L-0101 P06

Plans Superseded

WBS-ITR-00-XX-DR-L-0001 P04
WBS-ITR-00-XX-DR-L-0002 P01
WBS-ITR-00-XX-DR-L-0003 P01
WBS-ITR-00-XX-DR-L-0101 P01

Relevant Planning History

70168 - Non-material amendment following approval on planning permission 69631 (Demolition of rear additions to original building, alterations to rear elevations of remaining buildings and associated hard and soft landscaping incorporating additional car parking) - Proposed fenced enclosure attached to rear of building. Approved, 20/12/2023.

69631 - Demolition of rear additions to original building, alterations to rear elevations of remaining buildings and associated hard and soft landscaping incorporating additional car parking. - Approve with Conditions 18/09/2023

Relevant Legislation

Town and Country Planning Act 1990 - Part III Section 96A

National Planning Policy Framework (The Framework)

National Planning Practice Guidance (NPPG)

Publicity

Not applicable

Statutory/Non-Statutory Consultations

Not applicable

Pre-start Conditions - Not relevant/has/has not] agreed with pre-start conditions

Unitary Development Plan and Policies

Area	Townside/Market Street
BY7	
CF1	Proposals for New and Improved Community Facilities
CF1/1	Location of New Community Facilities
CF2	Education Land and Buildings
EN1	Built Environment
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
HT2/6	Replacement Car Parking
HT6	Pedestrians and Cyclists
HT6/2	Pedestrian/Vehicular Conflict
HT6/2	Pedestrian/Vehicular Conflict
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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Guidance

Paragraph 002 to section 17a of the National Planning Practice Guidance (NPPG) states that:

'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990'.

Therefore, the purpose of the application is to seek the Council's determination as to whether the changes to the previously approved scheme are sufficiently material in their nature and in the context of the approved development so as to require a fresh planning permission or not. Non-material amendment applications are not an application for planning permission, do not result in the issuing of a new planning permission and relate only to the amendments sought.

Paragraph 008 to section 17a of the NPPG states that in making decisions on non-material amendment applications, the local planning authority should take into account:

'the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.'

Assessment of proposed change

The proposed amendments would result in a minor change to the approved landscaped areas to include a fence separating the car park from the external amenity area.

The height and design of the proposed enclosure has been reduced from 3.5 metres to 2.0 metres during the course of this application. The proposed fence would be seen in context with the three storey height of the Woodbury Centre and at its 2.0 metre height would not appear visually imposing so would not be unduly prominent from the street scene.

Conclusion

Section 96A of the Town and Country Planning Act 1990 states that, 'A local planning

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authority may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.'

The assessment of the proposed development above clarifies that the proposed amendment would be minor in nature and would not extend beyond the scope of the original permission or have any impact upon the visual amenity, the appearance and character of the site or residential amenity. As such, the proposed development constitutes a non-material amendment and it is this recommended that the amended plans be approved.

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

Conditions and Reasons:

- 1 The proposed amendment would be minor in nature and would not extend beyond the scope of the original permission or have any impact upon the visual amenity, the appearance and character of the site, parking provision or highway safety. The development would therefore still be in accordance with the principles of the planning permission reference 69631 and the policies against which it was approved.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	22/12/2023	DM	22/12/23