

Description

Permission is sought to change the use of a B8 unit located within one of the starter units located within the traditional single storey brick range of buildings on the site known as Derby Works/ Connect 56 Business Park which is located on the north side of Manchester Road. The starter units were approved by application 65877.

The Gate House and its attached red brick range of buildings are traditional mill buildings which are clearly heritage assets, albeit non-designated assets. These buildings appear on the Council's draft local list.

Within the adopted Unitary Development Plan, the site of Derby Works is identified as an Employment Generating Site under Policy EC2/1.

This part of the building relating to this application has a floor area of 117 sq. metres. It measures 14.3 metres long and 8.2 metres wide. Internally, the unit contains a small office and store. No external changes are proposed.

The expected number of visitors is proposed to be between 5 and 8 dogs per day and these are to be on a "one in, one out" basis. The business operates under vet referrals only, and visitors would only be accepted by pre-booking appointments in advance, there are no "walk ins".

The opening hours are proposed to be:

Tuesday 12pm - 8pm
Wednesday 8am - 1pm
Thursday 12pm - 8pm
Friday 8am - 1pm
Saturday 8am - 12pm

Customers are expected to deliver their dogs on a strict appointment basis, and would remain with the dogs during the session. The applicant has advised that short gaps would be left between appointments so dogs do not come in to contact with each other to avoid them getting stressed.

Relevant Planning History

65877 - Demolition of a number of existing industrial buildings on an existing industrial site, over-cladding of existing elevations and roofs, new door openings and the sub-division of a number of existing buildings to create self contained industrial starter units. - Approved with Conditions, 21/01/2021.

The site is not controlled by an Hours of Use condition on this permission.

60222 - Extension to existing factory to provide space for extra machinery and storage - Approved with Conditions, 24/11/2016.

Publicity

All residents bordering the application site have been consulted formally by letter.

No representations have been received to this public consultation.

Statutory/Non-Statutory Consultations

Traffic Section - No objections in principle but questions whether 2 car parking spaces is enough for the proposed development.

Conservation Officer - No objections.

Environmental Health - Contaminated Land - No objections.

Environmental Health - Pollution Control - No objections.

Waste Management - No comments or observations received.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

<SQLDCPolicyComRep>

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.

ASSESSMENT

Principle of Development

The Derby Works site on which this unit is located is allocated within the adopted UDP as an Employment Generating Area. UDP Policy EC2/1 is therefore applicable. This states in this area (EC2/1/9: Dummers Lane) that Business uses (formerly Use Class B1), General Industrial (Use Class B2) and Warehousing (Use Class B8) uses should be located in these areas. The Policy states; "Other uses will only be permitted where they constitute limited development or do not substantially detract from an areas value as an Employment Generating Area.

The authorised use of these premises is for purposes within the above-mentioned use classes, and the proposed use requires planning permission because it is a 'sui generis' use. The test in this case is to compare the effects outside the building between a Class B1 (now a Class E (g)(iii) use and the proposed use. By definition a Light Industrial use is one which can take place within a residential area without giving rise to nuisance by, 'inter alia', noise or vibration.

The proposed use requires the introduction of small scale fittings and equipment which is similar to light industry and to which there can be no reasonable objection.

In terms of Policy EC2/1, the proposed use has the potential to generate small scale employment and is 'similar in character' to a light industrial use. It would not therefore result in the loss of land used or held for employment uses. The proposal is therefore considered to be acceptable in principle.

Impact on Heritage Assets

The traditional mill building at Derby Works is identified on the Draft Local List and is therefore a non-designated Heritage Asset. The part of the building to which this application relates would not be changed externally by the proposed use. Accordingly, the proposals would not harm the character or setting of the traditional mill building or its significance as a heritage asset. Accordingly the proposal is acceptable on this ground.

Ground Conditions

The site to which this application relates is currently in use as a storage unit. The unit is located within Derby Works which has had a long industrial history and previous uses have included a building material works, Redvales Tannery, sludge beds and tanks, possible waste disposal, a rubber works, and a plastics works (Melba Swintex who manufacture traffic cones and road signage since the 1970s until the mid-2010s).

Within the surrounding area previous uses have included a timber yard and possible area of waste disposal. The site was formerly a permitted process due to the use of solvent based paints.

The site does not lie within 250 metres of any known landfill sites. The River Irwell lies approximately 260m to the west and the site is situated above the Trencherbone Rock Secondary A Aquifer, overlain by River Terrace Deposits and Glacial Till.

There are known existing issues with contamination at the site. Hydrocarbon contamination from a fuel spillage on the adjacent petrol filling station and phthalates from the Swintex site have previously been identified. Further remediation was carried out in the petrol filling station in 2011 and 2012 and the monitoring results indicate that all free phase LNAPL has been removed and the concentrations of the Contaminants of Concern within the groundwater have been significantly reduced. A more recent investigation carried out by Solmek in December 2016/January 2017 identified residual phthalate and hydrocarbon

contamination on the Swintex site.

However, the proposed development does not include any external alterations to the building, new buildings, or any soft landscaping. Therefore, as long as the ground is not disturbed and the site remains in commercial use, the risks to future site users from potential soil contamination at the site is considered low. Therefore, on this occasion further investigation of the contaminated risks at the site are not required. On this basis the proposal therefore accords with the requirements of the National Planning Policy Framework.

Noise and affect on nearby residents

Neighbouring residential dwellings, on both Manchester Road and Wellfield Close, a cul-de-sac, exist adjacent to the southern boundary of the application site. Dwellings along Manchester Road exist opposite the entrance to the application site.

The proposal is to operate a dog hydrotherapy practice within the unit. The hydrotherapy equipment would occupy approximately 2/3rds of the unit. The submitted Planning Statement advises that the business would operate on a 'one dog at a time' basis due to the size of the unit and the nature of the business which seeks to rehabilitate poorly dogs, such as those with muscle and bone injuries.

It is the way that the dogs are handled along with the noise dogs would make with the hydrotherapy pool, which is the main consideration. The applicant has confirmed the point that there would only be one dog at any one time within the building, and that each owner would likely be present throughout the length of the appointment. Because of the appointment system, it is likely that the previous appointment would have finished before the next appointment is due to prevent dogs crossing each other to ensure they arrive in a calm manner. It should be borne in mind that the dogs are all recovering from accidents or operations and are unlikely to be active or noisy.

The unit is located opposite to a vets practice present in the unit located on the corner of Derby Works with Manchester Road, and therefore the proposed use would be of a similar nature, albeit less intensive due to its size.

Any noise likely to be generated would be by a dog already in pain being hoisted into and out of the pool. I consider that even this would be less than might be the case with any machinery installed for a light industrial activity which can lawfully take place at the site. For these reasons, the proposal would not cause demonstrable harm to the amenity of nearby residents.

Given that the site has no planning restriction on its opening hours - see planning history section of this report, and that the proposal is likely to be less noisy than its authorised "starter units" use, it would be unreasonable to impose an hours of use restriction on this unit.

Parking and Highway Safety

The area between the single storey brick buildings and the unit containing a veterinary practice, adjoining the application site, has marked out parking bays. Due to the nature of the building, the allocated two spaces for the unit would be sufficient. Should any clients cross over, this would only be by one car, and there are a number of other spaces abutting this range of buildings which would provide an additional parking needed. On this basis the proposal provides sufficient parking provision.

The Highway Authority has raised no objections on highway safety grounds, and thus the proposal accords with UDP Policy HT2/4 and the NPPF.

Conclusion

This is a single storey light industrial building facing towards Manchester Road and is presently vacant. This proposal to install a hydrotherapy pool to assist in the rehabilitation of dogs would, if properly run, be an appropriate use of the building, even though it is in relatively close proximity to residential properties. From the information supplied, I consider that planning permission could be granted since any noise from the activity is likely to be contained within the building and be of a limited nature. The proposed use would also not generate significant traffic to and from the site, and certainly no more traffic than one would expect with B1/ E(g), B2 or B8 uses. For these reasons, it is recommended that planning permission be granted.