

REPORT FOR NOTING

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| DECISION OF: | PLANNING CONTROL COMMITTEE |
| DATE: | 29 August 2023 |
| SUBJECT: | PLANNING APPEALS |
| REPORT FROM: | HEAD OF DEVELOPMENT MANAGEMENT |
| CONTACT OFFICER: | DAVID MARNO |
| TYPE OF DECISION: | COUNCIL |
| FREEDOM OF INFORMATION/STATUS: | This paper is within the public domain |
| SUMMARY: | <p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined |
| OPTIONS & RECOMMENDED OPTION | The Committee is recommended to the note the report and appendices |
| IMPLICATIONS: | |
| Corporate Aims/Policy Framework: | Do the proposals accord with the Policy Framework? Yes |
| Statement by the S151 Officer: Financial Implications and Risk Considerations: | Executive Director of Resources to advise regarding risk management |
| Statement by Executive Director of Resources: | N/A |
| Equality/Diversity implications: | No |
| Considered by Monitoring Officer: | N/A |
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| Wards Affected: | All listed |
| Scrutiny Interest: | N/A |

TRACKING/PROCESS

DIRECTOR:

| Chief Executive/ Strategic Leadership Team | Executive Member/Chair | Ward Members | Partners |
|--|---------------------------|--------------|----------|
| | | | |
| Scrutiny Committee | Committee | Council | |
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1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Lodged
between 17/07/2023 and 20/08/2023**



Application No.: 69178/FUL

Appeal lodged: 14/08/2023

Decision level: DEL

Appeal Type:

Recommended Decision: Refuse

Applicant: Mr Mark Jagger

Location Land at junction of Arthur Lane & Bury Old Road, Ainsworth, Bolton

Proposal Demolition, conversion and extension of existing stable/livestock buildings to create 1 no. single storey dwelling with enclosed garden and parking

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 17/07/2023 and 20/08/2023**



Application No.: 67658/FUL **Appeal Decision:** Allowed
Decision level: COM **Date:** 17/07/2023
Recommended Decision: Approve with Conditions **Appeal type:** Written Representations
Applicant: Westchurch Homes Limited & Wyresdale Amateur Football Club
Location: Land to west of Radcliffe Moor Road/Bury New Road, Radcliffe
Proposal: Change of use of the land for use as outdoor sports pitches including engineering operations to form 4 pitches, the construction of a clubhouse, ancillary storage structures, creation of access from Radcliffe Moor Road, parking, landscaping, drainage and associated works.

Application No.: 68881/FUL **Appeal Decision:** Dismissed
Decision level: DEL **Date:** 26/07/2023
Recommended Decision: Refuse **Appeal type:** Written Representations
Applicant: K-Outlet
Location: 6-9 Park Hill, Bury Old Road, Prestwich, Manchester, M25 0FX
Proposal: Retention of five shipping containers



Appeal Decision

Site visit made on 3 May 2023

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal Ref: APP/T4210/W/22/3308871

Land to the west of Radcliffe Moor Road at the junction with Bury New Road.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Paul Sinclair (Westchurch Homes Ltd & Wyresdale Amateur Football Club) against Bury Metropolitan Borough Council.
 - The application Ref 67658/Full, is dated 8 October 2021.
 - The development proposed is change of use of the land for use as outdoor sports pitches including engineering operations to form 4 pitches, the construction of a clubhouse, ancillary storage structures, creation of access from Radcliffe Moor Road, parking, landscaping, drainage, and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the land for use as outdoor sports pitches including engineering operations to form 4 pitches, the construction of a clubhouse, ancillary storage structures, creation of access from Radcliffe Moor Road, parking, landscaping, drainage, and associated works at Land to the west of Radcliffe Moor Road at the junction with Bury New Road in accordance with the terms of the application Ref 67658/Full, dated 8 October 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The appellant has raised a concern that the planning committee was not impartial when it resolved to defer making the decision on the original planning application when it was before them. However, based on the evidence, there is no reason for me to suppose that the Council made this decision other than in accordance with its democratic procedures. Therefore, while I note that this decision was against officer advice (and a disappointment to the appellant) this is something that the Council's Planning Committee has a right to do provided there is sufficient evidence to substantiate the decision.

Main Issues

3. The main issues are:
 - whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant Development Plan policies; and

- if the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

4. The appeal site is situated within open fields next to Radcliffe Moor Road and Bury New Road. It is also located adjacent to Starmount Lodges fishery and several angling lakes which together form part of a Site of Special Biological Interest (SBI).

Whether inappropriate development

5. The *National Planning Policy Framework* (the Framework) at paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The construction of new buildings is regarded as inappropriate development in the Green Belt save for several specified exceptions under paragraphs 149 of the Framework. One such exception is the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport or outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. Paragraph 150 e) of the Framework states that material changes in the use of land (such as changes for outdoor sport or recreation) are not inappropriate forms of development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
8. Paragraph 150 b) of the Framework states that engineering operations are also not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
9. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open as set out in Paragraph 137.
10. Policies OL1/2 and OL1/5 of the adopted Bury Unitary Development Plan (UDP) state that the construction of new buildings and other development is inappropriate development in the Green Belt save for several exceptions including essential facilities for outdoor sport and outdoor recreation. Consequently, I consider policies OL1/2 and OL1/5 to be broadly consistent with the Framework and I afford them full weight.
11. As well as the creation of four football pitches the proposal would also create a new vehicular access, car park, cycle store, bin store, maintenance building and clubhouse. It would be located within an open agricultural field where there is currently no development. In simple spatial terms, this would have a clear and demonstrable effect on the openness of the Green Belt by introducing development to land which is presently permanently open.
12. The construction of a vehicular access, car park, cycle store, bin store, maintenance building and clubhouse on the appeal site would therefore bring about development where there is presently none. Accordingly, these elements of the proposal would also represent an encroachment of development into the countryside and would also therefore have a clear spatial and visual impact on the openness of the Green Belt.

13. That said, given the overall size of the appeal site, the proposed landscaping scheme and the location, size, scale and massing of the proposed vehicular access, car park, cycle store, bin store, maintenance building and clubhouse in comparison, I consider that the spatial and visual impact of the proposal on the openness of the Green Belt to be moderate. Furthermore, given their open nature I also consider that the proposed football pitches would preserve the openness of the Green Belt and that they would therefore not conflict with the purposes of including land within it.
14. However, for the above reasons, I find that overall, the proposal would not preserve the openness of the Green Belt or safeguard the countryside from encroachment. The proposed development would therefore fall outside the exceptions set out in paragraphs 149 and 150 of the Framework and should be considered inappropriate development in the Green Belt. The proposal would therefore conflict with policies OL1/2 and OL1/5 of the UDP which aim to prevent inappropriate development in the Green Belt.

Other considerations

15. In support of the proposal the appellant has stated that it would meet an identified need for youth sports football pitches in Bury for which there is currently a shortage, something which the Council has not contested. Indeed, as highlighted by the Playing Pitch and Outdoor Sports Strategy (PPOSS), there is a clearly identified need for such football pitches in the Borough at this moment in time. Consequently, I afford this consideration significant weight.

Other Matters

16. Interested parties have raised concerns relating to several matters including: highway safety; the potential for housing on the appeal site; noise pollution; anti-social behaviour; pollution; contamination; and land subsidence. However, I have no substantive evidence before me to suggest that the proposal would cause unacceptable harm in relation to highway safety, contamination, pollution, noise pollution, anti-social behaviour or land subsidence.
17. Indeed, the respective consultees including the Coal Authority, the Highway Authority, Transport for Greater Manchester, Cadent Gas North West, and the Council's Environmental Protection Officer have raised no concerns in relation to the proposal subject to the imposition of suitably worded conditions. I also have no substantive evidence before me to suggest that housing or a social club would be brought forward on the appeal site, or that anti-social behaviour would be a potential issue. Consequently, I afford these matters little weight.
18. In relation to any potential impact on biodiversity (including ecology and loss of wildlife corridors) I note that the appeal site is adjacent to Bradley Fold Grade C SBI and that the Lancashire Wildlife Trust (LWT) did raise some initial concerns relating to potential increased fertiliser run-off into the lodge habitats. However, the LWT did not object to the proposal but recommended that a habitat management plan be provided and that the SBI be protected from potential pollution and fertiliser run-off. It also suggested that the Council consult the Greater Manchester Ecology Unit (GMEU).
19. When consulted, the GMEU raised no objection to the proposal subject to the inclusion of conditions relating to nesting birds, invasive species, the submission of a method statement, the disposal of surface water and landscaping. Therefore, based on the submitted evidence, including the submitted Ecological Survey and Assessment report, I am satisfied that any potential impact in this regard could be

adequately mitigated via the imposition of suitably worded conditions and as a result afford this matter little weight.

20. The evidence also highlights that the original officer report contained a recommendation to the local planning authority's planning committee to '*approve with conditions*' but that the decision was deferred by the committee pending the submission of additional information relating to drainage and ecology. The Council's submitted statement provides an update on these matters in that following further advice and explanation from the Drainage Officer, the committee members are now satisfied that any potential adverse impacts could be adequately controlled via the imposition of suitably worded conditions. The officer report also highlights that the Council's drainage section had no objection to the proposal. I am therefore also satisfied that these matters can be adequately addressed via the imposition of suitably worded conditions and consequently afford them little weight.

Conditions

21. A set of suggested conditions was submitted by the Council which the appellant agrees with, and I have used these as the basis for those I have imposed on the appeal scheme.
22. I have imposed conditions as set out in the attached schedule in light of the use of planning conditions set out in the *National Planning Policy Framework* (the Framework) and *Planning Practice Guidance* (the Guidance). Consequently, in the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions suggested by the Council.
23. In addition to the standard implementation condition, I have imposed a necessary condition to define the plans with which the scheme should accord in the interest of precision. I have also imposed a necessary condition specifying that the proposal be constructed of materials in accordance with samples submitted to and approved by the local planning authority in the interests of the character and appearance of the area.
24. In the interest of minimising risks from potentially contaminated land I have also imposed conditions requiring an assessment of the risks posed by any contamination to have been submitted to and approved in writing by the local planning authority before the commencement of any works; and if contaminated land is identified as part of the risk assessment that no work should begin until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority.
25. I have imposed a necessary condition requiring the submission and approval of a management and maintenance scheme for the approved facilities in the interests of ensuring they are fit for purpose, minimising flood risk and protecting the natural environment.
26. In the interest of protecting bird species and other wildlife, I have imposed necessary conditions prohibiting works to trees, hedgerows, shrubs, and earthworks until a detailed bird nest survey and a landscaping scheme, including the provision of bat bricks/tubes and bat/bird boxes, are submitted to, and approved by the local planning authority.
27. I have also imposed a condition that prevents the commencement of development until a scheme to eradicate invasive plant species such as Japanese Knotweed and Himalayan Balsam has been submitted to and approved by the local planning authority. This is in the interest of protecting native plant species. Similarly, I have also imposed a condition which requires the submission and approval of a method

statement to protect the ponds at Bradley Fold and the Blackshaw Brook from accidental spillages, dust, and debris, also in the interest of the natural environment.

28. In the interest of highway safety, I have imposed necessary conditions requiring the provision of turning facilities and car/cycle parking spaces, the implementation of adequate bin storage facilities clear of the adopted highway, the submission of details, such as swept path analyses, on a topographical based survey of the site and adjacent adopted highways and a Construction Traffic Management Plan, to the local planning authority for approval.
29. In the interest of minimising flood risk, I have imposed necessary conditions requiring the submission to and approval by the local planning authority of a detailed drainage design and a scheme of intrusive site drainage investigations and preliminary engineering works to investigate ground water flows feeding Starmount reservoir and springs in the vicinity of the proposed swale, including the timing of such works.
30. The Council suggested a condition requiring the provision of one dual head fast capability electric vehicle (EV) charging point. However, as Part S of the Building Regulations is now in effect this condition is not necessary and I have therefore not imposed it.

Planning Balance and Conclusion

31. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm.
32. In terms of the harm, the proposal would reduce the openness of the Green Belt, both spatially and visually to a moderate degree. It would also encroach into the countryside to a moderate degree. Consequently, it would conflict with the adopted development plan and national policy in these regards.
33. In terms of the benefits, the proposal would provide sports and recreation facilities to meet a clearly identified need to which I attach great weight. The proposal would also not conflict with the four other purposes of including land within the Green Belt.
34. Consequently, given the proposal's moderate harm to the openness of the Green Belt and encroachment into the countryside, I find that the other considerations in this case clearly outweigh this identified harm. Accordingly, looking at the case as a whole, I consider that very special circumstances exist which justify the proposed development. Therefore, for the reasons set out above I conclude that the appeal should be allowed.

C Coyne

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No. 2102-GTA-00-00-DR-A-1000; Topographical Survey Drawing No. 2102-GTA-00-00-DR-A-1001 Rev A; Site Layout Plan Drawing No. 2102-GTA-00-00-DR-A-1002 Rev C; Proposed Car Park Layout Drawing No. 2102-GTA-00-00-DR-A-1003 Rev C; Proposed GA Plan Drawing No. 2102-GTA-00-00-DR-A-1004 Rev C; Proposed GA Plan (Phase 1) Drawing No. 2102-GTA-00-00-DR-A-1005 Rev A; Proposed Site Access onto Radcliffe Moor Road Drawing No. B026883 TTE 00 XX PL D 001 Rev P01; Cross-Section: A – AA Existing & Proposed Contour Profile Dated September 2021; Cross-Section: B – BB Existing & Proposed Contour Profile Dated September 2021; Cross-Section: C – CC Existing & Proposed Contour Profile Dated September 2021; Cross-Section: D – DD Existing & Proposed Contour Profile Dated September 2021; Cross-Section: E – EE Existing & Proposed Contour Profile Dated September 2021; Landscape Proposal Drawing No. 6685.01 Rev A; Maintenance Building Specification – Ref. MBS-01; Preliminary Drainage Strategy Ref. HYD633.633.BET.1 Rev A; Offsets from CA Feature Drawing No. CA/001
- 3) No development shall take place until details / samples of the materials to be used in the construction of the external surfaces of the clubhouse and the ancillary storage structures hereby permitted have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details / samples.
- 4) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground gas;
 - landfill gas;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives

and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

- 6) Before the drainage system associated with the club house, playing pitches and car park is brought into use, a Management and Maintenance Scheme for the playing pitches and other facilities hereby approved including management and maintenance responsibilities, a maintenance schedule, a monitoring regime (after first establishing a baseline for quantity and quality) including the monitoring of water quantity and quantity discharged from the proposed reed bed, and a mechanism for review, shall be submitted to and approved in writing by the local planning authority.

The scheme shall include details of any fertiliser to be used on the site, including its type, chemical composition, method, and density of application, as well as the timing of application.

The Management and Maintenance of the site including the playing surfaces, swale and reed bed shall thereafter be strictly in accordance with the approved scheme.

No fertiliser, pesticides, conditioning agents, or other chemicals shall be used on the site other than that expressly identified in the Maintenance and Management Scheme.

Should the monitoring and maintenance regime not be followed then use of the facility (pitches, clubhouse, and car park) must cease immediately until the breach is investigated and rectified.

No fertiliser, pesticides, conditioning agents, or other chemicals shall be applied until the swale and reed bed are established and functioning as intended.

- 7) No works to trees, shrubs or hedgerow occur or earthworks commence between 1 March and 31 August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the local planning authority.
- 8) No development shall commence until full details of a scheme for the eradication and/or control of Japanese Knotweed (*Fallonia Japonica*, *Rouse Decraene*, *Polygonum Cuspidatum*) and Himalayan Balsam (*Impatiens Glandulifera*) is submitted to and approved in writing by the local planning authority. The approved management plan shall include a timetable for implementation. Should a delay of more than one year occur between the date of approval of the management scheme and either the date of implementation of the management scheme or the date of development commencing, a further site survey must be undertaken and submitted to the local planning authority.
- 9) No earth moving shall take place or material or machinery brought on site until a method statement to protect the ponds at Bradley Fold and the Blackshaw Brook from accidental spillages, dust and debris has been supplied to and agreed by the local planning authority. All measures will be

implemented and maintained for the duration of the construction period in accordance with the approved details.

- 10) No development shall take place until it can be demonstrated that there will be no negative impacts on the ecological potential of the ponds at Bradley Fold and Blackshaw Brook resulting from the disposal of surface water post-development submitted to and approved in writing by the local planning authority. The details, as approved, shall be implemented in full in accordance with a timetable which has first been agreed in writing by the local planning authority.
- 11) A landscaping scheme shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The contents of the landscaping scheme should include wildflower grassland, hawthorn hedges, native tree and shrub planting and the provision of bat bricks/tubes within the new development and bat and bird boxes. The approved scheme shall thereafter be implemented not later than 12 months from the date the clubhouse is first occupied or within the first available tree planting season; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.
- 12) Notwithstanding the details indicated in different forms on approved plan references B026883 TTE 00 XX PL D 001 Revision P01 & 2102-GTA-00-00-DR-A-1003 Revision C, no development shall commence unless and until full details of the following have been submitted on a topographical based survey of the site and adjacent adopted highways to the local planning authority for approval:
 - i) Provision of a swept path analysis of the proposed junction onto Radcliffe Moor Road to determine adequate access road width and kerb radii;
 - ii) Provision of a swept path analysis of the proposed refuse collection/site servicing arrangements;
 - iii) Formation of the site access onto Radcliffe Moor Road, incorporating the provision of adequate arrangements at the interface with the adopted highway to form a maximum 1 in 20 plateau, 2.0m wide (minimum) footways tying into existing footways at positions to be agreed, provision of visibility splays at the junction of the site access with Radcliffe Moor Road for an appropriate design speed based on speed surveys to be undertaken on the classified road, alterations to the adjacent site boundaries in order to ensure that there will be no obstructions within the splays above a height of 0.6m, demarcation of the limits of the adopted highway, tactile paved crossing points in positions to be agreed including, if necessary, of revised limits of adoption required to ensure that the crossing point is located on the adopted highway, give-way markings and alterations to the existing road markings on Radcliffe Moor Road to provide a right turn pocket into the development, and all associated highway and highway drainage remedial works;
 - iv) Measures to prevent the discharge of surface water from the proposed car park hardstanding areas and site access onto the adjacent adopted highway;

- v) Provision of a street lighting assessment to a scope and specification to be agreed for the junction of the site access with Radcliffe Moor Road and, where necessary, a scheme of improvements;
- vi) Proposals for the introduction of waiting restrictions at the junction of the site access with Radcliffe Moor Road, including all necessary road markings and signage.

The details subsequently approved shall be implemented to an agreed programme and to the written satisfaction of the local planning authority.

- 13) No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and approved by the local planning authority and shall confirm/provide the following:
- i) Photographic dilapidation survey of the footways and carriageways leading to and abutting the site access in the event that subsequent remedial works are required following construction of and statutory undertakers connections to the development;
 - ii) Access route for vehicles from the highway network;
 - iii) Access point(s) to the site for each phase of the development, including any temporary works and measures required to protect highway users and facilitate vehicular access;
 - iv) Hours of operation and number of vehicle movements;
 - v) Proposed site hoarding/gate positions clear of appropriate visibility splays onto Radcliffe Moor Road;
 - vi) A scheme of appropriate warning/speed limit signage in the vicinity of the construction site access(es);
 - vii) Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
 - viii) Parking on site of operatives' and construction vehicles together with storage on site of construction materials;
 - ix) Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the demolition/construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the demolition and construction periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of demolition/construction materials.

- 14) The turning facilities indicated on the approved plans (or as required to satisfy a separate condition) shall be provided before the development hereby approved is brought into use and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.
- 15) The car and cycle parking spaces indicated on the approved plans shall be surfaced/implemented and made available for use prior to the development hereby approved being brought into use and thereafter maintained at all times.
- 16) The bin storage facilities indicated on the approved plans shall be implemented to the satisfaction of the local planning authority prior to the

development hereby approved being brought into use and maintained thereafter.

- 17) Prior to the commencement of development, a detailed drainage design, broadly in accordance with the principles established in the Hydrological Assessment (July 2022) (ref. HYD633) and Preliminary Drainage Strategy (ref. HYD633.633.BET.1 Rev. A) shall be submitted to and approved in writing by the local planning authority.

The detailed scheme shall include the detailed design and construction of the swale (to include the detailed design of the reed bed, wet and dry portions of the swale, as well as the flow control mechanisms to deliver the required attenuation and flows to ensure the integrity and functionality of the reed bed as well as the provision of facilities to allow the monitoring of water quality from the reed bed) as well as all other proposed drainage features on the site. The detailed design calculations shall be submitted for the approved scheme, including attenuation design to accommodate a 1 in 100 year storm event, plus a minimum allowance of 75% for climate change.

The drainage scheme shall be implemented strictly in accordance with the approved details in its entirety prior to the pitches hereby approved being brought into use and shall thereafter be retained and managed and maintained in accordance with the Management and Maintenance Scheme required by condition no. 6 above.

- 18) Prior to the commencement of development, a scheme of intrusive site drainage investigations and preliminary engineering works to investigate ground water flows feeding Starmount reservoir and springs in the vicinity of the proposed swale, including the timing of such works, shall be submitted to and approved in writing by the local planning authority. A report of the findings of such investigations shall be submitted to the local planning authority.

Any such report should include where appropriate any additional drainage works that are necessary to safeguard the functionality of the swale and the water quality and ground water flows into the adjacent existing waterbodies. Including detailed design that demonstrates that the proposed works will safeguard the structural integrity of Starmount reservoir and the quantity and quality of the water feeding the reservoir.

Any such additional works shall be approved in writing by the local planning authority and shall thereafter be implemented prior to the completion of the drainage works to which they relate. The additional works shall be implemented in full in accordance with the approved details prior to the pitches hereby approved being brought into use and shall thereafter be retained and managed and maintained in accordance with the Management and Maintenance Scheme required by condition no. 6 above.

End of Schedule



Appeal Decision

Site visit made on 17 July 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Appeal Ref: APP/T4210/W/23/3317199

6-9 Park Hill, Bury Old Road, Manchester M25 0FX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by K-Outlet against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68881, dated 12 September 2022, was refused by notice dated 19 December 2022.
 - The development proposed is the retention of five shipping containers.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The shipping containers are already sited on the land. Therefore, I am considering this appeal retrospectively.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area;
 - b) the living conditions of the occupiers of neighbouring properties, with particular reference to outlook; and
 - c) highway safety.

Reasons

Character and Appearance

4. Fronting onto Bury Old Road is a terraced shopping parade that includes retail units to the ground floor and residential flats above. A road to either end of the terrace provides access to the rear which, amongst other things, is used for the parking of vehicles and the servicing of the units. The area to the rear of the shopping parade contains a number of brick built, single storey outbuildings and there are also two shipping containers located adjacent to the access road. Mature trees and shrubs are planted beyond the parking/servicing area.
5. Five shipping containers have been sited within the appeal site: three on the ground with two stacked on top. They are sited centrally to the rear of the terraced shopping parade, separated from the associated retail unit by the access road. Consequently, they are not readily visible from Bury Old Road. The trees and vegetation together with the existing outbuildings and other shipping containers to the rear of the shopping parade, reduce their

- prominence in views from the west. Views of the shipping containers are therefore limited to the immediate vicinity.
6. The exterior of the containers vary in colour, with former logos emblazoned on their sides. At the time of my site visit, the containers showed signs of rust and peeling paint and contrast starkly with the appearance of the two other shipping containers that were well maintained. While the exterior appearance of the shipping containers detract from the character and appearance of the surrounding area, the appellant has suggested that this could be overcome by a condition requiring the containers to be painted in a colour to be agreed with the Council.
 7. I acknowledge that painting the exterior of the containers would likely improve their overall appearance and reduce their effect on the area's character and appearance. However, the overall height and bulk of the containers significantly exceed that of the other outbuildings and containers located within the land to the rear of the terraced shopping parade, and the height of the stacked containers exceeds the eaves height of the adjacent shopping parade terrace. Therefore, the height and bulk of the containers appears incongruous and prominent within the surrounding area.
 8. In reference to the first main issue, the development detracts from the character and appearance of the surrounding area. It would be contrary to Policies EN1/2 and EC4/1 of the Bury Unitary Development Plan, adopted 1997 (UDP) which, amongst other things, seek to give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements, and to only accept proposals for small businesses when the scale of the development is appropriate to the surrounding area in which it is located.

Living Conditions of the Occupiers of Neighbouring Properties

9. Above the convenience store there appear to be two residential flats that are accessed via external staircases to the rear of the building. Each flat is served by a first floor window that is positioned within an outrigger that overlooks the shipping containers. From the information before me, these windows appear to serve rooms that would be frequently used by occupiers. The window in the northernmost flat directly faces the shipping containers, while the window in the southernmost flat has an oblique view of them.
10. The shipping containers have a maximum height of 5.8m and extend above the eaves of the adjacent two-storey shopping parade building. The information before me suggests that the shipping containers that are stacked one on top of the other are sited approximately 12 metres from the windows of the adjacent flats. Consequently, the overall height of the containers together with their proximity to these windows would be overbearing and result in a substandard outlook to the occupiers of these flats.
11. In reference to the second main issue, the development would adversely affect the living conditions of the occupiers of neighbouring properties, with particular reference to outlook. It would be contrary to Policy EC4/1 of the UDP that seeks to only accept proposals for small businesses when the scale of the development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is located.

Highway Safety

12. Four parking bays have been provided adjacent to the containers and a sign has been erected that states that the spaces are for customers of the convenience store. However, the appellant's Appeal Statement states these spaces are for the parking of employees, with customer parking located to the front of the store on Bury Old Road.
13. Information regarding deliveries is limited, with the appellant's Appeal Statement outlining that the space used for employee vehicle parking would also be used by 3.5 tonne delivery vans. From the information before me, I am uncertain whether the land could be used for both employee parking and deliveries without causing conflict between different users of the land and the access road. Furthermore, no information has been provided regarding how the upper two containers are accessed and therefore I am unsure how the loading/unloading of goods to and from these containers could be undertaken without impacting upon the parking/servicing areas.
14. The appellant has suggested that a condition could be imposed to secure details of an Operational Management Plan for the parking and servicing of the convenience store. However, I am unclear whether the combined uses could be accommodated within the area without conflict to each other or other users of the access road and therefore, such a condition may not be reasonable or enforceable.
15. In reference to the third main issue, insufficient evidence has been provided to demonstrate that the development would not adversely affect highway safety. It would conflict with Policies EN1/2, HT2/4 and HT6/2 of the UDP which, amongst other things, seek to reduce pedestrian/vehicular conflict, and to make adequate provision for car parking and servicing requirements.

Other Matters

16. The shipping containers are said to provide essential storage for a community focused commercial unit that meets the day-to-day needs of residents within a commercial local parade. However, limited information has been provided regarding the shop's storage requirements, or why the five shipping containers are essential.

Conclusion

17. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

**Details of New Enforcement Appeals Lodged
between 17/07/2023 and 20/08/2023**



Case Ref: 23/0039

Date of Appeal: 06/23/2023

Appeal Type: REP

Location: 35 Bankside Avenue, Radcliffe, Manchester, M26 2QH

Issue: Erection of decking

Case Ref: 23/0054

Date of Appeal: 06/28/2023

Appeal Type: REP

Location: 22 Cockey Moor Road, Bury BL8 2HB

Issue: Planning application 69189 refused

Total Number of Appeal Cases: 02
