

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 14/02/2022	Ref: 67614/FUL
Registration: 26/11/2021	LDFC: 21/12/2021	Expiry Date: 21/01/2022
Site Visit: 17/12/2021	Site Notice: N/A	Press Date: N/A
Objections: 2	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Single storey side extension

Location: Rapallo Ristorante, High Street, Walshaw, Bury, BL8 3AG

Description

The site relates to an existing restaurant which is located in the village setting of Walshaw and a Neighbourhood Shopping Centre under Policy S1/5. The area comprises a mix of residential and commercial uses.

Directly to the north is Victoria Mill, a 3 storey brick build which has consent for conversion to apartments. To the west are flats on Grassington Court and opposite the site to the east is a 'T' junction which is centred around a war memorial which defines the road junctions of Walshaw Road and High Street.

The restaurant is a single story building with rendered elevations and contemporary modern appearance. It is set back into the site from Walshaw Road and at the front of the site is an open paved terrace with the boundary to Walshaw Road defined by a wall of brick pillars and railings, with a dwarf wall and planting also along part of the frontage. The restaurant is slightly elevated above the road and there are a set of steps up to the site from Walshaw Road. There is a car park to the south of the building which is accessed from Grassington Court, which also serves the flats and the rear of the adjacent mill building.

The application seeks the erection of a single story extension to the east elevation which fronts Walshaw Road. The application is retrospective as it has been built out and completed by April 2021.

The extension would be single storey which would be 13.10m in length and project 4.7m in depth from the east elevation towards Walshaw Road and the site boundary. It would have a sloping roof with an eaves height of 2.9m and ridge height of 4m. Elevations would comprise a cladded stud wall with a plastic sheet roof.

The proposed plans states the extension as 'temporary'.

The applicant applied for a Lawful Development Certificate in May 2021 for the extension under Part 7 - Non-domestic extensions, alterations etc of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which lays down permitted development rights for non domestic extensions/alterations. However there are no permitted development rights under Part 7 that allow extensions to restaurants. As such the existing extension would not be permitted development and would require planning permission and therefore the LDC was refused.

Relevant Planning History

47564 - Internally illuminated fascia sign - Approve with Conditions 21/03/2007

50588 - Redevelopment of existing restaurant and adjacent mill to form a wine bar and restaurant with first floor open car park accessed from Grassington court - Refused

DELEGATED REPORT

21/01/2009

67034 - Lawful Development certificate for existing single storey extension - Refused
15/7/21

Publicity

Letters sent 17 addresses on 30/11/21 1/12/21 to properties on Grassington Court, Walshaw Road and High Street.

Applicant for the adjacent mill development notified by letter 3/12/21

Two objections received.
Issues raised as follows -

- The reason why we are so incensed by this is due to the fact that we raised the issue in April 2021 when they first erected the timber frame and no enforcement action was taken. We start to relocate the bin store as part of an approved planning permission enabling works and we get an immediate call.
- This unlawful addition to the adjacent restaurant has led to a significant increase in on street parking to High Street and on Grassington Court. So much so that the whole of the radius from Grassington Court onto High Street is now littered with cars from 4pm daily making a dangerous road junction even more dangerous.
- The plans submitted which have been registered are child like and do not show anything as well as showing additional parking which isn't even in the applicants ownership including the yard which we own. The red edged plan is wrong and the description is totally inaccurate when it is clearly an extension to the restaurant being used as a restaurant.
- If planning approval is given to this extension it will be a travesty and call into question the true democracy of the planning system.
- The construction clearly does not comply with building regulations either particularly in terms of fire precautions which is of major concern for the regulatory authority when the illegal construction was brought to the authorities attention some 8 months ago.
- The proposals are not for a shed but for an extension to the restaurant which is an intensification of the use without any consideration to providing additional car parking for the increased floor area and additional capacity, the parking issues associated with the property are well documented.
- Drawings PV-PP-01 & 02 indicate parking to the rear yard area which is not in the ownership of the restaurant and in fact forms part of the adjacent Victoria Mill redevelopment, in addition the red edged location plan doesn't identify the full extent of the site only the extension and shows an area of car parking on Grassington Court which is for residents only.
- The surface water drainage from the extension discharges directly onto the adopted footpath to High Street which increases the risk of flooding elsewhere.
- The materials do not match the local vernacular which are generally traditional materials and construction as opposed to the composite cladding and polycarbonate roof

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal due to impact on the integrity of the highway from the extension on the surface water drainage arrangements.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
S1/5	Neighbourhood Centres and Local Shops
S2/6	Food and Drink

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) and 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 Policy 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.

Application - S73A of the Town and Country Planning Act 1990 makes provisions for Planning permission to be considered for development already carried out.

Siting - The proposed extension would cover a floor area of 61.57 sqm and would be located on the patio/paved open area which fronts Walshaw Road. The extension would cover the full length of the eastern elevation and project the full width of the patio area with the building line of the extension located directly adjacent to the back edge of the footway.

It is therefore considered that due to the siting and scale of the building, the proposed development would introduce an expanse and massing of built form which would add a

discordant and alien feature along this part of the street frontage. Further harm would be caused due to the loss of the open patio area which provides a relief and attractive setting from views from the street.

As such, the proposed development is considered to be contrary to Policies EN1/2 and EN1/8.

Design and appearance and visual impact -

The restaurant is a relatively modern/contemporary build, with a featured curve bay and bay window to part of the east elevation. This feature is also mirrored on the south elevation which faces the car park.

The extension would be a uniform and rectangular shape and of a solid and 'boxy' design. Elevations would be flat, featureless and lacking any character, nor does the extension provide any rhythm along the frontage. The proposed extension has no design associations to the existing building.

The attachment of the extension would also be clumsy and incoherent, with little thought of its connectivity to the existing building and as such appears as a disjointed addition.

In terms of materials, elevations would be a composite clad wall in dark matte grey with 3 rows of rectangular window openings, resulting in a 'shed' like appearance which would be inappropriate to the setting of the site, the streetscene and particularly at this well used and highly visible position and junction in the middle of the village.

The roof would be plastic sheets, which on a building of this type and in this highly visible location would add to the unsightly appearance of the building.

In addition, the railing and brick pillar walls which were a pleasant and attractive feature along the site frontage have been removed to facilitate the siting of the extension. In its place, the extension would introduce a strident and dominating feature at this part of the site.

It is therefore considered the proposed development would have an adverse and significantly harmful impact on the visual amenity of the streetscene and as such would be contrary to policies EN1/2 and EN1/8.

Residential amenity - The nearest residential properties would be more than 30m away and have oblique views of the site.

It is therefore considered that impact on residential amenity would not be significant.

Highways - The extension would be sited directly at the back of the footway on Walshaw Road. There is no design solution incorporated within the build to restrict surface water run-off from the building onto the public highway and as such this would be unacceptable.

The Highways Section have therefore recommended refusal.

The proposed extension would not be located on an area used for parking. However, as it would facilitate more customers to the restaurant, there could be a greater demand for parking. Whilst the site is located in a village setting with some custom locally, the site already under-provides parking for the restaurant, cars often seen parking on part of the footway on Walshaw Road directly in front of the restaurant and the access road on Grassington Court

It is therefore considered that the increase in floorspace would add to the existing parking pressure in the area and likely lead to conflicts with other users of the highway which would be detrimental to the free flow of traffic and road safety.

As such the proposed development would be unacceptable.

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 size, position, design and materials be a discordant, prominent and intrusive feature in the street scene and would therefore be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan, EN1/2 - Townscape and Built Design and EN1/8 - Shop Fronts.
- 2 The extension and its surface water drainage arrangements results in an unacceptable impact on the integrity of the adjacent adopted highway due to the unauthorised discharge of surface water onto the adopted footway on High Street, which is detrimental to highway safety and contrary to provisions in the Highways Act 1980. The proposed development would therefore be contrary to Bury unitary Development Plan Policies EC4/1 - Small Businesses and EN5/1 - New Development and Flood Risk.
- 3 The proposed development would result in an intensification of the use of the site for which there would be inadequate car parking provision which is likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 - Townscape and Built Design, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	14/2/22		