

DELEGATED REPORT

Report by Tom Beirne	Date of report: 14/05/2026	Ref: 72997/LDCP
Registration: 23/03/2026	LDFC:	Expiry Date: 18/05/2026
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed provision of a moveable structure within the pub beer garden under Part 2 Class G of the Town and Country Planning (General Permitted Development) (England) Order. The moveable structure is less than 50 sq m in size and does not exceed 3 metres in height. It is not within 2 metres of a boundary with a residential property. The structure is not fixed to the ground but held in place by its own weight. The structure can be erected and taken down within the day. See supporting documentation

Location: The Eagle & Child, 3 Whalley Road, Ramsbottom, Bury, BL0 0DL

Description

This application relates to a detached two storey pub/restaurant on the corner of Whalley Road and Peel Brow. The stone built property has parking for 11 cars with access onto Peel Brow on the south side and there is a beer garden on the north side. To the west and set down are houses backing onto the west boundary and fronting Cheshire Court. Across Whalley Road to the east are terraced houses and a treed embankment with private parking in front.

The application is made in accordance with Section 192 (1) of the Town and Country Planning Act 1990, which states that if any person wishes to ascertain that any operations proposed to be carried out in, on, over or under land would be lawful, they may make an application for this purpose to the local planning authority, specifying the land and describing the operation in question.

The application seeks a Lawful development certificate for the provision of a moveable structure within the pub beer garden, to the north of the pub, under Part 2 Class G of the Town and Country Planning (General Permitted Development) (England) Order.

The structure measures 7.1 metres by 6.5 metres and has a floor area of 46 sq. m. It has a height of 2.35 metres and is constructed of galvanised powder coated steel. The structure is green in colour and has three doors on the front elevation and windows on the side elevation.

The structure would be sited 5.3 metres from the rear of the pub, 7.5 metres from the eastern boundary with Whalley Road, 20.5 metres from the northern boundary with the garden of no. 16 Cheshire Court and 7 metres from the western boundary with no's 8-14 Cheshire Court. The structure would have no foundations and would not be fixed to the ground in any way. It will be sited on the existing patio and held in place by its own weight.

The moveable structure would be less than 50 sq m in size and would not exceed 3 metres in height. The structure is located 7.5 metres from the eastern boundary and 7 metres from the western boundary and thus in excess of 2 metres from the site boundaries with residential properties.

The area is not visible from any public vantage points other than from the footway on the east side of Whalley Road. This is due to the significant difference in levels between the site and adjoining land and it being screened from view by existing buildings.

Relevant Planning History

01035/E - Community Garden and education facility - Enquiry completed 03/05/2012

47962 - Increase in height to part of existing terrace and erection of roof over - Approved 25/05/2007

51699 - A - Creation of car park extension with associated landscaping

B - Decking area - Split Decision 21/10/2009

52053 - Decked area at side - Approved 14/01/2010

60601 - Change of use of first floor to bed and breakfast creating 5 bedrooms with juliet balcony to 2 bedrooms and single storey extension to rear - Approved 23/11/2016

71062 - Retrospective application for the retention of external bar, tipi, toilet block and pergola and the laying of paving and associated works - Refused 07/10/2024

71359 - Retrospective application for the retention of external bar, toilet block/log store and pergola - Approved 29/01/2025

71585 - Retention of tipi and heater for a temporary period of 18 months - Refused 14/03/2025

12/0111 - Creation of beer garden - 16/05/2012

22/0211/ 24/0147 - Teepee structure - 12/08/2024 - application received.

Publicity

N/A

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

Development Plan and Policies

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PfE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Assessment - The structure is deemed to be moveable as set out in the three primary tests of permanence, size and physical attachment.

Permanence – The GDPO does not set a time limit on how long permitted movable structures can remain on a site. In relation to the proposed structure, the applicant states that it is intended that it will remain in place for as long as it is needed and until it reaches the end of its life span. Permitted development rights allow this and do not require the structure to be removed after a specified period.

Size – The GDPO indicates that the structure is considered 'moveable' if it is less than 50 sq. m or less than 50% of the footprint of the building, whichever is smaller. The proposed structure, at 46 sq. m it is below the 50 sq. m size threshold and thus meets the size test for a moveable structure.

Physical attachment – The proposed structure will not be fixed to the ground in any way but sited on the existing flagged patio and held in place by its own weight. It is therefore not physically attached to anything and is therefore by definition 'moveable' in planning terms.

With regards its assembly, the structure comes flat packed and in series of pieces. It is then very slotted and then bolted together on site. Both its assembly and dismantling can be completed in the day.

With regard to the information submitted, the proposed structure meets the planning definition of a 'moveable structure' based on the tests established in case law and planning appeals.

Permitted Development - For a structure to be permitted development within the beer garden, it needs to satisfy a number of criteria / conditions which are set out in paragraph G.1 of the GPDO.

(a) The land does not form part of a schedule monument or land within its curtilage – The Eagle and Child does not lie within a schedule monument. This condition is therefore met.

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(b) The land does not form part of a listed building or land within its curtilage – the Eagle and Child is not a statutory listed building. This condition is therefore met.

(c) No part of the structure is within 2 metres of the curtilage of any adjacent land that is used for a purpose with Part C (residential uses) of Schedule 1 to the Use classes order – whilst the Eagle and Child shares a boundary with residential properties on Cheshire Court, the structure is 7 metres from the site's western boundary. This condition is therefore met.

(d) The height of the moveable structure does not exceed 3 metres – the height of the proposed structure is 2.35 metre. This condition is therefore met.

(e) The footprint of the moveable structure does not exceed the less of the following 50% of the footprint of the building or 50 sq. m – Having regard to the floor area of the pub, the 50 sq. m threshold applies in this case. The structure has a floor area of 46 sq. m. This condition is therefore met.

(f) The moveable structure is not used to display an advertisement – it is not proposed to display any advertisements on the structure. This condition is therefore met.

Having regard to the submitted plans and assessment, it is considered that the proposed structure would be permitted development and therefore planning permission would not be required to site it in the Eagle and Child beer garden.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 Having regard to the submitted plans and current legislation, it is considered that the proposed structure would be 'permitted development' under Part 2 Class G of the Town and Country Planning (General Permitted Development) (England) Order. The proposed structureb would be lawful and planning permission would not be required to site it in the Eagle and Child beer garden.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
TB	14/5/26	DM	14.05.2026