

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 29/09/2025	Ref: 72097/FUL
Registration: 08/08/2025	LDFC: 29/08/2025	Expiry Date: 03/10/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 3	Con Area:	Adv Type: PI
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Retrospective application for a freestanding pergola to the front of the restaurant, used as an outdoor dining area ancillary to the existing Class E use.

Location: 27 Bury New Road, Prestwich, Manchester, M25 9JY

Description

The site relates to a cafe/restaurant which is located in the Prestwich District Shopping Centre.

The property is located on the end of a row of other shops and businesses and has its own car park directly adjacent which is accessed from George Street. There is a forecourt area in front of this shop and along this shop frontage which is not adopted highway but the remaining pedestrian footway is adopted.

The application proposes the erection of a freestanding pergola to the front of the restaurant to be used as an outdoor dining area in conjunction with the existing restaurant.

The structure is a rectangular shaped build at 6m long, 3.2m wide and 3.3m high and is constructed in a dark grey cladding with glazed windows and opening on the south elevation facing George Street. The structure is not connected to the property but is positioned directly in front of the restaurant's front elevation and display window.

The applicant states the structure provides additional seating for the restaurant.

Hours have been confirmed as 12.30pm to 9.30pm and the upper floors are separate units from the ground floor.

The application is retrospective.

Relevant Planning History

43626 - Internally illuminated shop fascia & projecting signs - Approve with Conditions 20/12/2004

43685 - Cladding to shop front - Approve with Conditions 29/12/2004

52035 - 1 NO. Internally illuminated circular projecting sign; 2 no. internally illuminated sign boxes; 2 no. internally illuminated individual 'kfc' letters; 2 no. externally illuminated fascia panels - Approve with Conditions 11/01/2010

59579 - Installation of 2 no. internally illuminated fascia signs and 1 no. internally illuminated projecting sign - Approve with Conditions 29/01/2016

59891 - Change of use from retail / offices to 2 no. residential units (first and second floors only) - Approve with Conditions 05/05/2016

Publicity

Letters sent on

Site notice posted on 20/8/25

- The structure interrupts the frontage continuity, creates a visually discordant and intrusive feature, and offers no enhancement to public realm or pedestrian experience.
- Interrupts the streetscene
- The structure is wholly out of character with any other frontage on Bury New Road, is poorly related to the surrounding built form, and introduces incongruous materials and bulk at the street edge.
- Visually intrusive
- Contrary to Prestwich Village Neighbourhood Forum Design Code
- The installation is visually and functionally incongruous.
- Unclear whether this is truly a “freestanding pergola.” Visually, it appears more akin to an enclosed extension attached to the main building. If so, this raises significant concerns about the accuracy of the application description and its compliance with relevant planning controls.
- An application should include scaled plans and elevations and materials and design and access statement, clarification on whether the structure is a permanent extension or a temporary pergola.
- Deficiencies in the validation process - inaccuracy of description, ownership certificates and site notices if the structure encroaches the forecourt/highway certificate B should be signed. A site notice should be posted.
- If the description is inaccurate, any neighbour notification letters or site notices issued will also have been misleading.
- Retrospective nature of the application - the need for clarity and accuracy is even greater, since the Council must judge the structure as built.
- More noise and litter and downgrades the area. It has been up for months and we were never invited to put our comments to it.
- Affects the access and shop window of the adjacent business.
- Permanent, room-like form and functionally operating as an enclosed dining extension of the restaurant rather than an open pergola.

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal

Environmental Health - Pollution Control - Potential noise issue if used late at night.

Greater Manchester Police - designforsecurity - No comments to make

Licensing Department - No comments to make

Pre-start Conditions - Not relevant

Development Plan and Policies

NPPF	National Planning Policy Framework
S1/3	Shopping in District Centres
EN1/2	Townscape and Built Design
S2/6	Food and Drink
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-S2	Carbon and Energy
JP-S4	Flood Risk and the Water Environment

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.

Policy S1/3 - Shopping in District centres supports proposals for new shopping development provided it is of a scale, size, function and character appropriate to serve the needs of the local area.

EN1/2 - Townscape and Built Design considers factors including the external appearance and design of the proposal in relation to its height, scale, density and layout, relationship to the surrounding area and choice and use of materials.

Siting, design and visual impacts

The pergola has been positioned directly adjacent to the front elevation and window of the existing restaurant and extends along this property by 6m and 3.2m into the forecourt area and street. Whilst this part of the footway is not adopted highway, its projection into the street results in the introduction of a discordant and alien feature within the street scene which is a visual intrusion and interrupts the rhythm and the pattern of the existing row of shops and the street scene.

This is reinforced by its design and appearance which is box-like and strident in its dark grey clad materials and which is out of keeping with the character of the area which provides open display windows and glazed frontages.

The siting of the structure and its blank sterile front elevation also results in the loss of the restaurant's display window and shop frontage which is harmful to the viability and vitality of the shopping centre.

Para 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. It is therefore considered the proposed development introduces significant harm to the casual amenity of the street scene and would be contrary to policies S1/3, EN1/2 and the principles of the NPPF.

Highways

Whilst not located on part of the adopted highway, the end of the structure would be directly next to the adopted pedestrian footway but there is still an acceptable width of footway for pedestrians to travel along this part of Bury New Road.

The application however, does not contain any information as to how surface water would be dealt with from the development to ensure it would not discharge onto and effect the adjacent adopted highway.

The Highway Authority have recommended refusal for this reason.

As such, the proposed development would be contrary to policies JP-C5 and JP-S4.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development would, by reason of its position within the streetscene, position directly adjacent to the existing shop front window and design would be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area and the viability and vitality of the shopping centre. The proposed development therefore conflicts with the following policies - EN1/2, S1/3 and the principles of the NPPF.
- 2 The application and submitted plans contain insufficient information to confirm that adequate surface water drainage arrangements are in place to ensure that surface water from the pergola will not be discharged onto the adjacent adopted highways, to the detriment of highway safety and contrary to provisions in the Highways Act 1980. The proposed development would therefore be contrary to policies JP-C5, JP-S4 and the principles of the NPPF.

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<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	29/9/25		