

DELEGATED REPORT

Report by Claire Booth	Date of report: 20/05/2024	Ref: 70552/FUL
Registration: 25/03/2024	LDfC: 22/04/2024	Expiry Date: 20/05/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Two storey rear extension

Location: Strachans Chemist, 166A Walmersley Road, Bury, BL9 6LL

Description

The application relates to an end property located on Walmersley Road Shopping Precinct at the south-western end of the parade of shops closest to Chesham Road currently in use as a Chemist and is occupied by Strachens Chemist. The property is two storeys in height and in use as a Chemist. It backs on to Back Walmersley Road and has a small rear yard area which contains a shed and a 1100 litre refuse bin. 2 additional refuse bins are stored on the adopted highway at both the rear and side of the site.

Back Walmersley Road exists to the rear of the rear of the application site and residential terraced properties on Hanson Street which back on to Back Walmersley Street. Nos. 1 and 3 Hanson Street are directly behind the application site. No.1 would be within 7m of the rear elevation of the proposed extension. No. 3 would be within 15m of the proposed extension.

The site is allocated within the adopted Unitary Development Plan as a Neighbourhood Shopping Centre.

Planning permission is sought for a two storey rear extension to the property projecting from the rear elevation by approximately 2.75m. The proposed extension would cover the whole of the rear yard area. The extension proposes to be set in from the gable end and shared boundary with no. 166, attached, by approximately 150mm. The extension seeks to be approximately 429mm higher than the existing flat roof buildings, at approximately 6.1m. On the side and rear elevation of the proposed extension, adjacent to the Chesham Road a ground floor opening is proposed to provide an enclosed refuse/ bin store. The plan indicates it would be enclosed.

Relevant Planning History

42678: Attached two storey unit. A1 and A2 Use Ground Floor, B1 (Office) First Floor. Revision to Site Entrance and Exit. Approved with Conditions, 01/09/2004.

44519: Reserved Matters - Attached 2 storey unit, A1 & A2 Use (ground Floor), B1 Office Use (First Floor); Revision to Site Entrance & Exit. Approved with Conditions, 29/06/2005.

Publicity

Site Notices publicising the proposed development were erected on the 28/03/2024 to the front and rear of the application site.

16 neighbours were consulted by letter on the 27/03/2024.No objections have been received as a result of this publicity.

Statutory/Non-Statutory Consultations

Traffic Section - Raises objections, see report below.

Environmental Health - Contaminated Land - No objections.

Waste Management - Raises concerns over the size of the proposed bin store.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
H2/3	Extensions and Alterations
JP-C8	Transport Requirements of New Development
NPPF	National Planning Policy Framework

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

Design and Visual Amenity

It is unclear on the submitted plan how the proposed bin store would be enclosed, i.e. by double doors or by concertina style door(s), the proposed extension appears to have been designed to add interest to what is effectively a very bland side elevation and in this respect the proposal would result in a visual improvement to the building when viewing the application site from Chesham Road. Providing the proposed extension would be built with matching brick and stone header materials, which could be secured by planning condition, and securing sympathetic materials for the doors to the bin store, the proposal is considered to be acceptable in this regard and compliant with criterion a) within Policy EN1/2 of Bury Unitary Development Plan.

Impact on nearby neighbours

To the rear of the application site are terraced dwellings on Hanson Street, directly to the rear of the site exists nos. 1, 1A and 3 Hanson Street. No. 1 or 1A (it is not clear how this property has been split up) has two first floor windows in its rear elevation which directly looks on to the rear elevation of the application site. One of these windows clearly serve a habitable room to the first floor flat. The first floor window to No. 2 This window faces westwards. Similarly no.3 Hanson Street, is a traditional terrace, with a first floor habitable room window on its rear elevation. The rear of Hanson Street faces westwards.

The proposed extension would be within 7 metres of the habitable room window of nos. 1 and 1A Hanson Street and approximately 12.4 metres of the rear habitable room windows of no. 3 Hanson Street. The proposal seeks to have four first floor windows in its rear elevation. The proposed two storey extension would therefore cause a loss of privacy to the occupants of no. 1/ no. 1A and no. 3 Hanson Street, to the detriment of neighbours amenity.

In addition, due to the bulk and massing of the proposed extension, the proposed extension would also have an overbearing and oppressive impact on the occupants of Hanson Street, and result in the loss of some evening sunlight to their homes to the detriment of their amenity, contrary to Policies EN1/2 and H2/3 of the Bury Unitary Development Plan and the National Planning Policy Framework.

Highway Safety

As existing, the rear of the site is bounded by a palisade fence. It contains two 1100 refuse bins. At the time of Officers site visits, one 1100 litre bin was positioned outside the enclosed yard area, on the adopted highway of Back Walmersely Road East. It is evident on Google Street View that in August 2023 an 1100 litre bin was also located on the pavement (adopted highway) of Chesham Road.

The proposals seeks to erect a two storey extension over the existing rear yard area which would abut the boundaries of the site with Chesham Road and Back Walmersely Road East. The proposals show that the ground floor corner of the proposed extension would be on the corner of the above mentioned highways and that this corner would contain an access on to Chesham Road. This corner of the extension is proposed to serve a bin store area.

The proposals indicate on the submitted Proposed Plans that doors would open outwards onto the adopted highway/ pavement of Chesham Road, however the proposed elevations indicate the door opening would be concertina style doors,. The submitted plans and elevations also appear to show a concertina door opening onto Back Walmersley Road East. In this respect the plans are unclear as to what type of openings are proposed onto both highways.

Notwithstanding this, for certain, the proposal would result in the creation of outward opening bin store doors into the adjacent adopted highway at Chesham Road, which would be detrimental to pedestrian safety and restrict visibility at the adjacent junction of Back Walmersley Road East with Chesham Road, to the detriment of highway safety, contrary to the requirements of the Highways Act 1980, the Access and Servicing requirements of the Policy JP-C8: Transport Requirements of New Development of the Places for Everyone Joint Development Plan and Policy EN1/2 of the Bury Unitary Development Plan.

It is also unclear whether sufficient space exists within the bin storage area for at least 3 1100 litre bins, and whether sufficient refuse storage provision is proposed, taking account the proposed expansion of the existing business.

In addition, the proposal would introduce servicing and delivery operations at a hazardous location on Chesham Road, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent adopted highway, again resulting in conditions detrimental to highway safety.

The application and submitted plans contain insufficient information to properly assess the physical impact of the proposed development including its foundations and surface water drainage arrangements on the adjacent adopted highway, to the detriment of highway safety and maintaining the integrity of the adopted highway.

Overall, the proposal would result in conditions detrimental to highway safety and it is recommended the proposals be resisted on this basis.

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 proposal would result in the creation of outward opening bin store doors into the adjacent adopted highway at Chesham Road, which would be detrimental to pedestrian safety, restrict visibility at the adjacent junction of Back Walmersley Road East with Chesham Road and contrary to the requirements of the Highways Act 1980. EN1/2: Townscape and Built Design of the Bury Unitary Development Plan, Policy JP-C8: Transport Requirements of New Development of the Greater Manchester Places for Everyone Joint Development Plan, the National Planning Policy Framework and National Design Guide.

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- 2 The proposal would introduce servicing and delivery operations at a hazardous location on Chesham Road, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent adopted highway, contrary to Policy EN1/2: Townscape and Built Design of the Bury Unitary Development Plan and the National Planning Policy Framework.
- 3 The application and submitted plans contain insufficient information to properly assess the physical impact of the proposed development including its foundations and surface water drainage arrangements on the adjacent adopted highway, to the detriment of highway safety and maintaining the integrity of the adopted highway. The proposal is thus contrary to Policy EN1/2: Townscape and Built Design, Policy JP-S4: Flood Risk and the Water Environment and the National Planning Policy Framework.
- 4 Inadequate information has been submitted to satisfy the Local Planning Authority that the proposal could accommodate adequate bin/ refuse storage within the proposed extension to avoid refuse bins being stored on the adopted highway, contrary to Policy JP-C8: Transport Requirements of New Development of the Greater Manchester Places for Everyone Joint Development Plan, the National Planning Policy Framework and National Design Guide.
- 5 The proposal by virtue of its scale, design and massing would have a detrimental impact on the amenity of the neighbours adjoining/ overlooking the site by reason of its overbearing and oppressive impact and undue sense of enclosure that would impact unduly on the residential amenities currently enjoyed by the occupants of nos. 1, 1A and 3 Hanson Street which directly overlook the site, contrary to Policies EN1/2: Townscape and Built Design and H3/2: Existing Incompatible Uses of the Bury Unitary Development Plan and the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	20/5/24	DM	20/5/24