

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 07/05/2026	Ref: 72873/FUL
Registration: 06/03/2026	LDFC: 02/04/2026	Expiry Date: 01/05/2026
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 2	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from Class E (office) to Sui Generis (hot food take away) with a canopy/extractor flue above the roof.

Location: 8 Walmersley Old Road, Bury, BL9 6SQ

Description

The application relates to a shop which forms a row of 5 shops in a Neighbourhood Shopping Centre under UDP Policy S1/5. The other premises comprise a sandwich shop (Class E), hairdressers (Class E) , takeaway (Sui Generis), application property (formerly an accountants office Class E) and a barbers (Class E). Also forming part of the Neighbourhood Centre is a newsagents opposite the site and located on Walmersley Old Road is a post office and shop. The remaining area is predominantly residential.

To the rear of the application property and this row of shops is informal parking and servicing area.

The application seeks the change of use of the Class E office to a hot food takeaway (Sui generis) with a canopy/extractor flue above the roof.

There would be no external changes to the building apart from a flue which would be located on the rear roof slope and project approx 0.5m from the roof.

The rear car park is in the ownership of the applicant and it is proposed to resurface this area and formalise parking spaces for staff and customers. A bin and cycle store would be provided behind the property.

Hours proposed are -
Monday to Friday 11am to 10.30pm
Saturday 11am to 11pm
Sunday 11am to 9pm.

Relevant Planning History

44454 - Change of use from A1 (shops) to A2 (professional & financial services) (retrospective) - Approve 13/06/2005

Publicity

Letters sent to 15 properties on 12/3/26.

Two objections received with the following comments -

- In the row of 5 units there are already 2 units for takeaway food so is a further one really necessary?
- Parking will inevitably be an issue as there are often numerous cars often parking on the double yellow lines opposite the unit.

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- As a resident in the row of houses opposite we would be very concerned about noise in the evenings with yet another takeaway opening.
- Already issues with waiting vehicles continually ignoring road markings, blocking access to the adjacent properties/driveways for residents of Walmersley Road, as well as parking on double yellow lines, throughout the day and into the evening when using the businesses here.
- Littering in and around this particular set of units is already a problem and in warmer weather, the food smells are already very strong when windows are open. Another food takeaway unit open into the evening will only add to this.
- One of the existing food establishments in these units are already open until 11pm, so arguably another is just not required on a small residential street.
- An office based business (i.e. Accountancy practice) didn't bring any of these issues and the proposed change in business type is too big departure from the existing usage.

Statutory/Non-Statutory Consultations

Traffic Section - No response received.

Waste Management - No response received.

Environmental Health - Pollution Control - No objection subject to conditions

Public Health - No objections subject to advisory notes for healthy eating options

Pre-start Conditions - Applicant/Agent has not agreed with pre-start conditions

The applicant/agent has not responded to the request for an extension of time on a pre-commencement condition.

The applicant would have the opportunity to apply to remove or vary the condition if it is not accepted.

Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
OL5/2	Development in River Valleys
S1/5	Neighbourhood Centres and Local Shops
S2/6	Food and Drink
HT2/4	Car Parking and New Development
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-G1	Landscape Character
JP-P1	Sustainable Places
JP-P6	Health
JP-S1	Sustainable Development
JP-S2	Carbon and Energy
JP-S5	Clean Air

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.

Principle - Use

UDP Policy S1/5 Neighbourhood Centres and Local Shops states that the Council will seek to retain retailing as the predominant use in small neighbourhood centres to cater for primarily day to day needs of local residents. Within this tier of the shopping hierarchy it is recognised however, that it may not always be possible to safeguard existing facilities or even retain shops, especially where there is not enough customer demand to make a shop viable.

In relation to the proposed use UDP Policy S2/6 states that in considering proposals, regard be given to the following factors:

- the amenity of nearby residents by reason of noise, smell, litter and opening hours;
- whether or not the proposal would result in an over concentration of these types of uses;
- parking and servicing provision and traffic generation;
- provision for the storage and disposal of refuse and customer litter;
- environmental impact of any ventilation flues and/or ducting.

The applicant states that the last use of the premises was in February 2024. There would

still be 3 shops in Class E use on this row and out of the 8 premises in the neighbourhood centre, 5 premises would operate as a Class E should the application be approved. It is therefore considered there would not be an over concentration of hot food takeaways in the Neighbourhood Centre or the area.

The proposal would also bring into use a property which has been vacant for more than 2 years therefore contributing to the vitality and viability of the area and offering a choice to customers and residents in the area.

Public health

The emerging Hot Food Takeaway SPD (SPD 19) which has been consulted on is considered to carry significant weight and sets out the priorities of the Council and Local Planning Authority (LPA) in relation to proposed takeaway uses.

SPD 19 confirms that proposals for all new hot food takeaways will be assessed against the Bury Hot Food Matrix by Public Health. The Bury Hot Food Take Away Matrix is a tool that enables new hot food take away applicants to check the proposed premises against a range of data metrics including health, deprivation and schools on an Lower Super Output Area (LSOA) footprint. The Council wants to take a balanced and fair approach to supporting local business and economic growth whilst also taking steps to ensure our environments support the health and wellbeing of our residents and the Matrix can be utilised to make these assessments.

SPD19 states that proposals for all hot food takeaways will be assessed against the Matrix and proposals that are not accepted by the Matrix will be refused, unless other material considerations indicate otherwise.

The application has therefore been assessed against the Bury Hot Food Matrix by Public Health.

In terms of this takeaway, the matrix outlines that :

- There is only 1 take away in that area although this would mean 2 in a row of 5 shops. However, draft SPD19 at the time of this application would allow for 2 hot food takeaways in any one length of frontage.
- Deprivation is not identified to be significant and would be no reason to refuse the application.
- There is a school which is 0.1 mile away. However it's a primary school and not a high school.
- Childhood Obesity in Year 6 is below the 25% threshold.
- Its 70 / 120 for Obesity in adults and 76 /120 for diabetes.

The above results would conclude that there would be no material reason to refuse the application on public health grounds.

However, there are measures the applicant could introduce to offer alternative healthy options for customers. Whilst this would be unreasonable to condition, it could be included as an informative.

It is therefore considered that on balance the proposed development would be acceptable and comply with policies S1/5, S2/6 and draft SPD19.

Impact on residential amenity

There are residential properties to the north on Walmersley Old Road and houses opposite the site fronting Walmersley Road. It is considered there would be acceptable separation distances from the site to these houses and there is also the intervening main road. The flue would be located at the rear of the property and with the condition advised by pollution control for a scheme for the control of odour, it is considered discharge from the flue would not significantly affect residents.

The application property is located on a relatively short row of shops and it is considered the comings and goings would not significantly add to disturbance and activity which would be harmful to local residents.

It is therefore considered the proposed development would be acceptable and comply with policies EN1/2 and S2/6.

Environmental issues

It is proposed to provide a flue which would be located on the rear roof plane. It would project approximately 5m from the roof slope with the ducting located internally. It is therefore considered not to be visually intrusive. Pollution Control have been consulted and there is no objection in principle subject to a condition for the submission of a scheme for treating, diluting and dispersing fumes and odours.

Bins would be stored directly behind the property and serviced from the rear which would be similar to the arrangement for the other properties on this row.

The proposed development is therefore considered to be acceptable and comply with policies JP-S5 and S2/6.

Highway issues

In terms of trips to the establishment, hot food takeaways operate such that visits would be relatively quick and customers only at the premises for short periods of time to pick up food. The existing car park is currently used as informal parking area for occupiers and customers and there is unrestricted parking on Walmersley Old Road. The applicant proposes to resurface the car park with compacted gravel and provide at least 9 parking spaces within this area. This would benefit both the applicant and other premises on this row.

There would be cycle parking and bin store to the rear of the property.

It is therefore considered that there would not be significant impacts on the local highway network or parking issues in the vicinity and the proposal acceptable for the scale of development proposed in this location.

As such the proposal would comply with policies EN1/2, S2/6 and HT2/4.

Policy JP-S2 - Carbon and energy

JP-S2 requires development to minimise energy demand and maximise energy efficiency where possible and relevant.

The applicant proposes to install wall, loft and floor insulation, upgrade heating controls and install energy efficient lighting.

The measures would align with Part L Building Regulations.

Given the scale of development and proposals for a change of use with no additional building works, the proposal are considered acceptable and comply with policy JP-S2.

Policy JP-C2 - Digital connectivity

This policy seeks to improve digital infrastructure.

The applicant proposes to provide full fibre superfast internet and full fibre optic connectivity

The proposed development is considered to comply with policy JP-C2.

Response to objections

- There is one other hot food takeaway on this row. A sandwich shop is in Use Class E in the Use Class Order. The proposed use would result in 2 hot food takeaways in total on

this row.

- The parking area would be formalised to provide parking for the proposed use and existing shops which would better the existing situation. There is also parking on street directly outside the row of shops.
- All other issues have been covered in the above report.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings Location plan produced 18-Feb-26, Existing floor plans and elevations ref IPS/R/08/BL96SQ Sheet 1 of 2, Proposed floor plans and elevations ref IPS/R/08/BL96SQ Sheet 2 of 2 rev B and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan and Places for Everyone Joint Development Plan listed.
- 3 No development shall commence unless and until a scheme for treating, diluting and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements.

The installation shall be so designed such that the maximum noise emitted does not exceed NR25 (Noise Rating) in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.

The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential

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property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

- 4 The use hereby permitted shall not be open to customers outside the following times:

Monday to Friday 11am to 10.30pm

Saturday 11am to 11pm

Sunday 11am to 9pm.

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S1/5 - Neighbourhood Shopping Centres and S2/6 – Food and Drink of the Bury Unitary Development Plan.

- 5 The car park indicated on the approved plans shall be resurfaced and the parking spaces demarcated and made available for use prior to the first occupation/use of the development hereby approved and shall thereafter be maintained.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 6 The bin and cycle store detailed on the approved plans shall be provided prior to the development being brought into use and shall thereafter be maintained.

Reason. To ensure adequate bin and cycle store parking pursuant to policies EN1/2, JP-C8 and SPD11.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	7/5/26	DM	07.05.2026