

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 27/08/2024	Ref: 70945/FUL
Registration: 15/07/2024	LDFC: 14/08/2024	Expiry Date: 09/09/2024
Site Visit: 26/07/2024	Site Notice: 26/07/2024	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Variation of condition no. 2 (approved plans) of planning permission 70253: Reduction of the overall height of two retail units, removal of glazing to the north elevation (facing into the site), minor amends to the design of the curtain walling and glazing.

Location: Site of Car Time, Bell Lane, Bury, BL9 6BB

Description

The application relates to an existing car sales/showroom, Car Time which is located circa 300m to the east of Bury Town Centre. The site is located on the corner of Bell Lane which is a main route leading to the eastern part of the Borough and Bridge Street which is part of Freetown Employment Generating Area under UDP Policy EC2/1/5. The site lies within this EGA.

The site comprises the showroom sales building which is single storey and has an 'L' shape footprint positioned in the south/east area of the site. The remaining area is the forecourt for display cars.

Access is taken off Bridge Street which is formed in a more or less central position into the site.

Planning permission was granted in March 2024 for the demolition of the existing car sales building and redevelopment of the site for a new petrol filling station (PFS) with an associated shop, a drive-thru unit and a food-to-go unit for 2 retailers (referred to by the applicant as a food-to-go pod).

This application relates to the retail unit. The approved retail building would be located in the south east corner close to the front boundary with Bell Lane and which would follow the building line of the adjacent retail showroom. The building was positioned side on to Bell Lane but had side elevations which comprised a mix of cladding and glazing to maintain a street presence and active frontage.

This application seeks amendments to reduce the overall height of the building from 5.24m to 4m, change the north elevation (facing into the site) from glazing to fully clad elevations and minor changes to the design of the curtain walling and glazing on the south elevation.

The application has been submitted as a variation of condition (condition 2) of the approved plans.

Relevant Planning History

70253 - Demolition of existing car sales building and the redevelopment of the site for a new Petrol Filling Station with associated facilities alongside a drive thru unit and a detached block of 2no. food-to-go convenience pods - Approved 15/3/24

Publicity

Letters sent on 23/7/24.

Site notice posted 26/7/24

No responses received

Statutory/Non-Statutory Consultations

n/a

Pre-start Conditions - Not relevant

Development Plan and Policies

NPPF	National Planning Policy Framework
NPPG	National Planning Policy Guide
EN1/2	Townscape and Built Design
EN1/4	Street Furniture
EN1/5	Crime Prevention
EN1/7	Throughroutes and Gateways
EN1/8	Shop Fronts
EN6/3	Features of Ecological Value
EN7/2	Noise Pollution
EN7/5	Waste Water Management
S2/1	All New Retail Proposals: Assessment Criteria
S4/2	Assessing Out-Of-Centre Retail Development
S4/1	Retail Development Outside Town and District Centres
S4/4	Car Showrooms, Car Sales Areas and Petrol Filling Stns
HT2/4	Car Parking and New Development
HT5/1	Access For Those with Special Needs
SPD11	Parking Standards in Bury
EC2/1	Employment Generating Areas
PfE	Places for Everyone
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
JP-S1	Sustainable Development
JP-S2	Carbon and Energy

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 a development for a petrol filling station and retail units has previously been established under planning approval ref 70253.

Design and appearance and visual impacts

The food retail unit would maintain the rectangular footprint of 245 sqm with the proposal to reduce the overall height from 5.44m to 4m which is considered to be acceptable.

It is also proposed to fully clad the north elevation of the building.

This elevation would not be widely seen from public views and would also be mainly viewed from across a car park and it is considered the proposed amendment would be acceptable and not fundamentally change the character or result in visual harm to the development or the wider site.

The changes to the design of the curtain walling and design of the glazing on the south elevation would be minor and not fundamentally change the appearance of the building.

The glazed elevation which fronts onto Bell Lane would be changed to vertical glazing from square panels but would otherwise remain as previously approved to provide a street presence and active frontage.

As such, the proposed variations to the approved scheme are considered acceptable and would comply with EN1/2 and S2/1.

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 permission ref 70253 (15/3/24).
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings -
Location map 2489.F.108
Existing site/topographical plan 2489.F.101
Existing site elevations 2489.F.102
Existing plans and elevations 2489.F.103
Proposed site plan 2489.F.104 C
Proposed landscaping plan 2489.F.109 A
Proposed PFS plans and elevations 2489.F.106 A
Revised proposed site sections PL001 B
Revised proposed retail plans and elevations PL002 B

Transport Statement 3709923 dated Sept 2023 by Dynamic Transport Planning
Updated Technical Note 3712223 dated Feb 2024 by Dynamic Transport Planning
Travel Plan 3709923 dated Feb 2024 by Dynamic Transport Planning
Preliminary Roost Assessment by Pennine ecological dated 27th September 2023

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 No development shall commence unless and until:-
 - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 4 Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be 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.

- 5 The development hereby approved shall provide the EV chargepoints as detailed on the approved proposed site plan 2489.F.104.C prior to the first occupation of the development hereby approved and shall thereafter be maintained.

EV chargepoints shall be 7kW* as a minimum. 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.

Reason. In accordance with the principles of 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.

- 6 Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;

(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations). In the event of surface water discharging to the public combined sewer, the rate of discharge shall be restricted to 30 l/s;

(iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;

(iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; an

(v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage.

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. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution pursuant to Development Plan Policies JP-S4 and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

- 7 The development hereby approved shall be carried out in accordance with the approved landscaping plan 2489.109.A. The approved scheme shall thereafter be implemented not later than 12 months from the date the building(s) is first occupied or within the first available tree planting season. Any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.

Reason. To secure the satisfactory development of the site pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 8 Notwithstanding the details on approved plan reference 2489.F.104 Revision C, no development shall commence unless and until full details of the following have been submitted on a topographical based survey of the site and adjacent adopted highways to the Local Planning Authority:

- Review of the HGV swept path analysis undertaken to ensure that conflicts both on the adopted highway and at the junction with Bridge Street are minimised and opposing carriageways are not used to undertake manoeuvres by service vehicles from/to all directions;
- Following the results of the above review, formation of site access alterations onto Bridge Street to a scope and specification to be agreed, incorporating the resurfacing of the site access within the limits of the adopted highway, provision of adequate arrangements at the interface with the adopted highway with radii/footways tying into existing kerblines/footways on Bridge Street, provision of visibility splays at the junction of the amended site access with Bridge Street for an design speed of 30mph, relocation/replacement of any affected highway drainage, demarcation of the limits of the adopted highway, tactile paved crossing points in positions to be agreed within the limits of the adopted highway, provision of give-way markings and alterations to any affected the existing road markings and all associated highway and highway drainage remedial works;
- Formation of the proposed pedestrian access onto Bell Lane and all associated highway remedial works;
- Measures to prevent the discharge of surface water from the proposed petrol filling station hardstanding areas and site access onto the adjacent adopted highway;
- Provision of a street lighting assessment to a scope to be agreed for the junction of the site access with Bridge Street and, where necessary, a scheme of improvements to the existing street lighting equipment to a specification to be agreed.
- Confirmation of all retained/proposed boundary treatment around the perimeter of the site incorporating, where required, foundations that do not encroach under the adjacent adopted highway.

The details subsequently approved shall be implemented to an agreed programme.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design, ensure the intervisibility of the users of the site and the adjacent highways and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EC6/1 - Assessing New Business, Industrial and Commercial Development, EN1/2 - Townscape and Built Design, JP-C5, JP-C6 and JP-C8.

- 9 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP) has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:

- Photographic dilapidation survey of the footways and carriageways leading to and abutting the site access in the event that subsequent remedial works are required following demolition works and construction of, and any statutory undertakers connections to, the development;
- Access route for vehicles from the Key Route Network;
- Access point to the site from Bridge Street, including any temporary works and measures required to protect highway users and facilitate vehicular access;
- Hours of operation and number of vehicle movements;
- Proposed site hoarding/gate positions, if proposed, clear of appropriate visibility splays onto the adopted highway and all adjacent junctions;
- A scheme of appropriate warning/speed limit signage in the vicinity of the demolition/construction site access;

- Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
- Parking on site of operatives' and demolition/construction vehicles together with storage on site of demolition/construction materials;
- Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the demolition and construction periods and the measures shall be retained and facilities used for the intended purpose for the duration of each period. The areas identified shall not be used for any other purposes other than the parking of vehicles and storage of demolition/construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented prior to the development hereby approved being occupied.

Reason. Information not submitted at application stage. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent highways, ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to Bury Development Plan Policies EN1/2 and JP-C8.

- 10 The turning and servicing facilities indicated on the approved plans shall be provided before the development hereby approved is brought into use and the areas used for the manoeuvring and standing of service/delivery 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 Bury Unitary Development Plan Policies EC6/1 - Assessing New Business, Industrial and Commercial Development, EN1/2, JP-C5 and JP-C6.

- 11 The car and cycle parking spaces indicated on the approved plans shall be surfaced/implemented 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 policies EC6/1 - Assessing New Business, Industrial and Commercial Development and HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 12 The bin storage facilities indicated on the approved plans shall be implemented prior to the development hereby approved being brought into use and maintained thereafter.

Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to Bury Unitary Development Plan Policies EC6/1 - Assessing New Business, Industrial and Commercial Development and EN1/2 - Townscape.

<u>Case Officer</u> JT 27/8/24	<u>Date</u>	<u>Sign off Officer</u> DM 30/08/24	<u>Date</u>
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