

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 21/07/2025	Ref: 71903/CONDIS
Registration: 06/05/2025	LDfC: 09/06/2025	Expiry Date: 01/07/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Application to discharge condition 3 (scheme for treating, diluting and dispersing fumes and odours) on planning permission 70606

Location: 85 The Rock, Bury, BL9 0NB

Description

Application to discharge condition 3 (scheme for treating, diluting and dispersing fumes and odours) on planning permission 70606.

The applicant has submitted a Technical Details and Specification of the proposed installation and an Acoustic Assessment.

Relevant Planning History

70606 - Change of use from former shop and premises (Class E) to 1 no. hot food takeaways (Sui Generis) and a retail unit (Class E) at ground floor; a commercial unit (Class E) at first floor; a two bedroom apartment at second and third floors (Class C3) and external ventilation duct at rear - Approve with Conditions 30/05/2024

Publicity

N/a

Statutory/Non-Statutory Consultations

Environmental Health - Pollution Control - No objection subject to the implementation of the silencer to be used on the flue prior to first use.

Pre-start Conditions - Not relevant

Development Plan and Policies

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.

Condition 3 - scheme for treating, diluting and dispersing fumes and odours

The applicant has submitted technical Details and an Acoustic Assessment of the extraction system to be used for the development.

The EH Pollution Control Section have no objection to the discharge of the condition subject to retaining the silencer (specified as CP03-C*P-0500 silencer) and the implementation of the remaining conclusions of the Acoustic Assessment to fit double glazed windows and ensure sound levels are below the NR25 criterion.

Recommendation: Approve

Conditions and Reasons:

Condition 3 for the submission of a scheme for treating, diluting and dispersing fumes and odours) on planning permission 70606 is approved subject to the implementation and retention thereof, of the silencer specified in the conclusion of

the Acoustic Report prior to the first use of the development hereby approved.
The first floor habitable room windows shall be fitted with standard double glazed units prior to first occupation and internal sound levels shall thereafter remain below the NR25 criterion for the duration of the development hereby approved.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	21/7/25	DM	23/07/2025