

DELEGATED REPORT

Report by Helen Pressley	Date of report: 02/07/2024	Ref: 70650/FUL
Registration: 10/05/2024	LDFC: 04/06/2024	Expiry Date: 05/07/2024
Site Visit: 13/06/2024	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Single storey rear extension; alteration to existing roof and removal of ground floor chimney

Location: 439 Walmersley Road, Bury, BL9 5EU

Description

The application relates to an end terraced property that fronts onto Walmersley Road. The premises is currently utilised as a take away. The premises has an existing single storey, flat roof extension to the rear that extends adjacent to the shared boundary with No. 435-437. The premises also has an existing flat roof store and area of yard located to the rear.

As identified under Policy S1/5 the site is located in a Neighbourhood Centres and Local Shops allocation. Residential properties are located to the north, east and west of the site.

Planning permission is sought for the partial removal of the existing single storey rear extension, and store and for the construction of a new single storey rear extension. The proposed extension, including the retained elements of the existing extension would project a total of 8978mm from the original rear elevation of the building. A bin store is shown to the rear of the proposed extension.

The plans also show internal amendments to the existing building that include the removal of an existing chimney. This element would not require planning permission.

Relevant Planning History

53343 - Certificate of lawful development for existing use as hot food takeaway (Class A5) - Lawful Development 13/12/2010

Publicity

Letters sent to 10 neighbouring properties on the 13th May 2024.

1 objection received in relation to:

- Given the chimney is serving a valuable public health purpose, how will fumes be extracted from the chip shop range following its removal ?
- All elevations show a red-brick wall at the 'left' side (side facing 441 walmersley road). Please confirm this will be built inside the existing stone wall that partitions 439 and 441 walmersley road and said stone wall will be unaffected by this work.
- Please clarify how rain water will be removed from the new roof structure and that this will not cause extra rainwater to be dispensed onto 441's side of the existing wall.
- Confirmation fence currently elevating partition wall between 439 and 441 (albeit fence is on 441's side) will be unaffected by this development.

Statutory/Non-Statutory Consultations

Environmental Health - Pollution Control - No comment to make.

Environmental Health - Contaminated Land - no comments to make regarding contaminated land and air quality.

Traffic Section - condition requested in relation to the installation of the bin storage.

Waste Management - no response

Pre-start Conditions - Not relevant

Development Plan and Policies

EN1/2	Townscape and Built Design
S1/5	Neighbourhood Centres and Local Shops
S2/6	Food and Drink
JP-P1	Sustainable Places
JP-S2	Carbon and Energy
H3	Incompatible Uses in Residential Areas
H3/2	Existing Incompatible Uses
EN7/2	Noise Pollution

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.

Layout and Design

Policy EN1/2 seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area. Policy JP-P1 aims to facilitate a series of beautiful, healthy and varied places. Policy S2/6 seeks to ensure that the proposal considers the provision for the storage and disposal of refuse.

The existing property has existing flat roof extensions to the rear of the property and the proposal would consolidate these extensions into a single extension. As such no objections are raised to the proposed flat roof as this replicates the existing style of extension on site.

The proposal shows an area for bins to be stored to the rear of the proposed extension, with doors to the rear of the extension to allow for these bins to be accessed. These bins would be stored off the rear alley that is used to access the rear of the other terraces within the row.

It is therefore considered that the proposal would not have a detrimental impact on the visual amenity of the area and would therefore comply with the policy considerations set out above.

Amenity

Policy S1/5 confirms that the Council will seek to retain retail users as the predominant use in small neighbourhood centres, however the site is already in use as a takeaway. Policy S2/6 would also be applicable to this site and requires the Council to consider the amenity of nearby users by reason of noise, smell, litter and opening hours. UDP Policy EN7/2 - Noise Pollution that restricts development that would lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users.

Policy H3 seeks to restrict the development of incompatible uses in areas which are primarily residential in nature. Policy H3 seeks to restrict the development of incompatible uses in areas which are primarily residential in nature. Policy H3/2 seeks to ensure that any existing conflicts are resolved where possible.

The existing rear extension is already utilised as storage space, and kitchen space for the existing take away. The proposal seeks to utilise this area seating/dining area. Whilst the use of the area internally has changed the overall use of the site has not changed. As a fall back position the applicant could partially reconfigure the existing rear extensions to provide this area, however the proposal seeks to provide a better level of accommodation from a visual amenity perspective than what is currently on site. The application form submitted does not indicate any change in opening hours proposed. As such the proposal is considered to comply with the above policy considerations in this respect.

The proposed extension adjacent to the boundary with no. 435-437 would be reduced in length to accommodate bin storage.

There are already extensions and walls adjacent to the boundary with No. 441. The proposal would project approximately 3.3 metres beyond the rear of No. 441 as extended. Whilst the extension is located to the south of the amenity space associated with this property it should be noted that there are already existing structures located within the rear yard of the host property and the proposed extension would be flat roof in style, and therefore only 671mm taller than a permitted development boundary treatment. As such it is considered that the projection of the proposed extension is acceptable and would not have a significant detrimental impact on the residential amenity of No. 441 to warrant refusal of the scheme.

Bio-diversity Net Gain

The site is currently utilised as buildings or hardstanding. As such the de minimis threshold applies in that less than 25 square metres of non-priority onsite habitat would be impacted by the proposal.

Carbon and Energy

Policy JP-S2 sets out the steps required to achieve net zero carbon emissions.

Given the nature of the proposal, which largely seeks to consolidate existing extensions to the rear of the site and the provisions already contained within part L of the building regulations it is considered that the proposal would comply with this policy.

Response to Representations

The chimney to be removed is shown on the plans to be an internal chimney and not the existing flue that is located on the rear elevation.

The proposed rear extension is sited approximately 150mm off the shared boundaries with No. 441 which would allow for construction of the extension and for any required rainwater products to be installed without encroaching over the site boundary.

The side elevation with No. 435-437 remains largely as existing.

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 numbered Site Location Plan, A1-002b Rev A received 28th June 2024, A1-002a 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 listed.

- 3 The bin storage facilities indicated on the approved plans shall be made available prior to the development hereby approved been brought into use and maintained thereafter

Reason. To ensure adequate provision for the storage and disposal of refuse within the curtilage of the site, clear of the adopted highway pursuant to Policy S2/6 – Food and Drink of the Bury Unitary Development Plan.

<u>Case Officer</u> HP 02/07/2024	<u>Date</u>	<u>Sign off Officer</u> DM - 04/07/2024	<u>Date</u>
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