

## **DELEGATED REPORT**

|                                  |                                   |                                |
|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Jennie Townsend | <b>Date of report:</b> 18/03/2025 | <b>Ref:</b> 71591/FUL          |
| <b>Registration:</b> 04/02/2025  | <b>LDFC:</b> 14/03/2025           | <b>Expiry Date:</b> 01/04/2025 |
| <b>Site Visit:</b> 17/02/2025    | <b>Site Notice:</b> 17/02/2025    | <b>Press Date:</b> 20/02/2025  |
| <b>Objections:</b> 2             | <b>Con Area:</b> RAMS             | <b>Adv Type:</b> CA            |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> COUS        |

**Proposal:** Variation of condition 6 (opening times) on planning permission 65723 - new opening times of 14.00 to 00.30 - Sunday to Thursday and 14.00 to 01.00 Fridays and Saturdays.

**Location:** 62 Bridge Street, Ramsbottom, Bury, BL0 9AG

### **Description**

The application relates to a shop premises which is located in Ramsbottom Town Centre and within the designated Ramsbottom Conservation Area. The premises are within a row of other shops and commercial businesses in a mix of different uses, and form one of the main shopping frontages in the town. Above the shops on this row are residential units, storage/office areas or uses ancillary to the businesses.

Access to the rear of the premises is either via Smithy Street or a walkway which is located between Nos 6 and 8 Silver Street. This access also serves the rear of the adjacent commercial and residential properties.

The property itself is a stone mid-terraced with a single storey rear extension which serves as a store room. There is an external yard area which provides bin store facilities and access to the rear of the property.

Planning permission was granted in October 2020 for the change of use of the ground floor from a cafe to hot food takeaway to include an extract flue and a staircase at the rear to access the storage areas at the first floor (planning reference 65723)  
Bins were to be kept in the rear yard area.

This application seeks the variation of condition 6 of planning consent 65923 which relates to the opening hours of the shop.

### **Approved hours**

10:00 to 23.00- Sunday to Thursday  
10:00 to 23:30 Fridays and Saturdays.

### **Proposed hours**

14:00 to 00:30 - Sunday to Thursday  
14:00 to 1:00 - Friday and Saturdays

### **Relevant Planning History**

62200 - Prior approval for proposed change of use from shop (Class A1) to cafe (Class A3)  
- Prior Approval Required and Granted 23/01/2018  
65723 - Change of Use from cafe (Class A3) to hot food takeaway (Class A5), to include extract flue and staircase at the rear - Approve with Conditions 08/10/2020  
66313 - 1no. non-illuminated fascia sign - Refused 04/02/2021  
67876 - Installation of refrigeration plant with pitched slate roof covering at rear - Approve

with Conditions 23/02/2022

67877 - 1 No.non-illuminated fascia sign - Approve with Conditions 21/02/2022

19/0046 - Change of use of first floor flat to business use - 01/04/2019

20/0368 - Breach of condition of planning permission 65723 - 26/04/2021

21/0013 - Illuminated neon sign to the rear of the front glazing - 22/02/2022

### **Publicity**

Letters sent to 21 properties on 12/2/25.

Site notice posted 17/2/25

Press advert 20/02/25

Two objections received which raise the following issues -

- No need for this establishment to be open until this time.
- Attract people at all hours of the morning, and will probably be very noisy for the residents that live in and around the area.
- Detrimental affects on businesses, if people are drunk and causing chaos with in this small town.
- Could lead to shops etc getting damaged.
- Noise, vibration and fumes caused a nearby tenant of a flat to move out
- The original consent went some way to protect residential amenity by specifying the hours which were approved - The opening times should therefore remain as existing.

### **Statutory/Non-Statutory Consultations**

**Environmental Health - Pollution Control** - Commented there are flats in the area which should be considered but there is no record of noise complaints.

**Conservation Officer** - No objection

**Pre-start Conditions** - Not relevant

### **Development Plan and Policies**

|       |                                    |
|-------|------------------------------------|
| NPPF  | National Planning Policy Framework |
| EC4/1 | Small Businesses                   |
| EN1/2 | Townscape and Built Design         |
| EN1/8 | Shop Fronts                        |
| EN2/1 | Character of Conservation Areas    |
| EN2/2 | Conservation Area Control          |
| EN7/2 | Noise Pollution                    |
| S1/2  | Shopping in Other Town Centres     |
| S2/2  | Prime Shopping Areas and Frontages |
| S2/6  | Food and Drink                     |
| JP-S5 | Clean Air                          |
| JP-S2 | Carbon and Energy                  |
| JP-C2 | Digital Connectivity               |

### **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.

### **Impact on residential amenity**

There are flats above shops in the area as well as other dwellings, noting that No 2 Silver Street, a 2 storey terraced house shares a party wall with the application site.

One of the main reasons for the approved hours was a balance between acknowledging the town centre location and the general expectation that businesses would tend to be open at later times, with the consideration that there are nearby residential properties in the area. The previous application originally proposed opening until 11.30pm Sunday to Thursday and 12.30am on Friday and Saturdays. At the time this was considered to be excessive and the application was approved with hours conditioned as 11pm and 11.30pm respectively.

This application would extend the approved opening times by 1.5 hours every night, until 12.30am (Sunday to Thursday) and 1.00 am (Friday and Saturday)

### Noise and disturbance

Extending the opening hours of the premises would allow customers the opportunity to visit the shop at a later time at night which could have the potential to disturb residents living nearby.

The Environmental Health Pollution Control Section have been consulted and comment that there have been no complaints made about the business although it is noted that there are flats above some of the shops on the street and potential noise issues from trading at the later times.

There are relatively few businesses in Ramsbottom which open late, and of the pubs, bars and restaurants in the vicinity, not many would open after 11pm/11.30pm. As such, it is likely there would not be much presence or activity from those patronising drinking or eating establishments in the area past midnight. Customers visiting the application premises at the proposed later times would therefore not significantly add to existing noise and disturbances in the area.

The proposed later time of 1am would also be at the weekend, where people tend to stay out later and longer and where there would be some general activity and comings and goings.

The application relates to one premise within a town centre setting and given the increase in hours by 1.5 hours into the night, it is considered that on balance extending the opening times would not cause or intensify noise and disturbances in the area to a significant or unacceptable degree.

#### Fumes and smells

The originally approved plan showed there would be a ventilation flue located internally and projecting 1.4m from the rear roof slope.

The Pollution Control did not object to this principle of dealing with fumes but recommended a condition that a scheme for treating, diluting and dispersing fumes and odours be submitted for approval (condition 7).

This condition has not been discharged and the applicant is therefore in breach of the planning approval, to which they have been made aware. To rectify this matter, an application to discharge condition 7 (together with other outstanding conditions 4,8 and 10 under reference 71715) has now been submitted and is with the LPA and consultees for determination.

It would be expected that the extraction system be fitted with mechanisms to suppress noise and sound to an acceptable level so as not to cause nuisance or harm to adjacent and nearby occupiers. If this is found not to be the case, the condition would be refused discharge and action could be taken by the LPA Enforcement team as well as through legislation under the Pollution Control Act.

As mentioned above, the Pollution Control have stated that no complaints made about the operations of this business.

It is therefore considered that on balance and with the appropriate controls and measures which can be put in place to ensure regularisation of the development, the proposal to extend the opening time is considered to be acceptable.

#### **Heritage**

The site is located within the Ramsbottom Town Centre Conservation Area. The proposed extension of hours would not change the character of the operation of the premises nor the Conservation Area. The proposals are considered neutral and as such the Conservation Area would be preserved in compliance with policies EN2/1 and EN2/2.

#### **Response to objectors**

Issues raised 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 proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 This decision relates to drawings numbered - Existing plans and elevations PM7-01A; Proposed plans and elevations PM7-02B; Block plan PM7-03 - 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 listed.
- 2 The bin storage facilities indicated on the approved plans shall be maintained at all times.  
Reason. To ensure adequate off-highway bin storage facilities are provided within the curtilage of the site, in the interests of road safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and S2/6 - Food and Drink.
- 3 Within 1 month of the development hereby approved, a scheme to soundproof the party walls and floor/ceiling between the ground floor and the first floor shall be submitted to and approved by the Local Planning Authority. Such works that form the approved scheme shall be completed to an agreed timetable and thereafter maintained for the duration of the development.  
Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policies S2/2 - Prime Shopping Areas and Frontages, S2/6 - Food and Drink and EN7/2 Noise Pollution.
- 4 The external staircase hereby approved shall be fitted with timber treads and covered by a black canopy in accordance with the details on approved plan PM7-02B prior to the first use of the development hereby approved and thereafter maintained.  
Reason. To protect the amenity of occupiers of the adjacent residential properties pursuant to Bury Unitary Development Plan Policies S2/2 - Prime Shopping Areas and Frontages, S2/6 - Food and Drink and EN7/2 Noise Pollution.
- 5 The use hereby permitted shall not be open to customers outside the following times:  
14:00 to to 00.30 - Sunday to Thursday  
14:00 to 01:00 Fridays and Saturdays.  
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S2/2 - Prime Shopping Areas and Frontages, S2/6 - Food and Drink, EN1/2 - Townscape and Built Design and EN7/2 Noise Pollution of the Bury Unitary Development Plan.
- 6 Within 1 month of the development hereby approved, 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 scheme as approved shall be implemented within an agreed timetable and thereafter 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 property from impact upon from fumes and odour pursuant to UDP Policies S2/2 - Prime Shopping Areas and Frontages, S2/6 - Food and Drink, EN1/2 - Townscape and Built Design, EN7/1 - Atmospheric Pollution and EN7/2 Noise Pollution.

- 7 Within 1 month of the development hereby approved, details of the canopy covering to the rear external staircase hereby approved shall be submitted to and approved by the Local Planning Authority. The approved details only shall be implemented prior to an agreed timetable and thereafter maintained.

Reason. In the interests of visual and residential amenity pursuant to EN1/2 - Townscape and Built Design, EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control and EN7/2 Noise Pollution of the Bury Unitary Development Plan.

- 8 The first floor of the application property, No 62 Bridge Street, shall only be used for storage purposes in association with the development hereby approved.

Reason. To protect the residential amenities of the adjacent properties pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and Built Design, S2/6 - Food and Drink and EN7/2 - Noise Pollution.

|                     |             |                         |             |
|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| JT                  | 18/3/25     | DM                      | 20/03/2025  |