

**Ward:** Bury East

Item 01

**Applicant:** EAST LANCASHIRE RAILWAY

**Location:** LOCOMOTIVE WORKS, BARON STREET, BURY, BL9 0TY

**Proposal:** DELETION OF CONDITION 10 OF PLANNING PERMISSION ref. 48268 THAT LIMITS THE HOURS FOR THE IMPORTATION OF MATERIALS TO CARRY OUT AN ENGINEERED FILL OPERATION PRIOR TO ACCOMMODATING NEW TRACK INFRASTRUCTURE

**Application Ref:** 49349/Full

**Target Date:** 04/03/2008

**Recommendation:** Approve with Conditions

**Description**

The application follows the granting of planning permission on 23rd August 2007 for an engineered fill operation on an area of 2.7ha to the west of the East Lancashire Railway's Buckley Wells Loco Works at Baron Street (ref. 48268). The development, which involves the importation of about 50,000 tons of fill, is intended to raise the level of the land to make it compatible with that of the adjacent railway in preparation for future developments at the Buckley Wells site to create a Regional Heritage Railway Centre. The material for carrying out the fill is specified as being spent railway track ballast. At the time of the application the intention was that ELR would source this material from the Metrolink track renewal contract which was then being carried out. Condition 2 of the planning permission requires that all the importation of material for the fill operation is to be carried out directly to the site by rail with no importation by road. This requirement is made to protect the residential amenities of the area and the amenity of the existing schools. Importation by road, not permitted by the consent, would cause numerous HGV movements on Baron Street and surrounding roads which would cause a significant loss of amenity.

The spent ballast resulting from the Metrolink Contract was not utilised and ELR are considering importing the same type of material but from a another source which is connected with the national rail network.

The condition of planning permission ref. 48268 that has led to the application is condition 10 which sets time limits on working on site and for the associated rail movements in connection with the engineered fill operation to 0700hours to 1800 hours on Mondays to Fridays and to 0700 hours to 2130 hours on Saturdays with no Sunday working or associated rail movements. ELR have made the application to seek the removal of the condition in its entirety. They have submitted a statement with the application which provides the following justification:

1. Condition 2 of the permission requires all of the spent ballast to be imported by rail. In this regard ELR would be reliant on trains coming in on Network Rail but would not be in a position to control the timing of their arrival. Furthermore, it would be under an obligation to unload these trains and return them to Network Rail within a set time scale over which it would not be in control. Network Rail is unlikely to be able to contract with ELR for the deposition of the spent ballast if the time restriction condition is in place and thus, in order to achieve the development, ELR would then be unable to comply with condition 2 requiring all of the importation to be by rail.

2. During the recent Metrolink Contract the loading and unloading of trains at ELR's Baron Street site took place on the basis of 24 hours per day and 7 days per week from January to September 2007 without any apparent nuisance to residents in the area. ELR are confident that this situation would prevail with their planned spent ballast material deposition.

3. ELR maintains that under the Light Railway Acts there are no restrictions placed on operating periods and it is empowered to carry out railway operations 365 days per year 24 hours per day. Condition 10 conflicts with that right of unrestricted hours of operation and is attempting to constrain a right granted under an Act of Parliament which it cannot do.

It is anticipated that the fill operation would entail about 5 trainloads of material being brought to the site per 24 hour period over the 6 month timeframe for the operation. These trains would use the Heywood Link with the Network Rail system.

### **Relevant Planning History**

C/12412/81 - Change of use of surplus railway land and allotment gardens to school playing fields. Approved on 17th September 1981.

33801/97 - Removal of boiler ash deposit. approved on 2nd July 1998.

48268 - Engineered fill operation prior to accommodating new track infrastructure. Approved on 23rd August 2007.

### **Publicity**

160 addresses were notified on 21st January and 6th February 2008. These include 10, 12, 24 - 38 and Trafalgar Hotel, Manchester Old Road, 2 - 30, 1 - 27 Maudsley Street, 3 - 21, 2 - 22 Houghton Street, 1 - 55, 2 -14 Baron Street, Flats 1 -9 Manzoor Building, 4, 1 - 9 Barker Street, 2 - 20, 2 - 20, Laburnum House, 1 -13 Bradford Terrace, Wells Street, 38, 48 and 50 Manchester Road, 19 Arden Close, 1 and 6 Ascot Meadow, 2, Haslam Brow, 45 Moreton Drive, 2 - 8 Olivant Street and 1, 2, 6 - 10 and 11 Parliament Place, Bury Grammar Girls School, Bury Grammar Boys School, St Gabriel's High School and Bury Church of England High School. A site notice was posted on Baron Street from 23rd January 2008.

Objections have been received from 4 properties including 20 Arden Close (Buckley Wells & District Residents Association), 1, 4 and 17 Baron Street. The main concerns include:

- Although the Planning Control Committee was informed that the ELLR would be within its rights under an Act of Parliament to alter, change or add elements to the development without further recourse to the Committee, Members were, in fact, informed that all future developments/alterations would need to be approved by them. This appeared to sway at least two Members in favour of the proposal and it would appear that this information was either deliberately or incompetently fed to the Committee to ensure a yes vote.
- The claim being made by ELLR that the work on behalf of Metrolink had apparently no adverse effect on the area is totally incorrect. There was noise and dust pollution 24 hours a day throughout the summer period. Environmental Health claimed that it was unable to take any action as the work was covered by the Railways Act.
- The original planning permission purported to impose the permission to protect the amenity of the area. These amenities have not changed since the original application and there is absolutely no reason to have the condition deleted.
- Local residents have a right to expect no noise and dust for at least one day a week and outside the hours stipulated in the condition.
- Would residents get any guarantees that the noise and disturbance would be monitored?
- The limitations set down would be considered to be reasonable for even the largest and most complex projects.
- Any relaxation of the condition would be extremely detrimental to the right of the residents of Baron Street to the undisturbed enjoyment of their property.
- Heavy transport accessing the railway would conflict with on street car parking in Baron Street.

### **Consultations**

Environmental Health - Although the Council did not receive complaints about the Metrolink Contract, this does not mean that such complaints were not made as it was arranged at the time that any complaints would be directed to Metrolink rather than the Council. Rochdale

MB Environmental Health received a number of complaints about over-night train journeys through their area. The application lacks details of the number of train movements involved and the justification given for removing the condition is questionable. If consent is granted they suggest that consent should be for a temporary period renewable if the work is found to be capable of being undertaken without causing loss of amenity to residents.

Area Board - No response.

GMP Architectural Liaison - No response.

Rochdale MB - No response.

### **Unitary Development Plan and Policies**

EN7/2 Noise Pollution

RT4/6 East Lancashire Railway

MW4/1 Assessing Waste Disposal Proposals

MW4/2 Development Control Conditions (Waste)

MW4/4 Transport Routes for Waste Disposal Sites

### **Issues and Analysis**

Limitations on the Development Due to the Condition - In making this application, ELR have highlighted the difficulty that, following the non availability of the original Metrolink source, the timing of the railway movements would be dependent on Network Rail and potential deliveries and return of trains could not be restricted to the periods specified in the condition. The circumstances that have arisen now render it very difficult for ELR to achieve the development given that condition 5 requires all of the fill material to be spent rail trackbed ballast, that condition 2 requires that all of this must be imported to the site by rail and that the Network Rail system is the only way via which trains can now bring in the fill material to the ELR line and the site. Thus, the condition would seem unduly onerous as the applicant would be reliant on a third party for a key activity and would be unable to contract with that party if the time restriction is in place. The position is now that the planning permission is of little value to the applicant with condition 10 in place.

Residential Amenity - The reason for the condition to restrict the hours of working and the associated railway movements is that it is in the interests of the amenities of the area. The main potential impact that is of concern is of noise and disturbance due to movement and unloading of trains and site works causing undue disturbance to residents at unsocial hours. In terms of the relationship of the potential unloading area it should be noted that it is considerable distance from the nearest residential properties. This distance varies from about 140m to the nearest houses in the Wells Street/Barker Street area, about 90m from those dwellings nearest in Baron Street and about 105m to the nearest house in the Houghton Street/Maudsley Street area. In addition, the houses in these areas are, for the most part, well shielded from the application site by two large engine/carriage sheds situated on either side of Baron Street. Train movements would, however, occur nearer to the Houghton Street/Maudsley Street properties but would also affect residential properties that occur next to line from Heywood and the link with the Network Rail system.

In connection with the application enquires have been made as to the extent of complaints received about the Metrolink line renewal contract last year where operations occurred on a 24 hours a day basis. It was arranged that any complaints would be directed to GMPTE rather than to Environmental Health. An enquiry with GMPTE has confirmed that they received a total of one complaint relating to night working in the ELR depot vicinity. This was on 31st of May 2007 from a householder living 400 m away from the area involved.

The Light Railway Acts - This legislation has been referred to by the applicants and in the objections as permitting railway developments on operational land notwithstanding town planning legislation. There are "permitted development" rights associated with operational railway land. However, the site to be filled has not been operated as part of the railway and it is considered that a normal situation with regard to needing planning permission applies on this land.

The planning condition in question seeks to restrict the time of rail movements associated with the fill operation but ELR are contending that such a restriction conflicts with their right under the Light Railway Acts to carry out railway operations at any time of the day or night and, therefore, it could not be legally enforced. However, the legal position is unclear and would need to be tested through the courts in the event that a situation involving enforcement action were to arise. Notwithstanding this, the application has been submitted and a decision must be reached.

**Conclusion** - The intended Regional Heritage Railway Centre would be a key tourism facility encouraged and supported through UDP Policy RT4/6. However, that scheme would be considerably dependent on the proposed fill operation and, now that the Metrolink contract is not a source for the material, ELR are relying on Network Rail for the spent ballast and need to contract with them without the encumbrance of time limits. Thus, the removal of the condition is a key factor towards enabling the scheme to go forward. The unloading of the ballast would be the main noise source from the activity but the edge of the site where the unloading would occur is distant from the nearest dwellings with intervening major buildings. It should also be noted that operations in connection with the Metrolink track renewal generated only one complaint to GMPTE about night working in the ELR depot vicinity. It is concluded that any loss of amenity caused by the activity over the duration of the contract would be outweighed by the benefits from a suitable site being created for the Regional Heritage Railway Centre.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows:-

The site is situated a significant distance away from the nearest residential properties which would sufficiently mitigate any detrimental impact on amenity due to the importation of the fill, even were the importation to occur outside the time limits set by the condition. If any adverse effects were to occur due to the removal of the condition these would be outweighed by the need to ensure that a suitable site can be prepared to facilitate a future Regional Heritage Railway Centre on the land.

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
**Reason:** Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. The importation of used railway ballast hereby approved shall take place directly to the site by rail transport only and no material shall be imported by road.  
**Reason:** In order to protect the residential amenities of the area and the amenity of the areas near the existing schools.
3. The development hereby approved shall not commence unless and until a scheme of protection for all trees to be retained on site in accordance with BS 5837:2005 "Trees in Relation to Construction" has been submitted to and agreed in writing by the Local Planning Authority. The development shall not commence unless and until the measures required by that scheme have been implemented to the written satisfaction of the Local Planning Authority and all measures required by the scheme shall continue until the development has been completed.  
**Reason:** To avoid the loss of trees which are of amenity value to the area pursuant

to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

4. No deposition of material shall take place on the site unless and until a landscaping scheme has been submitted to, and approved in writing by, the Local Planning Authority. This scheme shall incorporate such suitable planting that would mitigate for the impact of the development on a Wildlife Corridor that occurs within a part of the site. It shall be implemented not later than 3 months from the date that the engineered fill operation has been completed or within the first available planting season thereafter and the Local Planning Authority shall be notified in writing of the date of the completion of the fill operation as soon as practicable thereafter. Any trees, shrubs and hedges included in the landscaping scheme shall be retained, protected and maintained for a period of five years after planting during which period any tree, shrub or hedge that may become removed, die or become severely damaged or severely diseased shall be replaced by a tree, shrub or hedge of a similar size and species to that originally required to be planted in the next planting season to the written satisfaction of the Local Planning Authority.

Reason: To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN1/1 - Visual Amenity, EN6/4 - Wildlife Links and Corridors and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

5. The type of waste and materials that shall be deposited on the site shall consist only of validated spent railway trackbed ballast stone. In particular, any biodegradable materials, plastics, timber, metal or paper wastes or any putrescible material shall be strictly excluded.

Reason: In the interests of proper site restoration and to ensure that only clean, non-polluting materials are used, to prevent the pollution of the land and water environment.

6. Unless otherwise approved in writing by the Local Planning Authority, the deposit of trackbed ballast on the site shall be carried out and the site restored in such a manner as to ensure that the final restored levels of the site are in accordance with the details and cross-sections shown on drawings numbered DL81/003 rev C, DL81/004/1 Rev B, DL81/004/2 Rev B, DL81/004/3 Rev B and forming part of this permission.

Reason: In the interests of proper site restoration and to accord with the terms of application.

7. No materials shall be imported, stored or placed at the site until a suitable plan for the assessment, verification and management of the imported materials has been submitted to and approved in writing by the Local Planning Authority (LPA). This plan shall include:

- Full details and specifications of the infilling works;
- proposals for the preparatory works for the receiving land area (this to include any remediation of existing contamination and management of existing Japanese Knotweed);
- proposals for contamination testing of imported materials including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment and should include solid and leachable contamination) and source material information;
- proposals for the screening of invasive species within imported materials, such as Japanese Knotweed which are known to be prevalent along railway lines.
- proposals for the quarantine of suspected contaminated materials;

- actions to be taken where allowable contaminant concentrations have been exceeded or other non-compliance (e.g. rejected at site or treatment on site);
- proposals for dealing with unexpected contamination;
- proposals for the mitigation of pollution/nuisance from site works;
- proposals for monitoring and verification reporting of the infilling engineering works in terms of land contamination (including ground gas and ground water assessment) and suitability for use;
- Timescales for which the infilling engineering works will be carried out.

The approved plan shall then be implemented in full. Any deviations or alterations to the plan shall require the written approval of the Local Planning Authority.

Reason: To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.

8. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved plans with the rate of run-off limited to 7.5 litres/second/hectare.

Reason: To reduce the increased risk of flooding and pursuant to Planning Policy Statement 25 - Development and Flood Risk.

10. All hedges and trees forming part of the northerly and westerly site boundaries shall be preserved from damage, and these hedges shall be maintained in good condition to the reasonable satisfaction of the Local Planning Authority. Any such hedges or trees forming part of the site boundary that may be seriously damaged or removed or die during the course of or as a result of the operations hereby permitted shall be replaced with a plant of similar type in the next available planting season to the satisfaction of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

11. No materials shall be imported, stored or placed at the site unless and until the date for the commencement of the infilling works has been submitted in writing to the Local Planning Authority. The infilling works shall thereafter take place for a period not exceeding six months beginning from the date on which the first inputs of fill material are deposited on the site, unless planning permission has previously been granted to extend this period.

Reason: To ensure that the development does not become a long term source of intrusion or nuisance in the locality in the interests of the amenities of the surrounding area.

For further information on the application please contact **Jan Brejwo** on **0161 253 5324**

**Ward:** Bury East

Item 02

**Applicant:** JD Wetherspoon PLC

**Location:** 5 CROMPTON STREET, BURY, BL9 0AD

**Proposal:** CHANGE OF USE FROM FORMER POST OFFICE TO A LICENSED FOOD AND DRINK OPERATION (CLASS A4) (ALTERNATIVE SCHEME TO REF 49341 - INCLUDES AN EXTERNAL AREA)

**Application Ref:** 49406/Full

**Target Date:** 26/03/2008

**Recommendation:** Approve with Conditions

### **Description**

The application site is an existing vacant building, formerly the Post Office, in the Bury Town Centre Conservation Area. It is situated on Crompton Street with a row of shops opposite and pedestrian access to the Mill Gate Centre. Immediately adjacent to the site to the south is a paved area, a side access road runs to the north and there is a service yard area to the rear.

The main building comprises an original 3 storey building to the front with a 2 storey rear addition, the majority of the construction of the property is brickwork and stone. The main entrance is approached and accessed off Crompton Street.

The application is solely for a change of use from former Post Office (Class A1) to a Licensed Food and Drink Operation (Class A4). There are no details of changes to the building at this stage. It is an alternative scheme to one previously approved at Planning Committee on 19th February 2008. (Reference 49341) but now includes an external area at the side to be used as an outside drinking area.

### **Relevant Planning History**

49341 - Change of use to Food and Drink Premises (A4) - Approved 20/2/2008

39887/02 - Change of use to Food and Drink Premises (A3) - Approved 2002

39886/02 - Change of use to Food and Drink Premises (A3) - Approved 2002

33002/97 - Change of use to Food and Drink Premises (A3) - Approved 1997

### **Publicity**

Immediate neighbours were written to on Crompton Street, The Haymarket, The Rock (7/2/2008) and Bury Lions Club (19/2/2008).

A Press Notice was posted on 14/2/2008 in the Bury Times.

A site notice was displayed in the immediate vicinity on 8/2/2008.

A letter of objection has been received from No 19 Purbeck Drive, Brandlesholme which has raised the following issues:

- there are already too many licensed premises in the town
- the building could be put to better use
- could have an unwelcome impact on the environment

### **Consultations**

Highways Team - No objections

EH - Pollution Control - No comments received to date

EH - Commercial Section - No comments received to date

EH - Contaminated Land - No objections in principle. The site was part of a burial ground and contaminated land conditions would be attached to the permission.

Conservation Officer - No objection

Cleansing - No objection

GM Police Architectural Liaison Unit - No comments received to date

BADDAC - comment received with regards to internal layout and management of external area. No objections.

GM Architectural Unit - No comments received to date

Ministry of Justice - No comments received to date

### **Unitary Development Plan and Policies**

EN2/2 Conservation Area Control  
C079 Woodfields, Bury  
Area Central Shopping Area  
BY6  
S2/2 Prime Shopping Areas and Frontages  
S1/1 Shopping in Bury Town Centre  
HT5/1 Access For Those with Special Needs

### **Issues and Analysis**

Principle - The site is within Bury Town Centre and would be assessed against Unitary Development Plan Policies - S1/1 Shopping in Bury Town Centre and S2/2 - Prime Shopping Area and Frontages.

Although UDP Policy S2/2 states the council seeks to maintain retailing as the prominent use at ground floor level in prime shopping areas, the property does not fall within an identified prime shopping frontage, and therefore a degree of flexibility can be applied to this case, particularly as the property has been vacant. Therefore it is considered that the proposed development would not lead to an unacceptable loss of shopping facilities and would be an associated use which would support the vitality and viability of the area.

The proposed change of use would have regard to UDP Policy S2/6 - Food and drink which takes into account: residential amenity, over-concentration of A4 use, parking and servicing, storage and disposal of refuse and environmental impact of fumes.

The location of this proposal is not considered to result in any significant concerns having regard to these factors and it is considered that the circumstances and policy context have not significantly changed in order to justify a different decision.

The proposed use of the building as a food and drink establishment has been previously granted in 2002 and 1997, and more recently in February 2008. This revised scheme is as the previous approval but includes the external area to the south, adjacent to the building and part of Lion Gardens. Historical maps show there was a Methodist Church and burial ground under part of the external area. A previous application Ref 34269 for demolition of the church and part of the former post office and 4 shop units to the Haymarket dealt with the issue of the burial ground in so far as a direction was granted from the Secretary of State for the removal and reinterment of human remains at the site. It was confirmed this was carried out to the satisfaction of the Borough Environmental Services Officer for Bury MBC on 9th March 2000. In so far as the principle of including this area of land within the change of use to food and drink establishment, it is considered to be an acceptable addition to the proposal. Any other additions or alterations to this area would require a subsequent application. Although not within the ownership of the applicant, Certificate B has been signed and Notice served on the owner.

Amenity - The site is located within a Primary Shopping Area and there are no residential properties in the immediate area which would be affected by the proposal. The proposed opening hours of 0700 daily, until 0030 Monday to Friday, 0130 Saturday and 0230 Sundays and Bank Holidays are considered acceptable given the location and surrounding commercial area, and the hours of operation would be a matter for control under the Licensing Division.

Design and Appearance - The application is for a change of use only and any changes the applicant may wish to make to the building and the external area would be considered in a further application. The only alteration would be a new door opening to the front elevation,



re-instate the existing left side opening and create a new access from the right hand side elevation to a proposed external area. The character of the building would remain unchanged. It would comply with UDP Policy EN1/2 - Townscape and Built Design.

Conservation Area - UDP Policy EN2/1 - Character of Conservation Areas and EN 2/2 - Conservation Area Control seeks to preserve and enhance the special character of appearance of the area with regards to the proposed development. The impact of the change of use on the Conservation Area is considered to be minimal given the town centre location and the retention of the character of the building.

Access - There is existing level pedestrian access to the building via the current main entrance. The Access Statement supporting the application says that an auto entrance door will be provided and this is welcomed by BADDAC. The proposed new access on the south elevation leading to the external area would be 1.2m wide and level and this outside area would not compromise access to the neighbouring raised area which is not part of the application site. It would comply with HT5/1 - Access for Those with Special Needs.

Objections - The issues of the principle of the change of use and visual amenity have been discussed in the above report.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-

The proposed change of use of the building and external area is acceptable in principle and considered appropriate within the town centre. It would not adversely impact on the character of the Conservation Area nor cause harm to the occupiers of the adjacent shops. There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered JD 214 - ALO1/C 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 policies of the Bury Unitary Development Plan listed below.

For further information on the application please contact **Jennie Townsend** on **0161 253-5320**

**Ward:** Bury East - Moorside

Item 03

**Applicant:** Architectural Services

**Location:** 190 CHESHAM ROAD, BURY, BL9 6HA

**Proposal:** CHANGE OF USE OF 190 CHESHAM ROAD FROM RESIDENTIAL CHILDREN'S HOME (C2) TO NON-RESIDENTIAL PUPIL REFERRAL UNIT (D1); PROVISION OF CAR PARKING INCLUDING DEVELOPMENT OF ADJACENT OPEN LAND AS PART OF CAR PARK; 3M WIRE MESH BOUNDARY FENCING ; ASSOCIATED LANDSCAPING AND ACCESS TO HIGHWAY.

**Application Ref:** 49321/Full

**Target Date:** 12/02/2008

**Recommendation:** Approve with Conditions

**The application was deferred for a site visit at the last meeting of the Committee**

### **Description**

The application concerns a modern two storey detached building of domestic appearance situated just beyond the limit of continuous development on Chesham Road. The property faces Clarence Park and has open fields on three sides. The other boundary is the Chesham Road frontage where the road has become a narrow lane by this point. Immediately to the south is a small field sloping down away from the building to a gated lane behind the rear of Beech Grove, a former elderly persons home and now used as offices, and the rear of houses on Danesmoor Road. Chesham Woods are a short distance to the north.

There are a number of trees along the Chesham Road frontage. These are not within a tree preservation order.

The property is currently vacant and was last used as a children's home. The proposal is for a change of use to a referral unit for children of compulsory school age who because of illness or exclusion from school, will not receive school education until the provision of this facility.

The property has a tarmac drive on part of the forecourt which is just sufficient for three parking spaces across its width. This is shown as retained on the submitted layout but marked out with two spaces. To the rear the existing garden area would become partly laid out as a playground. This would be surrounded by a green 3m high paladin type fence.

A main change externally would be the provision of a new car park with four spaces, including one disabled space. This would be partly on the existing frontage but extending out about 7m onto the field at the side. A new vehicular access would be formed from Chesham Road involving the loss of a silver birch tree. This would be the only tree to be removed for the development. The field drops away from the level of the building and, to achieve a compatible level for the car park in relation to the access and building, the level of the land would need to be raised by up to 600mm with an embankment planted with hawthorn hedging formed on the new edge of the field to about 9m from the existing boundary.

The application follows the recent withdrawal of a similar application. This involved a larger portion of the field to be made into a car park.

### **Relevant Planning History**

30257/94 - Formation of a 5-a-side football pitch and erection of perimeter fencing.

Approved on 17th November 1994.

30264/94 - Two storey extension at the side. Approved on 6th October 1994.

48676 - Change of use from Class D1 - residential children's home to Class C2 - non-residential pupil referral unit; change of use of adjacent land to car park; 3m wire mesh fencing, relocation of existing 1.3m fencing to car park boundary; landscaping and alteration to access to highway. Withdrawn on 5th December 2007.

### **Publicity**

- 30 properties were notified on 10th January 2008. These include 148 - 176 Chesham Road and 1 - 11 and 2 -14 Danesmoor Drive. A site notice has been displayed from 16th January 2008 and a press advertisement has been published.
- 11 objections have been received from addresses in Chesham Road and Danesmoor Drive. The main concerns expressed include:
  - Vandalism occurred by the children that were resident at the previous institution. The centre would add to the local problem of gangs of kids hanging around the shops at the end of Chesham Road and noise and disturbance from kids riding mini moto's and motorbikes through the park and on the streets.
  - The car parking provision would not be sufficient.
  - The increase in traffic will make local traffic conditions even worse.
  - Do not want disaffected teenagers in their street.
  - The previous centre was shut for very good reasons which he believes was due to resident's protests about anti-social behaviour by pupils and the damage they caused to residents properties.
  - The 3m high fence will be a blot on the landscape.
  - The street gets clogged enough already with dog walkers.
  - Undesirable loss of three trees.
  - The access along a single track dirt road is inadequate.
  - The plans should be withdrawn until there has first been a presentation to residents by the Education Team.
  - This facility is not needed in the area.
  - Would like proof that the facility is needed.
  - What other sites have been considered and how was the decision reached to choose this site?
  - The lack of a turning facility would lead to Chesham Road becoming blocked when pupils are brought in a large vehicle.
  - If permission is granted they want a written assurance that those involved would not park outside private residential houses.
  - Loss of outlook due to the fence and loss of the tree.
  - More lighting will lead to light pollution across the top end of the park.
  - The problem of surplus water coming down the access road in heavy rain could be made worse and may not be solved by the proposed sump.
  - Danger to children needing to walk down an unlit road or across the park to the unit.
  - Disturbance to the peace of the area from children using the access track behind Chesham Road.
  - Disturbance to the park and its users due to noise from kids at play. The park was gifted to the Council to be used as a nature reserve and peaceful environment.
  - This building should not have been chosen for the use just because it is unused and mothballed.

### **Consultations**

Highways Team - Recommend a condition requiring the implementation of the car parking proposals prior to the use commencing.

Drainage Team - No objections.

Environmental Health - Land contamination conditions recommended.

Landscape Practice - The scheme is acceptable in landscaping terms.

GMP Architectural Liaison - No response.

BADDAC - Concerns that there should be level access and egress to and from the building

and about the provision of disabled accessible facilities within the building.

### **Unitary Development Plan and Policies**

OL2	Other Protected Open Land
OL2/1	Development on Other Protected Open Land
EN1/1	Visual Amenity
EN8	Woodland and Trees
CF1	Proposals for New and Improved Community Facilities
CF1/1	Location of New Community Facilities
CF2	Education Land and Buildings
CF3	Social Services

### **Issues and Analysis**

Principle - The building, which was last used as a residential home for children, would with this proposal continue to serve the needs children in the community but these would be children with special educational requirements. Policy CF1 states that community facilities, such as this, will generally be looked on favourably but that they should not be in conflict with amenity or the local environment. The associated Policy CF1/1 lists a number of factors which should be considered when there is a proposal such as this. Of these those considered to be applicable in this case are the impact on residential amenity, traffic generation and car parking provision, suitability of the location in relation to the community or catchment area to be served, accessibility by public and private transport and the needs of the disabled. The local area is predominantly residential and is the type of environment where facilities of the type being proposed are located. There would be a degree of impact on amenity and traffic/parking conditions and this is considered in the following sections.

Other UDP policies relevant to the consideration of a pupil referral unit such as that being proposed are CF2 which states that the Council will, where appropriate, consider favourably proposals for the provision of educational facilities and CF3 under which there would be, where appropriate, favourable consideration given for the provision of new and the improvement of existing social facilities, including those for children and groups with special needs.

Therefore, UDP policies provide a presumption in favour of the type of development being proposed but detailed considerations must also be taken into account.

The property and its surroundings are within an area designated in the UDP under Policy OL2 as Other Protected Open Land. According to the policy, on open land within this designation the Council will seek to retain the existing predominant use and character and will expect the land to remain for the most part undisturbed. The associated Policy OL2/1 sets down how new development on all open land subject to this policy will be controlled to protect both its open character and existing uses. The Other Protected Land Policy is similar to green belt policy but it gives slightly more flexibility in regard to what the land may be used for.

The proposal includes an element of new development on what is currently an open area and this would be a section of the proposed new car park. On the previous application the car park element involved a much more substantial intrusion into the Other Protected Open Land and this was considered to be unacceptable in terms of the Policy OL2/1. Consequently that application was withdrawn. On the current application the car park area on currently open Other Protected Open Land would be substantially less and involve an area of about 73m<sup>2</sup> of hard surfacing compared to about 300m<sup>2</sup> on the withdrawn application. It is considered that the encroachment on this very small scale onto Other Protected Open Land would not materially harm the predominantly open character of the land and would constitute a departure from the Development Plan.

The premises is situated on a narrow stretch of Chesham Road and it is important for car

parking associated with the development to be accommodated as much as possible off the highway. As indicated, the car park development is relatively small. However, it is important to support the proper functioning of the scheme. Furthermore, the proposals include the planting of hawthorn hedging around the perimeter of the car park which would eventually soften its appearance against the open land. Given the need for the car park, the minor amount of encroachment and impact on the openness of the Other Protected Open Land this part of the proposal is considered to be acceptable in the circumstances. The very small impact on the openness of the field leads to the view that its predominantly open character would remain for the most part undisturbed and that it would not be necessary, in this case, to follow departure procedures.

The Fence - The details of the scheme involve the erection of a 3m high paladin styled security fence around the playground area. This would be mostly on the boundary with the open land and is not visually an ideal means of enclosure against the protected open land. However, the security of pupils would need to be maintained during school hours and the visual impact of the fencing would be mitigated by the proposed green colouring. Also, the fencing would be similar to that often used to enclose all weather surfaced games areas which do occur in open land situations and the fence would be a considerable distance (over 70m) from the nearest residential boundary.

Trees - The site includes a number of trees. These are located along the Chesham Road frontage and form part of a belt of tree cover that extends along the easterly edge of this part of the road. The trees are not within a tree preservation order. The Design and Access Statement records that there are eight trees within the site. Of these one tree, a silver birch, would be removed to allow access to the proposed car park. The restricted nature of the site would not allow for suitable replanting. However, the loss of the one tree which is not a major specimen would not have a significant impact on the overall appearance of the area and would be acceptable when set against the local benefits of providing a small car park for the referral unit.

Car Parking/Traffic - The development would be on a relatively small scale and would cater for a maximum of 22 pupils on site at any one time with 7 to 8 staff members. A school travel plan to encourage the use of public transport has been prepared and a copy of it has been submitted with the application.

Regarding the proposed car parking provision, this need to be considered in terms of current car parking standards. The maximum provision standard for schools is 1.5 spaces per classroom. There would be a total of 4 classrooms in the unit giving an overall maximum provision level of 6 spaces. The proposal provides for exactly this number of parking spaces ie. the maximum provision for the unit as set down by the policy.

The Council's policy is to only provide transport for statement pupils in years 7 and 8. This would only be a limited portion of the normal number of pupils attending with the largest group (up to 16 pupils) expected to use public transport. Overall, the development would generate a limited amount of traffic movements and Highways Team has not objected subject to the car parking provision being implemented.

Disabled Access - In response to concerns about disabled access issues, an additional plan has been submitted clarifying that level access would be achieved to the building from the disabled parking space and from the pedestrian entrance to the site. Furthermore, the plan shows the provision of a disabled toilet facility. These details as shown are acceptable to BADDAC.

Residential Amenity - The unit would not be immediately next to any dwelling and, taking into account the relatively small scale, any impact on nearby residents should be very limited. Nevertheless, the application has resulted in a significant number of objections concerning issues including possible unruly behaviour and vandalism by pupils, car parking, traffic, loss of trees and the visual impact of the security fencing. Concern about pupil behaviour is not a valid planning consideration and should not be taken into account

in reaching a decision. Some of the objectors have asked for proof of the need for the pupil referral unit and asked how and why the premises were selected for the unit. Requests have also been made for a presentation to residents by Children Services. Copies of these objections have been forwarded to Children Services for response to these particular points.

One of the concerns was that there would be excessive light pollution affecting the top area of the park. The only significant external lighting being proposed consists of one 70 watt post top lantern on a 4m column to illuminate the proposed car park and this would not be sufficient to cause significant light pollution. The other issues raised in the objections are covered in the above sections.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-

The development would provide a specialised educational facility required within the community. The visual impact of the external changes, including the loss of one tree and the security fencing would be acceptable, as would be the case in terms of traffic generation and parking provision. The extension of the new parking provision onto the adjoining Other Protected Open Land would be on a very minor scale and the predominantly open character of this land would not be adversely affected.

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. The car parking indicated on the approved plan KB - 07613/PLAN-PRO-02 AMENDED shall be surfaced, demarcated and made available for use to the written satisfaction of the Local Planning Authority prior to the building hereby approved being occupied and thereafter maintained at all times.  
Reason. To ensure adequate off street car parking provision in the interests of road safety and amenity pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
3. The landscaping scheme hereby approved shall be implemented to the written satisfaction of the Local Planning Authority not later than 12 months from the date the building is first occupied. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted to the written satisfaction of the Local Planning Authority.  
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies EN1/3 - Landscaping Provision, EN8/2 – Woodland and Tree Planting and OL2 - Other Protected Open Land of the Bury Unitary Development Plan..
4. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to

any soil or soil forming materials being brought onto site, and;  
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) 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 Planning Policy Statement 23 - Planning and Pollution Control.

5. If during any works on site, contamination is suspected or found, or contamination is caused, the Local Planning Authority shall be notified immediately. Where required, a suitable risk assessment shall be carried out and/or any remedial action shall be carried out in accordance to an agreed process and within agreed timescales to the approval of the Local Planning Authority.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.

6. This decision relates to drawings numbered KB - 07613/PLAN - EXIST - 01 AMENDED, KB - 07613/PLAN - PRO - 02 AMENDED and KB - 07613 - DDA4 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 policies of the Bury Unitary Development Plan listed below.

For further information on the application please contact **Jan Brejwo** on **0161 253 5324**

**Ward:** Prestwich - Holyrood

Item 04

**Applicant:** TESCO STORES LTD

**Location:** 456 - 462 BURY OLD ROAD, PRESTWICH, M25 1NL

**Proposal:** VARIATION OF CONDITION 4 OF PLANNING PERMISSION 47753 TO ALLOW RETAIL UNIT TO TRADE BETWEEN 0600 HOURS AND 2300 HOURS, SEVEN DAYS PER WEEK.

**Application Ref:** 49441/Full

**Target Date:** 26/03/2008

**Recommendation:** Approve with Conditions

### **Description**

Planning permission was granted for the demolition of the existing building on site and the erection of a single retail unit for Class A1 use. The application site is located within a local shopping centre, where the predominant use of the units is retail (use class A1). To the front of the existing building is a parking area, which is shared with the other shops and beyond this is the main road and residential properties. To the rear of the application site, there is an access road, to all the retail units and beyond that there are residential properties. The opening hours of the existing retail and hot food takeaway units vary, but a unit would be open from 0615 until 23:30 on Sunday to Thursday and until midnight on Fridays and Saturdays.

The application is for the variation of condition 4, relating to opening hours of the retail unit. The applicant wishes to extend the opening hours from 06.00 to 22.00 on Mondays to Saturdays and from 10.00 to 16.00 on Sundays to 06:00 to 23:00 on a daily basis. Condition 5 restricting deliveries to the store from 08:00 to 22:00 would be unaffected.

### **Relevant Planning History**

47753 – Demolition of existing buildings and erection of new retail unit (use class A1) at 456 – 462 Bury Old Road, Prestwich. Approved with conditions – 23 May 2007.

The application was approved at Planning Control Committee and a condition restricting the opening hours to 06:00 to 22:00 on Mondays to Saturdays and 10:00 to 16:00 on Sundays and Bank Holidays, in order to safeguard the amenities of the occupiers of nearby residential accommodation.

### **Publicity**

The neighbouring properties (454 – 486 Bury Old Road (evens); 459 – 469 Bury Old Road (odds); 205 Heywood Road; 48 Polefield Grange) and all the objectors from the previous application (totalling some 196 letters) were notified by means of a letter on 13 February and site notices were posted on 9 February. 17 letters of objection have been received from the occupiers of 465, 473 Bury Old Road; 1 Holyrood House, 434 Bury Old Road; 190, 192, 201, 205 Heywood Road; 2 Perrymead; 48 Polefield Grange; 73, 87, 89, 93 Glebelands Road; 20, 27 Daneshill; 10 Simister Lane and Councillor Davison, which have raised the following issues:

- Impact upon the adjacent shop
- Impact of the proposal upon parking arrangements and highway safety
- Impact of noise from customers and deliveries early and late in the day upon the amenity of nearby residents
- Increase in anti-social behaviour
- There is no need for a Tesco store in this area, due to the close proximity of the Tesco supermarket in Prestwich and other premises in the area, which sell the same range of products



## **Consultations**

Highways Team – No objections

Drainage Team – No objections

Environmental Health – contaminated land – No objections, subject to the inclusion of conditions relating to contaminated land.

Environmental Health – Pollution Control – Concerned about the impact upon the closest residents at the rear of the building. However, as long as the rear door was not left open during trading, or deliveries were not taking place at the rear late or early in the morning, then a recommendation of no objections would be given.

Environmental Health – commercial section – No response to date

Environmental Health – Public health – No response to date

Policy – No response to date

GM Police Architectural Liaison Unit – No response to date

## **Unitary Development Plan and Policies**

EN7/2 Noise Pollution

S1/4 Local Shopping Centres

S3/3 Improvement and Enhancement (All Centres)

HT2/4 Car Parking and New Development

## **Issues and Analysis**

### Impact upon surrounding area

The proposed extension of opening hours may result in an increase in noise in the surrounding area. There are residential properties at the rear of the site and the closest property (No. 48 Polefield Grange) is located some 14 metres from the rear elevation of the retail unit. The pollution control team from Environmental Health state that the impact upon the residents at the rear of the building would be a concern. However, it is considered that providing the rear door was not left open during trading and deliveries were not taking place at the rear of the building late or early in the morning, there would not be a significant adverse impact upon the amenity of these residents.

A condition was placed on the original consent, limiting the hours in which deliveries could take place to 08:00 and 22:00. It is considered that this would result in deliveries taking place late into the evening, which would be of concern. With the agreement of the applicant, it is now proposed to restrict deliveries to between 08:00 and 19:00 hours, which would reduce the impact upon the amenity of the local residents. Therefore, there would only be access for staff to the rear of the store after 19:00 and it is considered that the proposed development would not have an adverse impact upon the amenity of the occupiers of the dwellings. Therefore, the proposed development would accord with Policy EN7/2 of the adopted Unitary Development Plan.

On the previous application (47753), the contaminated land team recommended that various conditions, relating to contaminated land were placed on any grant of planning permission. Unfortunately the recommendation was received after the application had been determined at Planning Control Committee. As the site was previously in use as a car rental garage and would result in a sensitive end use, it is considered that the recommended conditions should be included on any grant of planning permission.

The proposed development would result in customers visiting the front of the store until 23:00 on a daily basis. The nearest residential dwelling would be located across Bury New Road at a distance of 39 metres. Currently there are a variety of retail units and hot food takeaways in the local centre and the opening hours vary. However, there would be shops trading from 06:30 until 23:30 on Sundays to Thursdays and midnight on Friday and Saturday. Therefore, it is considered that the proposed development would have no greater impact upon the amenity of local residents than the existing conditions. It is considered that

there would be adequate parking facilities at the front of the retail unit and the highways team has no objections to the proposal. Therefore, it is considered that the proposed development would not have a significant adverse impact upon the amenity of the occupiers of the residential properties nor would it be detrimental to highway safety. Therefore, the proposed development is in accordance with Policy EN7/2 and HT2/4 of the adopted Unitary Development Plan.

### Response to objections

The Council received the original application on behalf of Innfield Ltd, with no mention of the future occupier. However, the occupier of the retail unit is not a material planning consideration. All the comments received are taken into consideration. However, the comments relating to competition and need for either the extended opening hours or the store are not material considerations and cannot be taken into account. The other issues have been dealt with above.

### Summary of reasons for Recommendation

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-  
The proposed development is acceptable and would not have a significant adverse impact upon the amenity of the local residents.  
There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
4. This decision relates to drawings numbered 2233/010, 2233/001, 2233/003 C, 2233-110 B, 2233-101 B 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 policies of the Bury Unitary Development Plan listed below.
5. Samples of the materials to be used in the external elevations shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced.  
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.
6. The use hereby permitted shall not be open to customers outside the following times: 06.00 to 23.00 on a daily basis.  
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy S1/5 – Neighbourhood Centres and Local Shops of the Bury Unitary Development Plan.
7. No deliveries shall be made to the building hereby permitted outside the hours of 08.00 to 19.00 on any day.  
Reason. In the interests of residential amenity pursuant to Policy S1/5 – Neighbourhood Centres and Local Shops of the Bury Unitary Development Plan
8. Prior to the development hereby approved commencing:

- A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground 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 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 is required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.

9. Following the provisions of Condition 8 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 Planning Policy Statement 23 - Planning and Pollution Control.

10. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and; The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) 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 Planning Policy Statement 23 - Planning and Pollution Control.

11. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;
- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA 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 Planning Policy Statement 23 - Planning and Pollution Control.

**Ward:** Prestwich - St Mary's

Item 05

**Applicant:** Martin & Susan Cohen

**Location:** 1 ST MARY'S ROAD, PRESTWICH, M25 5AQ

**Proposal:** USE OF ONE ROOM IN A DWELLING AS AN OFFICE (CLASS B1) -  
RETROSPECTIVE APPLICATION

**Application Ref:** 48896/Full

**Target Date:** 25/03/2008

**Recommendation:** Approve with Conditions

**Description**

The property is a sizeable two storey detached house situated at the junction of St Mary's Road with Bury New Road. The house is angled to face the corner and has its main garden plot on the Bury New Road frontage. On the St Mary's Road side there is a driveway extending along the side of the house. The plot is well screened with high hedging on the road frontages.

The house is situated next to residential properties on the easterly side, directly opposite across St Mary's Road and to the rear in St Mary's Close. St Mary's Park is directly opposite on Bury New Road.

The application has been submitted to regularise a commercial activity that is taking place within the property. One room at the rear on the Bury New Side of the house is in use as a commercial office. This is in connection with an event management business being operated by Mrs Cohen. The office has three desks. The submitted information refers to two persons being employed in the business. Hours of working are given in the application as 9am to 5.30pm.

A letter providing a supporting statement has been received from the applicants. This explains the circumstances as follows:

- The Company is an Events Management Company that is run and owned by a working mother.
- The main function carried out at the premises is purely administrative and no events are performed at the premises, or ever will. The work is not noisy, is not a retail environment requiring a large number of visitors to make a business viable. It is simply a room in a home used as an office.
- The number of visitors to the premises and vehicles in connection with the business is minimal.
- There are always parked vehicles along the road visiting or belonging to a number of homes. On occasions vehicles have been observed parked by people visiting Prestwich Village or St Mary's Park.
- The number of deliveries to the premises is minimal amounting to maybe one or two a month which is nothing out of the ordinary and can be confirmed from paperwork. People in private residential areas have deliveries to their homes all the time eg. a new washing machine, new furniture or a mail order item.
- There was an occasion recently when significant deliveries did occur. However, this was in connection with a family celebration which was their son's Bar-Mitzvah. Chairs, tables and food were delivered and there were waiters and guests, therefore not business related.
- If the application is looked on favourably this would enable a working mother to continue working.

### **Relevant Planning History**

C/25405/90 - Two storey extension at the front, side and rear. Approved on 15th January 1991.

### **Publicity**

28 properties were notified on 7th February 2008 including 3 - 17 and 2 - 26 St Mary's Road, 3 and 4 St Mary's Close and 17 Branksome Avenue.

An objection has been received from Councillor O'Hanlon. He is concerned that the development involves the creeping commercialisation of a residential area. He is also concerned about traffic flow hindrance; dangerous crossing for pedestrian and dogs using nearby parks; whether adequate/appropriate business rates are being applied and whether they are creating nuisance to neighbours through excessive vehicle and personnel movements, noise, fumes materials etc. Whilst it is often ok for a start-up business to operate from home, as they become more established they should move to proper commercial premises and there are lots of vacant units in Prestwich.

Objections have been received from 9 addresses which are 3, 4, 10, 12, 15, 16, 18 and 24 St Mary's Road and 17 Branksome Avenue. The main concerns raised include:

- Employees park at least 3 cars daily on the road.
- There are understood to be 4 persons employed with business clients parking there as well.
- The cars parked on St Mary's Road in association with the business use constitute a hazard to vehicles, including buses, entering St Mary's Road from Bury New Road. Accidents have occurred at this junction. Also, traffic congestion is being caused.
- Deliveries seem to take place from large vehicles.
- The activity is likely to have an effect on residential property values.
- The development could set a precedent for others in this residential road which would be difficult to resist.
- The residential character of the area will be adversely affected by businesses moving in.
- There are plenty of unoccupied commercial properties in Prestwich and thus there is no need to expand businesses in to the residential area.
- The application should not have been invited by the Council.
- Increased number of unknown persons in the area.
- Businesses and commercial activities should be encouraged and allowed only in areas designated for those purposes in planning policies as mixed development is visually detrimental and produces traffic difficulties.
- Employee cars, visitors to the property and delivery vans back out of a blind narrow driveway onto St. Mary's Road close to a fast corner on the busy Bury New Road and close to where a slow down sign has recently been erected. It is especially dangerous for children when drivers are backing out and cannot see.
- All of the residents of Branksome Avenue should be informed about the application as their road problems are the same as those of St. Mary's Road residents.

One statement of support has been received which is from 4 St Mary's Close. This states that the use is not noisy, not visual and has no impact on their daily movements.

### **Consultations**

Highways Team - No objections.

Environmental Health - No response.

### **Unitary Development Plan and Policies**

EC4 Small and Growing Businesses

EC4/1 Small Businesses

EC5/3 Other Office Locations  
H3/1 Assessing Non-Conforming Uses  
H3/2 Existing Incompatible Uses  
PPS4 PPS4 Industrial Development

### **Issues and Analysis**

**Residential Amenity** - A principle issue in this case is the extent to which the business activity at the property would create potential disturbance/inconvenience to neighbouring dwellings and whether this would be significantly more than due to the comings and goings and deliveries that can be associated with a normal house.

A low level commercial use in a dwelling where the overall character of the dwelling does not change as a result of the business can be treated as ancillary to the overall residential use and planning permission is not required. However, there is no clear definition as to when this situation is achieved and it is a matter of fact and degree. Nevertheless, it may be possible to seek to control an activity such as that occurring at the premises by means of planning conditions so that the level of activity would remain low key and not intensify to produce a significant loss of amenity to neighbours. This could, in this case, be through making any permission personal to the applicants, restricting the use to only the one room being used as an office and preventing the keeping of commercial goods at the property.

**Residential Character** - Some of the objectors have expressed a concern about the loss in the residential character of the vicinity and maintain that business uses should be strictly confined to recognised commercial areas. However, it needs to be recognised that very low scale commercial use of part of a dwelling can be such as not to change its predominant residential character and such a situation is not uncommon. The level of such an activity can be so small as not to involve a material change of use or it may be controlled by planning conditions that seek to ensure that impact does not alter the overall residential character of the house. This would be in line with Policy H3/2 which covers situations where incompatible uses operate within residential areas. To resolve potential conflicts the policy states that the Council will, where appropriate, seek to do this by controlling such incompatible uses, including their intensification or expansion.

In this case, the premises is not situated in the midst of a residential frontage where, because of the close relationship with neighbouring houses, a commercial element would have a potentially greater impact on residential amenity. It is a detached corner property next to Bury New Road which is a less sensitive position and where it is considered that a low scale of business activity could take place without serious detriment to residential amenity.

**Precedent** - Some of the objectors have raised concerns that any grant of planning permission would set a precedent for other businesses to occur in nearby houses and this is understandable. However, it would be more appropriate to treat each case on its own merits and if there were to be other occurrences of a business use within a house these would also be considered on this basis, including in terms of the impact on surrounding residents due to the particular nature of the business, its intensity, associated traffic/car parking generation and the nature of the premises involved including its surroundings.

**Highways/Car Parking Issues** - The property is situated at the junction of St Mary's Road with Bury New Road and a main concern is the impact of the use on highway safety and the free flow of traffic due to associated additional car parking. Also, in the objections the issue has been raised of vehicles reversing out of the drive.

The Bury New Road frontage of the property, including the radius at the junction with St Mary's Road, are protected from obstruction by parked vehicles by double yellow line markings. However, their extent does not cover the St Mary's Road frontage to the property where parking is not restricted. The property has a long drive with room for about four vehicles but this only permits tandem parking.

The Highways Team has considered the impact of the development on highway safety and the free flow of traffic and has raised no objections.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows:-

The use subject of the application would, if subject to appropriate conditions limiting its intensity, be able to continue without an undue loss of amenity to nearby residential properties.

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The use hereby permitted shall be carried on only by Mrs S Cohen and shall be for a limited period, being the period of three years from the date of this decision, or the period during which the premises are occupied by Mrs Cohen, whichever is the shorter.  
Reason: The proposed use is not in accord with the character of the area and permission has only been granted given the particular circumstances of the applicant pursuant to policies of the Unitary Development Plan listed below.
  
2. The commercial office use within the property shall only take place within the ground floor room shown hatched on the submitted location plan.  
Reason: In order to safeguard the amenities of the occupiers of nearby residential accommodation.
  
3. No commercial goods other than furnishings, equipment and stationery normally associated with the operation of an office shall be kept at the premises.  
Reason: In order to safeguard the amenities of the occupiers of nearby residential accommodation.
  
4. This decision relates to the drawing received on 29th January 2008 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 policies of the Bury Unitary Development Plan listed below.

For further information on the application please contact **Jan Brejwo** on **0161 253 5324**

**Ward:** Prestwich - St Mary's

Item 06

**Applicant:** Tesco Stores Plc

**Location:** TESCO STORES LTD, VALLEY PARK ROAD, PRESTWICH, M25 3TG

**Proposal:** Proposed erection of one 10.6m high wind turbine for a period of 15 years.

**Application Ref:** 49526/Full

**Target Date:** 08/04/2008

**Recommendation:** Approve with Conditions

### **Description**

The site occupies a single parking space within the car park at the front of the Tesco store off Bury New Road, Prestwich. The land has no specific allocation within the Bury UDP.

The proposal is for a 10.6m high double vertical wind turbine (see attached photo of an example) to be located 70m from Bury New Road and 35m from the southern boundary of the car park.

### **Relevant Planning History**

None

### **Publicity**

Immediate neighbours were written to on the 21<sup>st</sup> February 2008 and two site notices were displayed in the immediate vicinity and adjacent the entrance doors to Tesco on the 21<sup>st</sup> February 2008. 3 letters of objection has been received from Flats 2 & 9 Oakbank, at 516 Bury New Road and 27 Kingswood Road which has raised the following issues:

- The site does not have enough usable wind energy
- It will mean the loss of amenity through visual intrusion

### **Consultations**

Highways Team – No objection  
Environmental Health -

### **Unitary Development Plan and Policies**

EN1/2 Townscape and Built Design  
EN7/2 Noise Pollution  
EN4/1 Renewable Energy

### **Issues and Analysis**

**Principle** - Planning Policy Statement 22 states that local planning authorities should encourage schemes for small scale renewable energy projects. In addition Energy Objectives 2 and 3 in Bury's Local Agenda 21 are to reduce energy demand and the use of non-renewable and polluting energy sources. Also Bury UDP Policy No. EN4/1-Renewable Energy supports proposals for sustainable energy sources subject to compliance with other policies and proposals of the Plan. Therefore the proposed wind turbine is considered acceptable in principle. Thus the main considerations of the application are the impact on parking, visual and residential amenity.

**Parking** – Given the size of the car park and that the loss of the one car parking space is for the siting of a renewable energy source the proposal is considered acceptable in terms of



impact on the parking standards for the Tesco store.

Visual Amenity – The wind turbine would be sited in line with the side elevation of the Tesco store which is approx. 11m high. The blades are of a double vertical style (see attached photo of an example) rather than the usual propeller blade type. Both the circumference and radial sweep of the blades are 3.3m. The wind turbine will be visible from the surrounding properties. However the shift to renewable energy sources cannot be achieved without visible change which, as micro turbines become more popular, will become less unusual. In addition, the contribution made by the turbine towards reducing greenhouse gases is judged to outweigh any minor harm to visual amenity. Therefore the proposal is considered acceptable in terms of visual amenity and conforms to Bury UDP Policies EN1/2-Townscape and Built Design and EN4/1-Renewable Energy

Residential Amenity – *The prevailing noise level for the site is higher than the average for a residential area due to the position of the site adjacent the Tesco store, the M60 motorway and Bury New Road. However to safeguard the surrounding residential properties a condition is recommended to set an upper noise limit to be measured at the nearest sensitive site. This will ensure the proposal conforms to Bury UDP Plan Policy No EN7/2 – Noise Pollution.*

Comments on Representations – The Planning process is to affect of the proposal on the residential and visual amenity of the area. It is for the applicant to ascertain the effectiveness of the wind turbine in supplying renewable energy.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-

Having studied the submitted documents, assessed the proposed development on site and taken into account any and all representations and consultation responses; it is considered that the wind turbine hereby approved subject to condition will not cause demonstrable harm to the character of the area and as such not conflict with Bury Unitary Development Plan Policy Nos. EN1/2-Townscape and Built Design; EN4/1-Renewable Energy and EN7/2-Noise Pollution.

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered 3041pg##.exg; Ropatec\_6kW & and other plans received on 13<sup>th</sup> February 2008 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 Bury UDP Policy EN1/2 - Townscape and Built Design.
3. The wind turbine hereby approved shall not be erected unless and until a scheme has been submitted to and approved in writing by the Local Planning Authority providing for the remediation of any interference to radio telemetry links caused by the operation of the turbines. The approved scheme shall then be fully

implemented to the written satisfaction of the Local Planning Authority and maintained thereafter.

Reason. To protect the amenity of the occupants of the surrounding properties pursuant to Bury UDP Policies EN4/1-Renewable Energy and EN7/2-Noise Pollution.

4. The wind turbine hereby approved shall not be erected unless and until a report detailing a scheme for the investigation and alleviation of any electromagnetic interference to TV reception, which may be caused by the operation of the wind turbines hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The recommendations stated in the report shall be followed and, where necessary, any upgrading works implemented to the written satisfaction of the Local Planning Authority.

Reason. To protect the amenity of the occupants of the surrounding properties pursuant to Bury UDP Policies EN4/1-Renewable Energy and EN7/2-Noise Pollution.

5. When in operation, noise from the wind turbine hereby approved shall be limited to a level of 35 dB (A) L90 10min, or 5dB above the prevailing background level, up to wind speeds of 10m/s when measured at 10 metres in height, at the nearest sensitive premises.

Reason. To protect the amenity of the occupants of the surrounding properties pursuant to Bury UDP Policies EN4/1-Renewable Energy and EN7/2-Noise Pollution.

For further information on the application please contact **Janet Ingham** on **0161 253 5325**

**Ward:** Radcliffe - West

Item 07

**Applicant:** Northern Counties Housing Association

**Location:** ST JOHNS COURT, RADCLIFFE NEW ROAD, BURY

**Proposal:** ERECTION OF NEW BOUNDARY FENCING

**Application Ref:** 49410/Full

**Target Date:** 19/03/2008

**Recommendation:** Approve with Conditions

### **Description**

The application site is St John's Court which fronts Radcliffe New Road and is just outside the boundary of the Radcliffe Regeneration Area. There is an existing stone wall to the front of the flats which differs in height along the street with sporadic hedge planting. There are existing pedestrian entrances to the front of the buildings with vehicular access to the rear off Duke Street.

The application is for the erection of a boundary fence and gates as part of a scheme of improvement works designed to give a more secure boundary to the flats. The fencing would be adjacent to Radcliffe New Road approx 158m long, being 1.8m high and fabricated in 16mm diameter bars and galvanised and painted green to match the existing fencing to Coronation Park opposite. Where it is to be positioned on top of the existing boundary wall, the total height would not exceed 1.8m high. There are 4 proposed pedestrian access gates into the flats, which would be locked and to which all residents would have a key, together with the realignment of a short flight of existing steps. The gates are subject to approval from the council's highways department and should the application be accepted Gate 2 would be open between 0800 and 1800 hours for the general public.

### **Relevant Planning History**

48584 - Erection of boundary fence - withdrawn 5/12/2007

### **Publicity**

Neighbours at Nos 17, 24-36 (evens) 64 and 66 and the Service Station on Radcliffe New Road, Nos 6,8 Duke Street and all residents of St John's Court (Flats 1-112) were notified on 29th January 2008.

A site notice was displayed in the immediate vicinity on 5th February 2008.

Three letters have been received from local residents:

A letter of objection has been received from 106 St John's Court which raised the following issue:

- the fence and gates would discriminate against residents of the adjoining estate by preventing them access through St John's Court to Duke Street.

A letter of objection from No 49 St John's Court with 8 supporting signatures objects to the proposal with the exception of the 500mm fence in Section 8 of the plans on the following grounds:

- the lounge window of No 49 would face the 1800mm fence creating an imprisoned feel
- the fence would prevent the hedge being cut
- the opening and closing of Gate 2 would cause disturbance to surrounding flats
- if Gate 2 is to remain unlocked what security do the gates and fence provide
- concerns over access for emergency services to the flats fronting the main road
- if the route to the park is cut off there could be an increase in the amount of dog fouling in St John's Court

- the erection of the fencing could increase the amount of litter thrown over into the front garden areas

A letter of support from The Residents Group, C/o No 69 St John's Court with 22 supporting signatures raised the following issues:

- a full residential consultation took place with 36 out of 49 in favour of the fencing
- the petition of support is from residents which would directly face the proposed fence
- the Residents Group have worked for a number of years on behalf of residents who want the fencing
- have worked with council officers to gain support for the fence to address the anti social and nuisance problems on the estate
- the elderly residents in particular in the ground floor flats are affected by the anti social behaviour

### **Consultations**

Highways Team - No objections subject to a condition the gates do not open onto the highway.

GM Police Liaison Unit - No comments to make

### **Unitary Development Plan and Policies**

EN1/2 Townscape and Built Design  
 HT2/1 The Strategic Route Network  
 H5/1 Area Improvement  
 EN1/5 Crime Prevention

### **Issues and Analysis**

Policy - Unitary Development Plan Policy EN1/5 - Crime Prevention seeks to encourage development proposals which are environmentally sensitive in design and aimed at discouraging crime with particular attention to the use and creation of defensible space and location of footpaths and access points. UDP Policy EN1/2 - Townscape and Built Design assesses proposals which would have an impact on the character and visual amenity of an area with regards to the relationship of the proposal to the surrounding area and design in relation to its height, scale, density and layout.

Security - This application seeks to erect a boundary fence and lockable gates along the frontage of St John's Court adjacent to New Road to improve security to the flats, following consultation with all the residents of the flats and concerns about anti social behaviour and other incidents which have occurred. Three of the four gates would be locked at all times, with Gate 2 locked between the hours of 6pm and 8am. This was considered by the applicant to be a compromise of a situation which would allow some access to the properties at the rear during the day but which at night would secure the front area to reduce disturbance to the residents of St John's Court and minimise the anti social behaviour and security problems which has been occurring as a result of unrestricted access to the site. Although objections to the proposals were received during the Housing Association's consultation process with the occupiers, the majority of those residents who replied supported the fence and gate scheme. The police have no objections to the proposal. Given the rationale behind the scheme together with their location and position, the proposal is considered to comply with UDP Policy EN1/5 - Crime Prevention.

Design - The proposed fence and gates would be in keeping and of the same type and colour (green) as the existing fencing opposite at Coronation Park. The height of the fence would be no more than 1800mm high along the frontage, and where it is proposed to put the fence on top of the existing wall, the fence would be reduced to maintain a consistent height of 1800mm. Given its design, appearance and siting, it is considered not to have an adverse effect on the visual amenity of the street scene and would comply with EN1/2 - Townscape and Built Design.

Residential amenity - The proposed fence would be approximately 6.8m from the ground floor flats fronting Radcliffe New Road. There is an existing wall and some fencing to the front of the site and the proposed fencing would result in an overall height of 1800mm along the frontage. Although it would be visible from some of the ground floor flats, the fence is of a "see through" nature and painted green which would reduce the impact on the outlook of the occupiers of the ground floor flats.

Out of the four proposed pedestrian gates, Gate 2 would be unlocked during the day. It would be 6.8m from the front elevation of Flats 49 to 65, and in an off - set position in relation to Flat 49, not positioned directly in front of the window to this flat. Although it may cause some disturbance to the occupiers of this property, the position of this particular gate is already the natural route through the estate to the properties at the rear and is unlikely to cause extra traffic through this area. As such, it is considered not to be detrimental to the residential amenity of the occupiers of these flats.

Access - There is existing access and parking for residents and visitors to their individual flats at the rear from Duke Street. As far as access at the front of the flats is concerned, it would be restricted by the proposed fence and gates which would be controlled by the residents of the flats. The new gates would open inwards and provide a 1100mm opening width suitable for wheelchair access. The Highway's Section has no objection to the application subject to the condition of the gates opening inwards and away from the adopted highway which the plans demonstrate and which would be conditioned as part of the approval.

Response to other points of objection not considered above -

- Gate No 2 would be open during the day so not prejudiced access to the rear of the flats.
- The emergency services would access the flats from the rear of the site, as is the existing situation
- The amount of disturbance caused by the locking and unlocking of the gates is considered not to be seriously harmful to the occupiers of the flats opposite, particularly as it would be the residents of the flats only who had keys to the gates, a large number of whom are elderly residents.
- There is no reason for there to be an increase in dog fouling and litter.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-

The proposed gates and fence is of a design and scale which would not harm the character of the area nor detrimentally effect the residential amenity of the occupiers of the flats to which the development serves. The scheme would not adversely impact highway safety issues

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered 2634/02; 2634/03; 2634/04; 2634/05; 2634/06 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 policies of the Bury Unitary Development Plan listed below.

3. The four proposed pedestrian gates on the new Road boundary indicated on the approved plans shall not open outwards onto the adopted highway.

Reason: In the interests of public safety and to ensure compliance with Section 153 of the highways Act 1980 which prohibits the opening of gates outwards onto the street.

For further information on the application please contact **Jennie Townsend** on **0161 253-5320**

**Ward:** Ramsbottom and Tottington -  
Ramsbottom

Item 08

**Applicant:** Adonstar Ltd

**Location:** 2 BOLTON STREET, RAMSBOTTOM BL0 9HX

**Proposal:** CHANGE OF USE OF (D1) EDUCATION CENTRE TO (A1) RETAIL UNIT ON GROUND FLOOR AND (A3) CAFE ON FIRST FLOOR

**Application Ref:** 49490/Full

**Target Date:** 07/04/2008

**Recommendation:** Approve with Conditions

### **Description**

The site comprises a two storey stone built corner property within Ramsbottom Town Centre at the junction of Bolton Street and Carr Street. The site is within the Town Centre Conservation Area. That part of the property subject to this application has its main pedestrian entrance onto Carr Street. There is a small yard at rear. There are double yellow lines on all roads surrounding the premises. The property, with the adjoining premises, was previously used as council offices (housing and accounts) and adult education although they have been vacant for a number of months. No.6 Bolton Street is a chemist shop. To the rear is a health centre and across Carr Street is the Grants Arms public House.

The proposal involves changing the vacant ground floor (125sqm) into a A1 shop selling chocolate, speciality tea and coffee. It is proposed to convert the first floor (125sqm) to an A3 cafe serving tea, coffee and chocolate items (sold in the shop below). A small area on the ground floor would accommodate a table to allow any disabled customers to eat and drink. It is indicated that 3/4 staff would be employed on the premises. Hours of opening would be 9am to 5.30 daily.

As part of the conversion, the existing top opening windows would be replaced with timber mock sash and case. The existing Upvc rainwater good would be replaced with mock cast iron (Upvc) type.

The application does not include any advertisements as these are dealt with as a separate application.

### **Relevant Planning History**

47989 - Change of Use from Education Centre(D1) to Financial and Professional Services (A2) - Approved 19/09/2007

48373 - Change of Use from Offices(B1) and Education Centre(D1) to Offices (B1) - Approved 19/09/2007

### **Publicity**

Press and site notices posted. Immediate neighbours notified at the Health Centre, Carr Street, 2, 7, 9 and 11 Market Place, businesses in Market Chambers, 59, 82 and 84 Bridge Street, 1-10, 12 and 14 Bolton Street.

Three objections have been received from the proprietors of the cafe known as Room 54 at 54 Bridge Street and also from the Cultured Bean coffee shop and Cultured Bean Store, both on Bridge Street. Objections are summarised below:

- Ramsbottom has reached saturation point in terms of the number of eateries in the town centre.
- Premises up for sale indicate a lack of trade in the area.
- Any alterations would be against conservation area rules.

- Disabled access problems due to the narrow pavement.
- There are enough shops in the locality.

### **Consultations**

Traffic - No objection.

Environmental Health - No objection.

Conservation - No objection. The scheme would improve the appearance of the existing property.

Baddac (disability issues) - No objection.

Policy - No objection.

### **Unitary Development Plan and Policies**

S1	Existing Shopping Centres
S1/2	Shopping in Other Town Centres
S2	Control of New Retail and Non-Retail Development
S2/1	All New Retail Proposals: Assessment Criteria
S2/2	Prime Shopping Areas and Frontages
S2/6	Food and Drink
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/8	Shop Fronts
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
HT5/1	Access For Those with Special Needs
Area	Bolton Street/Bridge Street
RM3	

### **Issues and Analysis**

Policy - The conversion of the vacant or non-retail premises at ground floor level to A1 shops is encouraged by the various shopping policies within the Unitary Development Plan listed above. Specifically area policy RM3 states '*the Council will encourage and support proposals for retailing and appropriate ancillary uses within the Bolton Street/ Bridge Street area, the town's main shopping area*'. It should also be noted that the previous approval to change the premises to A2 offices, if enacted, would under the Use Classes Order, enable a further change of use to A1 shop without the need for formal planning permission.

Policy S2/2 Prime Shopping Areas and Frontages states that retailing should be maintained as the predominant land use at ground floor level. Such redevelopment proposals should be assessed on design, access and residential amenity issues as well as the distribution of non-retail outlets.

With regard to the proposed cafe at first floor, policy S2/6 - Food and Drink states that the following factors will be considered;

- impact of noise, smell, litter and opening hours on residential amenity,
- impact on the concentration of non-retail uses on the character of the centre,
- parking and servicing,
- refuse and litter,
- impact of flues and/or ducting.

Residential amenity - The impact on residential amenity would not be significant given that the site is in the town centre with commercial properties on either side and to the front and a health centre to the rear. There are no residents in the immediate vicinity.

Character of the centre - It is not considered that a cafe, at first floor level, would have a significantly detrimental impact on the character of the centre either visually or with regard to the numbers of existing cafes or take-aways in the locality. Given that the cafe use is at first floor level and would be supporting the retail use on the ground floor it should be encouraged.



The external alterations to the building itself, including the replacement windows and the removal of the now redundant fire escape to the rear, would improve the appearance of the property which is within a particularly prominent position within the Conservation Area.

Disabled access - Facilities for the disabled are considered to be adequate and access into the premises should not prove difficult. The small table on the ground floor would allow some disabled people to utilise the cafe facilities without having to go upstairs. A condition restricting the use of the ground floor to retail apart from the small area for wheelchair users is deemed appropriate as is one requiring the leveling of the small 50mm step at the entrance.

Parking and servicing - As the site is in the Town centre and in a highly accessible and sustainable location there is no need for on site parking provision. Servicing of the business, including refuse collection and deliveries would be via the rear yard onto Central Street as with the previous use.

Refuse and litter - Refuse would be collected with the previous use. It is not considered that there would be a particularly serious litter problem given the nature of the use.

Flues - The applicant states that there would be no need for any flues or ducting given the limited scale and nature of the development. Despite this it is considered appropriate to attach a condition to any approval that controls any external ventilation equipment.

Objections - The concerns of the objectors have been addressed in the above report.

It is considered that the proposed development would improve the appearance of the building and the conservation area in which it stands without harming the viability or vitality of the town centre shopping area. As such the proposal complies with the policies listed above.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-

The proposed development would improve the appearance of the existing building within the conservation area without detrimentally affecting the vitality or viability of the existing shopping centre. Complies with UDP policies listed above. There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered tb15-00, tb15-01, tb15-02, tb15-03, tb15-04A, 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 policies of the Bury Unitary Development Plan listed below.
3. Samples of all external finishing materials to be used in the external elevations

shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced.

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.

4. The ground floor shall be used only for A1 retail sales as defined in the Use Classes Order 2005 and at no time as a cafe with the exception of the seating area indicated for wheelchair users on the approved plan tb15-03.  
Reason. In the interests of amenity pursuant to UDP policies S2/2 Prime Shopping Areas and Frontages and S2/6 - Food and Drink.
  
4. Prior to the approved use commencing, details of level changes to the stone step on the Carr Street entrance shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained in situ to the satisfaction of the Local Planning Authority.  
Reason. To improve disabled access pursuant to UDP policy HT5/1.

For further information on the application please contact **Tom Beirne** on **0161 253 5361**

**Ward:** Bury East - Redvales

Item 09

**Applicant:** Advanced Utilities Ltd

**Location:** PHOENIX BUILDINGS, 100 BRIERLEY STREET, BURY, BL9 9HN

**Proposal:** RENOVATION OF INDUSTRIAL PREMISES TO FORM 5 UNITS (CLASSES B1, B2 & B8) AND 9 OFFICE UNITS (CLASSES A2 & B1), INCLUDING ALTERATIONS TO ELEVATIONS. DEMOLITION & ERECTION OF NEW BOUNDARY WALL.

**Application Ref:** 49506/Full

**Target Date:** 04/04/2008

**Recommendation:** Approve with Conditions

### **Description**

Phoenix works is an industrial building, which has been extended in the past and is a mixture of two storey and single storey. The majority of the buildings are red brick, with some cladding on the southern elevation. To the north of the application site there is a bowling green and residential dwellings and there are residential dwellings to the west and east of the site. To the south of the site is a office building and dwellings, which front onto Heaton Fold. The buildings are accessed from Brierley Street and there is a large car park to the south and west of the buildings. There is a 3 metre wall on the southern, western and northern boundary with Moss Place. At the boundary with Brierley Street there is a 1 metre wall, followed by a 2 metre wall at the back of the pavement.

The proposal involves the renovation of existing industrial premises to form 5 industrial units (Classes B1, B2, & B8) and 9 office units (Classes A2 & B1). The proposal would involve alterations to the external elevations and the demolition and rebuilding of the boundary wall fronting onto Brierley Street.

### **Relevant Planning History**

C/03998/76 – change of use from warehouse to general industry at Phoenix Works, 100 Brierley Street, Bury. Approved – 24 February 1977

C/03999/76 – outline application for extension to existing premises for general use and warehousing at Phoenix Works, 100 Brierley Street, Bury. Approved – 24 February 1977

C/12534/81 – extension to photographic studios at Phoenix Works, 100 Brierley Street, Bury. Approved - 17 September 1981

31470/95 – 2 storey extension at Phoenix Works, 100 Brierley Street, Bury. Approved with conditions – 21 November 1995

48727 – Renovation of existing industrial premises at Phoenix Works, 100 Brierley Street, Bury. Withdrawn – 12 December 2007

The application was withdrawn as there was insufficient information relating to noise to enable the application to be properly assessed.

### **Publicity**

The neighbouring properties (77 – 93 Brierley Street (odds); 80 – 88 Brierley Street (evens); Heaton House, Brierley Street; 2 – 16 Moss Place (evens); 221, 221A, 223 Manchester Road; 8, 10, 33, 35 Heaton Fold; Standering Building, Heaton Fold; Stanley Conservative Club, Back Parkhills Road) were notified by means of a letter on 13 February. 2 letters of objection have been received from the occupiers of Nos. 4 & 12 Moss Place, which have raised the following issues:

- Impact of the new windows in the gable elevation upon privacy

- A preference for brick rather than cladding material
- Impact of lorries parking adjacent to the boundary with Moss Place
- A preference for the access to Unit 5 to be on the southern elevation rather than the western elevation
- Existing noise levels should be maintained through a condition

### **Consultations**

Highways Team –No response to date

Drainage Team – No objections

Environmental Health – contaminated land – No objections, subject to the inclusion of conditions relating to contaminated land.

Environmental Health – Pollution Control – The previous use of the whole site was as a photographic processing place. As a result, the local residents have become accustomed to lower levels of noise from the site and therefore, the local residents will perceive any increase in the level of noise by any future occupants of the buildings as detrimental to residential amenity.

Object to the introduction of Class B2 and B8 units on the site, as it is surrounded, in close proximity by residential dwellings. In order to prevent possible loss of amenity to local residents, it is recommended that the development is restricted to Classes B1 and A2.

GM Police Architectural Liaison Unit – No response to date

### **Unitary Development Plan and Policies**

EC2/2	Employment Land and Premises
EC3/1	Measures to Improve Industrial Areas
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
HT5/1	Access For Those with Special Needs

### **Issues and Analysis**

Principle - The proposed development involves the renovation of an existing industrial building into smaller office or industrial units.

Policy EC2/2 states that the Council will seek the retention of existing employment land and premises outside the Employment Generating Areas except where it can be clearly demonstrated that an existing employment site or premises is no longer suited in land use terms to continued employment use. In these circumstances consideration would be given to alternative development, providing it would not conflict with the character of the surrounding area and other policies of the Plan.

Policy EC3/1 of the adopted Unitary Development Plan states that the Council will encourage measures to improve the appearance of buildings, improve servicing and access arrangements, facilitate the re-use of vacant buildings and floor space and improve the visual appearance of the area.

The proposed development would retain an existing industrial premise in employment use and would result in part of the existing buildings being brought in to use. The proposed development would improve the external appearance of the building and through the demarcation of the existing car park, would improve the servicing and access arrangements for the site as a whole. Therefore, it is considered that the proposal is in accordance with Policies EC2/2 and EC3/1 of the adopted Unitary Development Plan.

Impact upon surrounding area - The last known use of the building was as a photographic laboratory and prior to that as a heavy goods transport company (Class B2) and a small part of the building is currently in use as offices. The proposed industrial units would be located on the southern edge of the building and the site would be bounded by 3 metre walls to the

boundaries with Moss Place, Heaton Fold and the southern boundary.

The proposed development includes external alterations, including the rendering and cladding of the building. The proposed plans indicate that the northern elevation would be covered in grey steel cladding. The agent has submitted amended plans which indicate that the northern elevation would be a mix of render and grey steel cladding, which is considered to be more acceptable. It is considered that the proposed development would create a uniform appearance to the buildings and would not be unduly prominent within the locality, subject to conditional control. Therefore, the proposed development is considered to be in accordance with Policies EN1/1 and EN1/2 of the adopted Unitary Development Plan.

Amenity - The proposed development would involve external alterations to the building, including the provision of new openings. The proposed openings on the north elevation would overlook the bowling green and would utilise the existing windows, which have been boarded up. The proposed windows on the northern elevation would not directly face the openings in No. 16 Moss Place and therefore, it is considered that a separation distance of 16 metres would not have a significant adverse impact upon the amenity of the occupiers of No.16 Moss Place.

The proposed development would involve new openings in the gable (western) elevation at first floor level. Allowing for the 3 metre wall, which bounds the site, it was considered that the proposed openings would have an adverse impact upon the occupiers of Moss Place, in terms of overlooking. The agent has agreed to submit revised plans, which would show that these windows as high level windows and it is considered that the proposed high level windows would not have a significant adverse impact upon the amenity of the occupiers of Moss Place.

The existing openings would be utilised on the eastern elevation and these would be in excess of 30 metres from the residential properties on Brierley Street and the proposed openings in unit 5 would be over 30 metres from the gable elevation of No. 33 Heaton Fold. Therefore, it is considered that the proposed development would not result in overlooking or loss of privacy for the occupiers of the surrounding dwellings.

Noise - A noise survey has been submitted as part of the application to assess the impact of the proposal upon the surrounding residents.

Policy EN7/2 states that in seeking to limit noise pollution, the Council will not permit development which could lead to an unacceptable noise nuisance to nearby occupiers or amenity users and development that would be close to a permanent source of noise.

The pollution control team has objected to the inclusion of use classes B2 and B8 on the site. Although the site was used previously as an industrial site, this use ceased some time ago and existing noise levels are significantly lower (Current noise levels equate to 49dB). The Pollution Control team state that as the site is surrounded by residential dwellings that the introduction of either a B2 or B8 use on the site would have a significant adverse impact upon the occupiers of the occupiers in terms of noise. However, taking into account the last known use of the site, it is considered that providing the noise levels do not exceed 49dB at the boundary of the site (i.e. adjacent to residential dwellings) then the proposed development would have no greater impact than the existing noise levels. It is proposed to secure this via a condition. Therefore, it is considered that the proposed development would be in accordance with Policy EN7/2 of the adopted Unitary Development Plan.

Protected tree - There is a protected tree (TPO170) located close to the boundary of the application site with Moss Place. The proposed development would not increase the floor space of the building and therefore, there would be no adverse impact upon the protected tree.

Highways Issues - The proposed development would maintain level access to the building through the provision of ramps and the provision of a lift within the building. The proposal

allows for the formal marking out of the existing car park and the provision of a turning circle and therefore, the car park would be able to accommodate more cars than previously. The proposal would result in 10 more spaces than the recommended maximum, it is considered that as the car park is not being extended, then the number of spaces is acceptable. Cycle parking would be provided to the rear of the site. Therefore, it is considered that there would be adequate parking facilities for the site and there would not be an adverse impact upon highway safety. Therefore, the proposed development would accord with Policies HT2/4 and HT5/1 of the adopted Unitary Development Plan.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows:-

The proposed development is acceptable in principle and would not have a significant adverse impact upon the neighbouring residents. The proposed development would not look out of place within the locality, subject to conditional control and would not be detrimental to highway safety.

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered 01/1, 01/2, 001/A, 002/A, E101, E0002 and revised plans received on 4 March 2008 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 policies of the Bury Unitary Development Plan listed below.
3. Details of the materials to be used in the external elevations shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced.  
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.
4. Prior to the development hereby approved commencing:
  - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground 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 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 is required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.
5. Following the provisions of Condition 4 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 Planning Policy Statement 23 - Planning and Pollution Control.

6. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;  
The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) 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 Planning Policy Statement 23 - Planning and Pollution Control.

7. All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:

- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;
- A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA 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 Planning Policy Statement 23 - Planning and Pollution Control.

8. No development shall commence unless and until a Preliminary Risk Assessment report to assess the actual/potential ground gas / landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority.

- Where actual/potential ground gas/landfill gas risks have been identified, a detailed site investigation(s), ground gas monitoring and suitable risk assessment(s) shall be submitted to, and approved in writing by the Local Planning Authority;
- Where remediation / protection measures are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. To alleviate any possible risk associated with the production of landfill gas and ground gas in accordance with the recommendations of the Environment Agency and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.

9. Following the provisions of Condition 8 of this planning permission, where ground gas remediation / protection measures are required, the approved Remediation Strategy must be carried out to the written satisfaction of the Local Planning

Authority within approved 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 alleviate any possible risk associated with the production of landfill gas and ground gas in accordance with the recommendations of the Environment Agency and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.

10. No work or other activity shall take place on the site on Sundays or Bank Holidays and all work and other activity on other days shall be confined to the following hours:-  
0800 hrs to 1800 hrs, Monday to Saturdays.  
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies EC2/2 - Employment land and premises outside the employment generating areas and EN7/2 - Noise pollution of the Bury Unitary Development Plan.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed.  
Reason: To protect the residential amenities of the occupants of adjoining properties.
12. The office units indicated on plans 001/A & 002/A shall be used for use classes B1 & A2 only and for no other purposes, including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or as subsequently amended.  
Reason. Due to its position, development of this type would not normally be granted consent due to its detrimental effect on the residential amenities enjoyed by nearby residents pursuant to policies of the Unitary Development Plan listed below.  
Policy EC2/2 - Employment land and premises outside of the employment generating areas
13. Noise levels at the boundary of the site (or within 5 metres) shall not exceed 49dB.  
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy EN7/2 of the Bury Unitary Development Plan.
14. No open storage shall take place within the car park at any time.  
Reason. To safeguard the amenity of the local residents pursuant to Policy EN7/2 of the Bury Unitary Development Plan

For further information on the application please contact **Helen Longworth** on **0161 253 5322**



**Ward:** Whitefield + Unsworth - Unsworth

Item 10

**Applicant:** The Post Office Ltd

**Location:** UNSWORTH POST OFFICE, 73 PARR LANE, UNSWORTH, BURY, BL9 8JR

**Proposal:** PROPOSED INSTALLATION OF EXTERNAL ATM INTO RETAIL UNIT FRONTAGE

**Application Ref:** 49534/Full

**Target Date:** 08/04/2008

**Recommendation:** Approve with Conditions

### **Description**

The site is the shop frontage of an established Class A1 retail unit within Bury UDP Local Centre 09 – Unsworth Pole/Parr Lane (LC09). The proposal is for an Automatic Teller Machine (ATM) in part of the existing shop front area that has a 1.65m wide pavement in front.

### **Relevant Planning History**

None

### **Publicity**

Immediate neighbours were written to on the 19<sup>th</sup> February 2008. A written statement of objection has been received from 71/73 Pole Lane which has raised the following issues:

- The double yellow lines outside the Post Office and butchers shop are constantly ignored which restricts the passing traffic to single file restricting the access to Pole Lane, which is regularly used by the residents, Pike Fold Golf Club, Unsworth Cricket Club and horse riders.
- The installation of an ATM would make the situation worse when people park next to the ATM to use it.

### **Consultations**

Highways Team – No objection

GM Police Liaison – No objection subject to additional security arrangements

BADDAC - No objection

### **Unitary Development Plan and Policies**

EN1/2 Townscape and Built Design

EN1/8 Shop Fronts

HT5/1 Access For Those with Special Needs

S1/4 Local Shopping Centres

### **Issues and Analysis**

**Principle** – The site is within a Local Centre where the Council seeks to maintain and enhance the provision of shopping facilities and will encourage the provision of a range of shopping facilities required to serve local needs. The provision of an ATM within the centre would assist in enhancing the existing facilities by providing an additional service/facility.

Therefore the principle is acceptable subject to the following issues:

**Parking** – The provision of an ATM will not necessarily create additionally traffic to the local shopping centre. However there is a designated parking area within the local shopping

centre. The proposal therefore accords with Bury UDP Policy EN1/2 – Townscape and Built Design and S1/5 - Neighbourhood Centres and Local Shops

Visual Amenity – The ATM has been incorporated within the existing shop window frame and is considered not to have a seriously detrimental impact on the existing building or street scene. The proposal therefore accords with Bury UDP Policy EN1/2 – Townscape and Built Design and S1/5 - Neighbourhood Centres and Local Shops

Residential Amenity – There is a residential dwelling above the proposed ATM and the adjacent butchers shop. However given the location of the ATM within LC09 - Unsworth Pole/Parr Lane it should not cause undue disturbance above that associated with the existing shopping centre.

Crime Prevention – The ATM is in an area that has natural surveillance, however a condition is recommended that requires CCTV to be installed prior to the ATM being brought into use. The submitted plans indicate a marked out ‘secure-zone’. The proposal therefore accords with Bury UDP Policy EN1/5 – Crime Prevention.

Access for All – Whilst the pavement/road slopes downhill southwards the access to the ATM is level across the width of the pavement area. The height of the ATM is in accordance with the requirements for access for all. The proposal therefore accords with Bury UDP Policy HT5/1 – Access For Those with Special Needs.

Comments on Representations – The site is within a local shopping centre which has a designated parking area. If cars are parked on double yellow lines or causing an obstruction this is a matter for traffic regulations and not the planning system.

### **Summary of reasons for Recommendation**

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows;-

The proposed development is of an acceptable standard which would not adversely affect the character of the area nor the amenities of neighbouring residents. The scheme will not adversely impact on highway safety issues.

There are no other material considerations that outweigh this finding.

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered 1470-138-1 & 1470-138-2 received on 12<sup>th</sup> February 2008 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 Bury UDP Policy EN1/2 - Townscape and Built Design.
3. Prior to the ATM hereby approved being installed a scheme for CCTV shall be submitted to and approved in writing by the Local Planning Authority. The ATM and CCTV shall then be installed fully in accordance with the approved details to the written satisfaction of the Local Planning Authority.

Reason: In the interest of security pursuant to Bury UDP Policy EN1/5 – Crime Prevention.

4. The ATM hereby approved shall not be brought into use unless and until the hatched markings on the pavement are installed.

Reason: In the interest of security pursuant to Bury UDP Policy EN1/5 – Crime Prevention.

For further information on the application please contact **Janet Ingham** on **0161 253 5325**

