

## **Development Control Committee 7 December 2022**

### **Planning Application DC/21/0427/FUL – Sports Direct Fitness, Easlea Road, Bury St Edmunds**

<b>Date registered:</b>	2 March 2021	<b>Expiry date:</b>	27 April 2021
<b>Case officer:</b>	Gareth Durrant	<b>Recommendation:</b>	Grant application
<b>Parish:</b>	Bury St Edmunds Town Council	<b>Ward:</b>	Moreton Hall
<b>Proposal:</b>	Planning application - change of use from gym (class E) to retail (class E commercial, business and service)		
<b>Site:</b>	Sports Direct Fitness, Easlea Road, Bury St Edmunds		
<b>Applicant:</b>	K/S Cratfield		

**Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

**Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

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## **Background:**

**The planning application is reported to the Development Control Committee as it proposes 'major' development and the officer recommendation is contrary to the views of the Town Council. In addition, the consideration of the merits of the application involve complex policy matters relating to retail, employment and community/leisure facilities.**

## **Proposal:**

1. The application proposes change of use of the existing premises (gymnasium) to retail use. Planning permission is only required given that a condition on the planning permission for the gymnasium (which remains the extant planning permission) restricts the use of the premises.

## **Application supporting material:**

2. The following documents have been submitted to support this application:
  - Application form, including certifications
  - Location Plan
  - Existing and proposed block plan
  - Existing and proposed floor plans
  - Planning Statement
  - Retail Impact Assessment and Sequential Test (as supplemented)

## **Site details:**

3. The application site contains an existing 'commercial' building within the Moreton Hall industrial estate towards the northeast of Bury St Edmunds. The building was constructed as a factory but has been used more latterly (with planning permission) as a gymnasium. The site has its own access off Easlea Road and contained car parking.

## **Relevant planning history:**

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision date</b>
SE/00/2145/P	Planning Application - Change of use and extension of former car showroom to health and fitness club (Class D2) and alterations to existing vehicular access	Application Granted	21 September 2000
E/84/2304/P	Erection of industrial unit with access for processing and packaging of pork meat as amended	Application Granted	7 August 1984

## Consultations:

4. **SCC Highway Authority** – The Highway Authority notes that the proposed change of use will not affect the highway access or the site's parking provision. We also note the proposal would not have any severe impact on the highway network, in terms of vehicle volume or highway safety. Therefore, Suffolk County Council, as the Highway Authority, does not wish to restrict the grant of permission.
5. **Suffolk Fire and Rescue Service** – advisory comments relating to access and firefighting facilities, confirm that no additional water supply measures for firefighting purposes are required and advise about the benefits of installing sprinkler systems within buildings.
6. **WS Planning Policy Team – (initial comments April 2021)** -The advice notes the nature of and reasons for planning conditions attached to the planning permission which i) restrict the use of the premises as a health and fitness club only and ii) which prevent retail sales other than sales ancillary to the use of the premises as a health and fitness centre.
7. The policy team advise that the applicant should be required to submit a sequential and impact test, in accordance with NPPF and Development Plan policies. They advise that such submission should provide details of the nature of the retail use, whether it's for convenience or comparison retail. If the later whether the proposal is for bulky goods.
8. The NPPF directs that where an application fails the sequential or impact test it should be refused planning permission. It is therefore necessary to demonstrate both tests have been met.
9. In addition, the applicant is required to submit details to demonstrate the proposal complies with policy DM30 (protection of employment land).
10. **WS Planning Policy Team (comments post retail impact assessment April 2021)** – notes that the out-of-town centre retail matters are addressed elsewhere and confirms the latest advice relates to the proposed loss of a leisure facility including a swimming pool. In this regard, the advice refers to policy DM42 of the Joint Development Management Policies Document and introduces the recently commissioned (March 2022) 'West Suffolk Sports Facilities Assessment' policy evidence document.

### *Leisure – Existing*

11. Presently Sports Direct provide 62 [fitness] stations and a 15m by 10m studio, which scored well in the 2022 Sports Facilities assessment with good all week around availability. The assessment concludes that currently there is a need, (dependent on population increases) for an additional 6-127 stations in the Bury St Edmunds area.
12. The application does not propose any replacement fitness facilities to be provided elsewhere.

### *Swimming Pool – Existing:*

13. In the Bury St Edmunds catchment swimming pools are more sensitive. Paragraph 6.18.2 of the Sports Facilities Assessment states there is a need for the provision of a four lane 25m pool by 2040. In terms of the existing swimming pool at Sports Direct, 20m x 8m (160sqm) would be lost to the Bury St Edmunds catchment.
14. The assessment classifies the Sports Direct pool as a 'community accessible facility' as it can be used by anyone who is a member of the sports club and records a peak usage level of 60%. Sport England recognises a measure of 'comfortable capacity', where a swimming pool is regarded as effectively fully utilised when peak usage levels reach 70%.
15. The applicants are not seeking to facilitate the provision of a replacement pool by providing land elsewhere, or a financial contribution towards the cost and maintenance of a new facility.

### Conclusion

16. There is currently a deficit of 6-127 fitness stations in the Bury St Edmunds area and the proposal would see a further loss of 62 stations in addition to the 15m by 10m fitness studio. Of greater concern is the swimming pool loss. Bury St Edmunds swimming pool is already at 70% capacity which is the maximum level considered comfortable by Sport England. The proposal will result in the loss of 20m x 8m (160sqm) of pool space to the Bury St Edmunds catchment, which is already at the maximum level of comfortable capacity. The closure of the Sports Direct facility will add to that pressure in the Bury St Edmunds catchment.
17. There is a need for the provision of a four lane 25m pool by 2040 in Bury St Edmunds. It is considered that the loss of the swimming pool to the proposed retail use requires an appropriate contribution, in accordance with policy DM42 and the findings of the West Suffolk 2022 Sports Facilities Assessment. The expansion of Bury St Edmunds sports centre and pool by 716sqm water and an 8 lane 25m pool amount is a high priority, (Para 6.20.3). The West Suffolk Sports Facilities Assessment (2022) shows that there is justification in seeking developer contributions towards the costs of provision of additional sports hall, swimming pool and fitness facilities in Bury St. Edmunds on the basis of limited or no spare existing capacity.

In order to calculate the necessary contribution to compensate for the swimming pool loss, we consider the rates stated in the latest version of Sport England third quarter 2022 facility cost updates document (SQM rate of £1,084 per sqm) should be used. The value of that loss is therefore calculated as  $160 \times £1,084 = £173,440$ .

### Recommendation

18. The proposal as submitted is contrary to Policy DM42 in that it results in the loss of a swimming pool and fitness facilities where there is already a deficit of provision and need for a new facility in the Bury St Edmunds catchment. Financial contributions for £173,440 would be required in order to address this.
19. The application would be considered acceptable if all other material considerations, including retail impact are satisfactorily addressed and

contributions of £173,440 are made in respect of swimming pool reprovision within the Bury St Edmunds catchment.

20. **WS Economic Development Team** - objects to the application to convert this unit, more recently occupied by a leisure use, into retail provision. The unit in question is centrally located within an existing General Employment Area within Bury St Edmunds, and it is felt that allowing such a use would set a damaging precedent, resulting in a detrimental impact on Bury St Edmunds retail core.
21. Whilst many businesses have been significantly impacted by the Covid 19 pandemic, town centre retail was already seriously challenged by the increase in online retail. The further restrictions placed on many retailers, leisure and hospitality businesses by the pandemic has further exacerbated this position. Economic Development is keen that West Suffolk's town centres are supported and are able to thrive. This will not be achieved by diluting the retail offer away from the town centres.
22. **WS Environment Team** – Do not wish to comment in relation to air quality or contaminated land.
23. **WS Public Health and Housing** - have no adverse comments to make about the proposals but recommend imposition of a condition to any planning permission granted to ensure that any installation of new plant or equipment can be assessed via the planning system.

#### **Representations:**

24. **Bury Town Council** – Objects on the ground of loss of amenity which is a disbenefit to local residents.
25. **Our Bury St Edmunds Business Improvement District ('BID')** represents over 400 business in the town centre and objects to the proposals on the basis that the out- of-town retail facility is likely to be detrimental to the town centre of Bury St Edmunds. The proximity of this location to residents of Moreton Hall, with free car parking, means it will be a huge threat to town centre businesses. Footfall in the town centre was already decreasing before the corona virus and its huge negative impact to town centre businesses. The town centre needs all of the support it can receive and not increasing our out-of-town retail facilities. Bury St Edmunds town centre is the "Jewel in the Crown of Suffolk" & mustn't be allowed to turn into a "Ghost Town". It provides so much positivity for the local community & economy & needs the support of the Council & it's customers. Now is not the time to be allowing further out of town retail.
26. **Nine letters** have been received (predominantly from members of the existing gymnasium operating at the site) expressing concerns and/or objections to the proposals. The issues and objections raised are summarised as follows:
  - Concerned about loss of the gym facility. It is affordable and relied upon to assist with mental and physical health, particularly so since the impact of the Covid 19 virus.
  - The community does not need another shop.

- People can walk to the gym from within the community.
- There are plenty of empty premises within the town centre for retail outlets; that is where retailers should be encouraged.
- Without the Sports Direct gym facility there would not be sufficient facilities to support a growing local population.
- An increase in traffic at Easley Road would be detrimental to existing traffic flow and increase collision risks.
- The community would suffer if it were to lose the swimming pool within this facility.
- *[The existing use]* provides an easily accessible out of town facility which is well supported and required.

**Policy:**

27. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.
28. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:

*St Edmundsbury Core Strategy (2010)*

- Policy CS9 – Employment and the Local Economy
- Policy CS10 Retail, Leisure, Cultural and Office Provision

*Bury St Edmunds Vision 2031 (September 2014)*

- BV14 (j) – General Employment Areas – Bury St Edmunds (Moreton Hall)
- BV15 – Alternative Business Development within General Employment Areas
- BV17 – Out of Centre Retail Proposals

*Joint Development Management Policies Document (2015)*

- DM12 – Mitigation, Enhancement, Management and Monitoring of Biodiversity
- DM30 – Appropriate Employment Uses and Protection of Employment Land and Existing Business
- DM35 – Proposals for Main Town Centre Uses
- DM41 – Community Facilities and Services

- DM42 – Open Space, Sport and Recreation Facilities
- DM46 – Parking Standards

### **Other planning policy:**

#### National Planning Policy Framework (NPPF)

29. The NPPF is a material consideration in planning decisions. Paragraph 219 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to such policies according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies (including those listed above) have been assessed in detail and are considered sufficiently aligned with the provision of the 2021 NPPF that full weight can be attached to them in the decision-making process.
30. The relevant parts of the NPPF are discussed in the next section of this report.

### **Officer comment:**

31. The issues to be considered in the determination of the application are:
  - Principle of Development (with particular regard to national and local planning policies).
  - Whether the existing building and support infrastructure (including parking provision) is suitable for the intended use.

### ***Principle of Development***

#### *Policy context i) town centre uses*

32. The planning application which proposes a retail use in an out-of-town-centre location triggers a number of national and local planning policies.
33. Extant national and local planning policies raise a number of matters in response to the application proposals. These include the location and impact of a town centre use outside of the town centre, development (in this case change of use) on allocated employment land/premises and loss of leisure/sports and community facilities. The policy context is summarised below.
33. Chapter 7 of the NPPF is titled 'Ensuring the vitality of town centres'. This chapter seeks to support and (insofar as is possible) protect the vitality and function of town centres. The chapter opens by stating "planning...decisions...should support the role that town centres play at the heart of local communities".
34. Retail use is defined by the NPPF as a 'main town centre use' (Annex 2 – Glossary). Paragraph 87 confirms that LPAs should apply a sequential test to planning applications for main town centre uses which are neither in an

existing centre nor in accordance with an up-to-date plan. The NPPF explains that the sequential test means that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

35. The application site is situated at an out of town centre location.
36. The national policy requirement for the sequential approach to site selection to be followed is reflected in the Development Plan. Core Strategy policy CS10 states that (in the old 'St Edmundsbury' Council geographical area) the town centres of Bury St Edmunds and Haverhill will continue to be the focus for (inter alia) retail development taking into account (inter alia) the sequential approach to development. Furthermore policy DM35 of the Joint Development Management Policies Document and BV17 of Bury St Edmunds Vision repeats the national requirement to follow the sequential approach to the location of new town centre uses/proposals and 'out-of-town centre' locations are positioned at the base of the hierarchy.
37. In addition to the 'sequential test' the NPPF (paragraph 90) requires that when assessing applications for retail and leisure development outside town centres which are not in accordance with an up-to-date plan, LPAs should require an impact assessment if the development is over a proportionate, locally set threshold (or default threshold of 2,500sqm gross floorspace in the absence of a locally set threshold).
38. The NPPF goes on to require that the impact assessment (where required to be prepared and submitted) should include assessment of:
  - (a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - (b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
39. The NPPF concludes this section by confirming where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the criteria above it should be refused.
40. Policy BV17 of the Vision document and DM35 of the Joint Development Management Policies document repeat the NPPF requirement for impact assessments to be submitted alongside proposals for 'town centre uses' proposed outside of town centres. These reduce the statutory national threshold of 2,500 square metres of floorspace (gross) to a locally set threshold of 1,000 square metres. The application building exceeds 1,000 square metres in size and given that retail use is defined as a 'town centre use' by the NPPF and the Development Plan, an impact assessment is required to accompany the planning application.

*Policy context ii) Allocated/Protected Employment land*



41. Policy BV14 of the Bury St Edmunds Vision document formally allocates the Moreton Hall industrial estate as a General Employment Area. It defines the favourable uses as Class B1, B2 and B8. Whilst the use classes Order has changed significantly in recent months with many definitions and classes having been changed, the references to Classes B1, B2 and B8 can still be used to underpin the intentions of relevant development plan policies. The retail use proposed in the application is not a B1, B2 or B8 use. This triggers consideration of policy BV15 of the vision document.
42. Whilst policy BV14 of the Vision document confirms the focus of uses within the Moreton Hall Industrial Park Policy BV15 sets out criteria against which proposals for non-B1, B2 and B8 commercial uses are considered. However, this policy does not include the Moreton Hall allocation thus, there is a policy presumption in the Vision document against uses which are not 'traditional' Class B1, B2 or B8 uses in this location.
43. Policy CS9 of the Core Strategy is positively worded to support employment related development, particularly at the towns of Bury St Edmunds and Haverhill and is largely a supporting/contextual policy. The policy does not seek to protect existing employment premises and land from being lost to other non-B Class employment uses or non-employment uses. This protection is provided by policy DM30 of the Joint Development Management Policies document.
44. Policy DM30 states that any non-employment use proposed on sites and premises used and/or designated for employment purposes and that is expected to have an adverse effect on employment generation will only be permitted where the LPA is satisfied that the proposal can demonstrate that it complies with other policies in the adopted plans and one or more of the following criteria has been met (as appropriate to the site/premises):
  - a) There is a sufficient supply of alternative and suitable employment land available to meet local job growth requirements
  - b) Evidence can be provided that genuine attempts have been made to sell/let the site in its current use and that no suitable and viable alternative employment uses can be found or are likely to be found
  - c) The existing use has created over-riding environmental problems and permitting an alternative use would be a substantial environmental benefit
  - d) An alternative use or mix of uses would assist in urban regeneration and offer greater benefits to the community
  - e) It is for an employment related support facility (e.g. training/education, creche, café)
  - f) An alternative mix of uses would provide other sustainability benefits that would outweigh the loss of an employment site.

*Policy context iii) – Loss of community and Leisure facilities*

45. Policy DM41 of the Joint Development Management Policies Document seeks to support the provision of new and protect existing community facilities and services. The health club facility currently operating from the application premises which offer gymnasium, swimming and other health & fitness related services to the local community on a membership basis, qualifies as a community facility. Whilst in some circumstances a retail use can qualify as a community facility (e.g. a village shop or locally accessible convenience

retail facility in an urban location) it is unlikely the retail use proposed in this application would qualify as a community facility (i.e. a continued community use of the premises) given the large size of the unit and its location away from residential areas. Accordingly the protectional provisions of policy DM41 are triggered.

46. The policy seeks to safeguard against the loss of valued facilities or services and confirms these will only be permitted where:
  - a) it can be demonstrated that the current use is not economically viable nor likely to become viable (this is likely to be demonstrated via marketing of the site/premises).
  - b) it can be demonstrated there is no local demand for the use and that the building/site is not needed for any alternative social, community or leisure use, or
  - c) alternative facilities and services are available or replacement provision is made, of at least equivalent standard, in a location that is accessible to the local community it serves with good access by public transport or by cycling or walking.
  
47. Policy DM42 of the Joint Development Management Policies document seeks to secure the provision of new open space, sport and recreation facilities and protect & safeguard existing such facilities from being lost to other uses or development.
  
48. The policy confirms that development that will result in the loss of existing amenity, sport or recreation open space or facilities will not be allowed unless:
  - a) It can be demonstrated that the space or facility is surplus to requirements against the LPAs standards for the particular location and the proposed loss will not result in a likely shortfall during the plan period, or
  - b) Replacement for the space or facilities lost is made available, of at least equivalent quantity and quality and in a suitable location to meet the needs of users of the existing space or facility.
  
49. The policy qualifies the above criteria by confirming that any replacement provision should take account of the needs of the settlement where the development is taking place and the current standards of open space and sports facility provision adopted by the LPA. The policy goes on to confirm that, where necessary to the acceptability of the development developers of (inter alia) new retail development to provide or contribute financially towards new or existing facilities, as appropriate. Planning conditions and/or obligations are cited as the tools for securing this provision.

*Analysis against policy – i) retail impact and sequential test.*

50. The applicant has submitted a retail statement to accompany the planning application. This analyses the potential impacts of the proposals upon the vitality of the town centre in accordance with the NPPF (and local policy) requirements discussed above. The statement also includes a demonstration of the applicants analysis of potential alternative sites in and around the Bury St Edmunds town centre as part of the sequential test requirement.

51. The Council has commissioned independent analysis of the applicants retail assessment from an expert retail consultancy. The response was initially to request further information from the applicants particularly with regard to the nature of the operator but also with respect to some of the assumptions and inputs placed into the applicants modelling of the forecast retail impacts to the town centre. The applicants responded to the request for further information and supplied this alongside the inclusion of more sites within and deeper analysis of other sites as part of the sequential test. The initial retail appraisal, the applicants response and other relevant exchanges with respect to the retail impact assessment and sequential test are included in an appendix at the end of the report. This will enable committee Members to satisfy themselves that these important policy requirements have been met by the applicants.
52. In accordance with the independent advice received from the retail consultant, it is considered that the applicants have adequately considered alternative sites in and around (on the edge of) the town centre for the proposed retail use and have adequately demonstrated that no alternative sites are currently available (sequential test).
53. The applicants' retail impact assessment concluded there would be some inevitable impacts upon the vitality of the town centre as some trade would be drawn to the new unit from the town centre but considered this would not be significant. Whilst the Council's consultant agreed with the overall conclusions of the applicants assessment (as supplemented) they advised that because of the speculative nature of the proposals (no end user had been identified) and the limits within the applicants retail appraisal (i.e. they had not considered and tested every scenario, including a major retailer moving to the new site from an important town centre 'anchor' store, a condition was recommended to limit the range and nature of goods that can be displayed for sale within the new unit.
54. The condition by the independent retail consultant is as follows:
- *The unit shall be used for the sale of convenience\* goods Use Class E(a), and for the sale of non-food comparison\*\* goods within Use Class E(a1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) excluding fashion clothing, footwear and fashion accessories, health and beauty / personal care products, jewellery, sports, toys and hobby goods and books and stationary, unless ancillary to the primary use of the unit.*
- \* goods which are purchased frequently and immediately – widely available (every-day items)
- \*\* higher value goods purchased less frequently, normally non-perishable
55. The applicant has expressed concern about the extent of the limitations included in the condition and has requested that most of the goods proposed to be restricted by the condition are removed from the list as this would, in their opinion, severely restrict the marketability of the unit to retail providers. The applicant suggested the following categories could remain as part of the condition; fashion clothing, footwear and fashion accessories & jewellery.

56. Whilst it is true that the proposed planning condition would restrict the nature of the retail operation of the unit at the Easley Road site, it is important that the reasoning behind the condition is considered when deciding which version of it should be imposed upon the planning permission. The applicant was not able to demonstrate that all potential retail scenarios operating from the unit would not be significantly damaging to the town centre and the retail consultant advised that their suggested condition would serve to introduce safeguards against that harm arising.
57. The primary motive of the suggested condition (and the national/local policy aspirations that will underpin it) is to protect the town centre from the adverse effects of trade draw from retail uses located outside of the centre. There is nothing to prevent the applicant nor indeed their interested retail operator from proposing amendments to the condition at a later date if they can demonstrate that their specific operation would not lead to significantly adverse retail impacts arising. Accordingly it is considered that the condition recommended by the retail consultant, as set out above, accords with national and local planning policy, is reasonable and proportionate in the circumstances and is sufficiently flexible that it could (if appropriate) be amended in future via formal planning application.

*Analysis against policy - iii) Development (change of use) of premises allocated for employment purposes.*

58. The application site is allocated for employment related use/development by policy BV14 of the Bury St Edmunds Vision 2031 document. This seeks to support new proposals for and safeguard against the loss of employment related uses for the traditional B1, B2 and B8 use classes. Policy DM30 of the Joint Development Management Policy sets out criteria against which proposals for non-employment uses of existing or allocated employment land are considered. It is important to note in this policy context that i) the retail use proposed by the planning application does provide 'employment' in the form of jobs in the retail sector, albeit not the B1, B2, B8 employment types required by planning policy.
59. Furthermore, the retail use proposed would not replace an existing 'B' Class use; the fitness centre use is a Use Class D2 use. Accordingly there would be no net loss of employment including the favoured 'B' Class employment from the site/premises. As the application maintains the status quo with respect to policies BV14 and DM30 and would not result in the loss of an employment site (it has already been lost to B-Class uses) the proposals are not considered contrary to the provisions of these policies and no harm would occur to employment provision in the town overall.

*Analysis against policy - iii) Loss of community facility and loss of sports/leisure facility.*

60. The requirements of the policies DM41 and DM42 which address loss of i) community facilities and ii) open space, sport and recreation facilities, to other uses are similar in their application and intention. There is a large degree of overlap in how the policies seek to approach consideration of these matters. Accordingly, this section of the report considers the loss of the health and fitness club as both a community facility and a sports/leisure facility.

61. The Council's planning policy team has analysed the likely impact of the loss of the facility upon the provision and availability of fitness and swimming facilities in the town. The analysis, which is summarised at paragraphs 10-17 above was prepared in consultation with officers from the Council's Parks and Leisure team.
62. Whilst the advice is focussed on the provisions of policy DM42 and its requirements, there are no reasons to separate it from the requirements of policy DM41 too given the similarities.
63. Officers have no reason to challenge or disagree with the analysis provided by the planning policy team and the applicant has agreed, in accordance with the provisions of policies DM41 and DM42 to provide a contribution towards replacing the swimming pool facility that would be lost as a consequence of this development. This would be provided as part of the redevelopment of the existing public swimming pool building when that facility is replaced as part of the West Suffolk Hub redevelopment which has already attained a planning permission.
64. Officers consider that upon securing the contribution as part of an Agreement under S106 of the planning act, the application proposals would accord with the requirements and criteria of policies DM41 and DM42.
65. In particular:
  - There is no need to replace or compensate for the loss of the gym/fitness facilities (this is likely to be compensated by the market)
  - It is unlikely that the swimming pool facility would be replaced by the market given the significant up-front investment required and the associated risks.
  - A financial contribution towards a replacement swimming pool facility within the town is justified in this instance. This would be secured by a S106 Agreement.
  - The contribution would ensure that adequate alternative facilities (of at least equivalent quantity and quality) are provided at an appropriate alternative location in the town thus mitigating the impact of the loss of the swimming pool facility from within the application building. Indeed the replacement swimming facility is anticipated to be more accessible to the public given there is unlikely to be a requirement to become a subscribing Member (even if an option to do this is provided).

*Other material planning issues*

66. There are no site-specific reasons to suggest that planning permission should be withheld for the development proposals. The building is adequately served by car parking and service arrangements for the intended retail use and given that the building exists and has been operating for many years already benefits from drainage and other service infrastructure/connections. It is recommended that a scheme for the provision of electric vehicle charge points is submitted for later approval of

the Local Planning Authority. Enhanced parking spaces in this regard could be secured via a suitably worded planning condition.

67. Policy DM12 of the Joint Development Management Policies Document requires that “enhancement for biodiversity should be included in all proposals”. The policy goes on to give some generic examples of the types of enhancement that could be included in proposals (e.g. watercourse improvements, habitat creation, wildlife links, and design features (e.g. bird/bat boxes). Whilst opportunities for biodiversity enhancement for the application proposals will be limited given the fact that the building and its infrastructure is already in place, there are some biodiversity enhancements which could be secured (for example bat and bird boxes and opportunities for native species planting if site conditions allow). These could be considered and implemented at a later date (i.e. prior to the first use of the unit for retail purposes) and secured by an appropriately worded planning condition.

### **Conclusion:**

68. The decision on this planning application turns on whether the applicant has adequately demonstrated and/or mitigated potential impacts upon i) the vitality of the Bury St Edmunds town centre (as defined), ii) the provision of community facilities and services and iii) the provision of open space, sport and recreation facilities.
69. These policy-based requirements have been independently assessed and, subject to controlling conditions and a S106 clause, advice has been received which concludes impacts would be insignificant or capable of mitigation.
70. The application proposals are therefore considered to accord with the requirements of relevant National Policies set out in the NPPF and relevant local Development Plan policies. These are identified and discussed within the report and its appendices/background documents.
71. The Committee is recommended to approve the planning application subject to the conditions and caveats included in the next section.

### **Recommendation:**

72. It is recommended that planning permission be **APPROVED** subject to:
- A) The prior completion of an Agreement (or equivalent) under S106 of the Town and Country Planning Act 1990 (as amended) to secure:
- Developer contribution to be used towards replacement swimming pool capacity to serve the town (Bury St Edmunds);
- and
- B) The following planning conditions:
- 1) The unit shall be used for the sale of convenience goods Use Class E(a), and for the sale of non-food comparison goods within Use Class E(a1) of the Town and Country Planning (Use Classes) Order 1987 (as amended)

excluding fashion clothing, footwear and fashion accessories, health and beauty / personal care products, jewellery, sports, toys and hobby goods and books and stationary, unless ancillary (no more than 10% of the floorspace combined) to the primary use of the unit.

- 2) Prior to commencement of development a written 'Ecological Enhancement Strategy' shall be submitted to the Local Planning Authority for approval in writing. The written strategy shall include proposals at the application site for enhancements to biodiversity interests. Thereafter, the approved strategy shall be fully implemented and/or adhered to in accordance with a timetable and/or trigger points agreed as part of the written strategy.
- 3) Prior to the first use of the building or site for retail use a scheme for the provision and implementation of electric vehicle charging points shall be submitted to an approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented and the approved charge points installed and made available for use prior to the first use of the building or site for retail purposes.
- 4) There shall be no retail sales or display of goods or services for sale externally within the application site, outside of the building, unless precise details of the goods/services and their location/s have been agreed in advance with the Local Planning Authority following submission of a formal planning application.
- 5) No plant or machinery required for the operational use of the premises shall be installed on the building (including its roof) or within its curtilage unless full details of the location/s and specification of any plant or machinery to be installed has been submitted to the Local Planning Authority for approval in writing. Only the approved plant or machinery shall be installed at the site in the locations approved by the Local Planning Authority.

### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/21/0427/FUL](https://www.dorsetcouncil.gov.uk/DC/21/0427/FUL)

Working Papers 1 to 8 – Retail Assessment Papers including applicant's submissions and independent retail consultant advice