

DELEGATED REPORT

Report by Helen Pressley	Date of report: 17/04/2026	Ref: 72759/FUL
Registration: 26/02/2026	LDFC: 14/04/2026	Expiry Date: 23/04/2026
Site Visit: 17/03/2026	Site Notice: 17/03/2026	Press Date: 19/03/2026
Objections: 0	Con Area: BURY	Adv Type: CA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of ground floor from Class E to a hot food takeaway (Sui Generis); extractor flue at rear

Location: 4-6 Silver Street, Bury, BL9 0EX

Description

The property is a 3 storey, brick built building fronting Silver Street. Accommodation is also provided within the roof space with a dormer and gable fronting Silver Street. The property is a semi-detached building directly attached to a public house to the north, and is located on the corner of Silver Street and Parks Yard. There are numerous bars (The Old White Lion, Wyldes, The Clarence, Stanleys, Society, Forbidden Bar, Murphy's, the Monkey House Brewery) in the vicinity. There are also retail units and a restaurant on the same street.

Planning permission is sought for a change of use of ground floor from Class E to a hot food takeaway (Sui Generis) and for the installation of an extractor flue at rear.

Relevant Planning History

72763 - Prior approval for proposed change of use of 1st/2nd/3rd floors from Class E to 4 no. apartments (Class C3) - Prior Approval Required and Refused 20/02/2026

Publicity

Letters sent to neighbouring properties 12/03/2026
Site Notice 17/03/2026
Press Notice 19/03/2026

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal due to lack of bin storage.

Waste Management - No response

Environmental Health - Pollution Control - Conditions requested in relation to odour and noise.

Conservation Officer - Recommend refusal due to the detrimental impact on the character of the Conservation Area.

Public Health - Refer to Hot Food Takeaway Matrix

Pre-start Conditions - Not relevant

Development Plan and Policies

S1/1	Shopping in Bury Town Centre
S2/3	Secondary Shopping Areas and Frontages
S2/6	Food and Drink
EN1/2	Townscape and Built Design
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
HT5/1	Access For Those with Special Needs
JP-P1	Sustainable Places
JP-P2	Heritage
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C2	Digital Connectivity
JP-S2	Carbon and Energy
NPPF	National Planning Policy Framework
SPD19	Hot Food Takeaways

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.

Principle (Use)

Town Centre Uses

The site is located within the Main Shopping Area of Bury Town Centre, as allocated under UDP Policy S1/1. It is also considered to be a secondary shopping area and frontage as defined under Policy S2/3.

UDP Policy S1/1 confirms that the Council will protect, maintain and enhance the role of Bury Town Centre as a sub-regional shopping centre and promote the centre as a focal point for further development. This is further supported by UDP Policy S2/3 that states within secondary shopping areas identified in the Borough's town centres, and in the main shopping areas of district centres, the Council will seek to maintain retailing (Class A1) as the predominant land use at ground floor level. Proposals for change of use or redevelopment within these areas will be assessed on their merits and by taking into account the following factors:

- the design and appearance of the proposed frontage;
- the maintenance or provision of a display window at ground floor level, where appropriate;
- access for the mobility impaired, where appropriate and through negotiation with the developer;
- whether the proposals will give rise to disturbance or nuisance;

In addition, where a proposal would lead to more than 40% of any identified secondary shopping frontage being in non-retail (Class A1) use, the Council will also take into account the following factors:

- the location and prominence of the proposal within the secondary shopping frontage;
- the number, distribution, and proximity of other premises in non-retail (Class A1) use or with planning permission for such uses;
- the particular nature and character of the use proposed, including the level of activity associated with it.

In relation to the proposed use UDP Policy S2/6 and states that in considering proposals, regard be given to the following factors:

- the amenity of nearby residents by reason of noise, smell, litter and opening hours;
- whether or not the proposal would result in an over concentration of these types of uses;
- parking and servicing provision and traffic generation;
- provision for the storage and disposal of refuse and customer litter;
- environmental impact of any ventilation flues and/or ducting.

As the Use Class Order has been updated since the publication of the UDP an assessment has been made in relation to units retained in E use. Within this particular frontage (2 - 22 Silver Street) there are 8 units. The site is considered to be in E(c) use as and insurance brokers with a public facing office is considered to fall under professional services not retail as shown on proposed ground floor plan. The Funeral Care unit is also considered to fall under Use Class E(c). The remaining units are occupied by 1no. takeaway (Sui Generis), 4 no. public houses/bars (Sui Generis) and 1no. barber (Class E). Presently 37.5% of the units within the row have a Class E use, this would be reduced to 25% should the site be changed into a takeaway. This is over 40% of the units within the row contrary to Policy

S1/1.

It is acknowledged that shopping areas today have changed with regard to their function and land use characteristics, with alternative uses becoming an ever increasing feature in many shopping areas. This is reflected by the diverse uses that are within Class E. It is considered however that the over concentration of Class E uses already identified within this row and the opening hours proposed, that relate more closely to a night-time footfall and economy rather than daytime economy, would be contrary to the Policy considerations set out above and would have a detrimental impact on the Main Town Centre shopping area by reducing daytime footfall and custom within the frontage further.

Character of Conservation Area

As the site is located within the Bury Town Centre Conservation Area it is necessary to consider the proposal in terms of UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control of the UDP in that the Council will take action as appropriate to preserve or enhance the character or appearance of the Borough's Conservation Areas. PfE Policy JP-P2 - Heritage also applies, and ensures that the LPA will work pro actively to conserve, sustain and enhance our historic environment.

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states: In the exercise, with respect to any buildings or other land in a conservation area, of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Paragraph 202 of the National Planning Policy Framework (NPPF) states that heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 212 of the NPPF states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 215 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 219 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

The conservation area is on Historic Englands (HE) heritage at risk register. The HE register of assets at risk describes the conservation area as being in a poor condition, with medium vulnerability and exhibiting a deteriorating trend.

This part of the conservation area comprises the greater part of the historic part and cultural quarter of the town centre conservation area. This part of the conservation area is adjacent to Bolton Street and Market Street which do not contribute to the same level to the character and appearance of the conservation area as the site location, making Silver Street very sensitive to change that would erode the character and appearance of the conservation area, putting it further at risk.

There is a proliferation of hot food takeaway establishments in the conservation area. The increase in the use of hot food takeaways, by the very nature of their use and attracted footfall has a cumulative impact slowly eroding the special distinctiveness of the conservation area which is characterised by a mix of uses predominantly retail, hospitality and professional services. The proliferation of hot food takeaways does not preserve the character or appearance of the conservation area. There is a danger of this part of the conservation area being gradually dominated by this type of use to the exclusion of other visitors and creating a different contemporary character of use that would potentially increase footfall at peak times of use, increased litter even if additional bins are provided that does not preserve the special character and distinctiveness of the conservation area.

As such it is considered from the heritage conservation point of view the change of use would represent less than substantial harm. Whilst acknowledged that there is a public benefit of bringing the vacant ground floor unit back into use it is considered that this would not outweigh the harm identified in relation to the over proliferation of hot food takeaway uses within the conservation area, particularly within this identified sensitive historic quarter of the town centre.

Local Health

Paragraph 97 of the National Planning Policy Framework States:

Local planning authorities should refuse applications for hot food takeaways and fast food outlets:

- a) within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or
- b) in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.

The emerging Hot Food Takeaway SPD (SPD 19) which has been consulted on is considered to carry significant weight and sets out the priorities of the Council and Local Planning Authority (LPA) in relation to proposed Takeaway uses.

SPD 19 confirms that proposals for all new hot food takeaways will be assessed against the Matrix referenced above and proposals that are not accepted by the Matrix will be refused, unless other material considerations indicate otherwise.

The application has therefore been assessed against the Bury Hot Food Matrix (<https://www.theburydirectory.co.uk/jsna/interactive-tools/bury-fast-food-take-away-matrix>) by Public Health. The Bury Hot Food Take Away Matrix is a tool that enables new hot food take away applicants to check the proposed premises against a range of data metrics including health, deprivation and schools on an Lower Super Output Area (LSOA) footprint. The Council wants to take a balanced and fair approach to supporting local business and economic growth whilst also taking steps to ensure our environments support the health and wellbeing of our residents and the Matrix can be utilised to make these assessments.

This matrix can also be directly applied to paragraph 97 when making an assessment in relation to distances to schools, concentration of uses, and evidence of adverse impact on local health. The Matrix shows the following for the LSOA in which the proposal is sited:

- There are 21 Hot Food Take Aways in this area.
- 41% of year 6 pupils in this area are overweight or obese, so nearly 1 in 2
- The LSOA IMD rating for health deprivation is 3 (1 being best and 10 worst)
- The LSOA is ranked 16th out of 120 LSOA's for adult obesity which is in the top 13%
- The LSOA is ranked 35th out of 120 LSOA's for highest rates of adult diabetes which is within the top 30%

The emerging SPD 19 confirms that in LSOAs where obesity levels in primary school year

six pupils are more than 25% and there are more than 5 existing hot food takeaways within that ward, planning permission will not be granted on the grounds that it would be harmful to public health. The site is in an LSOA where 41% of year 6 students, so nearly 1 in 2 students overweight or obese which is significantly higher than the threshold set out by this emerging guidance. SPD 19 confirms that childhood overweight and obesity rates in Bury remain significantly above national averages, with National Child Measurement Programme (NCMP) data showing that more than 25% of children in some Lower Super Output Areas are affected. These figures have risen in recent years, alongside an increase in hot food takeaway outlets and evidence demonstrates a clear association between the density of hot food takeaways and unhealthy weight outcomes, particularly in deprived communities. There are already 21 existing takeaways sited within this LSOA which is 17 takeaways over the limit set within the emerging SPD, and the matrix confirms that the LSOA IMD rating for health deprivation is 3 (1 being the worst).

Given all of the cases set out above it is considered that the proposal would result in the over concentration of Hot Food Takeaway Uses within the locality which would have an adverse impact on local health, a detrimental impact on the character of the shopping area and frontage, and would fail to preserve or enhance the Conservation Area within which it is sited. The proposal is therefore considered to be contrary to Bury Unitary Development Plan and Places for Everyone Joint Development Plan Policies S1/1, S2/3, S2/6, EN2/1, EN2/2, JP-P2 and the National Planning Policy Framework.

Design and Layout

In addition to the policies set out above UDP Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. PfE Policy JP-P1 seeks to create a city region that consists of a series of beautiful, healthy and varied places.

The proposed flue would be largely internal, although no first floor plan has been supplied to show how the flue would interact with this level. The projection of the proposed flue above the exiting ridge is minimal, and whilst the flue would be partially visible above the roof of the rear two storey extension that fronts Parks Yard it is considered that due to the distances from public vantage points, and the limited projection the flue would maintain the character of the Conservation Area and would not have a detrimental impact on the premises or the street scene.

Elevations have been provided that show a new shop front that has not been included within the description of development, and is not referenced within the Planning Statement. This alteration requires planning permission however as the applicant has not included this element within their proposal description an assessment has not been undertaken.

The floor plans and elevations for this shopfront includes two separate entrances. The proposed floor plans also shows two kitchens, with no public access between the two suggesting that the proposal is for two separate units.

The Case Officer has raised these layout issues directly with the applicant who has confirmed that the proposal is for a single unit, and has sought to submit amended plans showing public access through the two sides of the ground floor. The applicant also asked to amend the description of development to *Change of use of ground floor to a restaurant with ancillary takeaway (Class E), including shopfront alterations and the installation of an extractor flue at the rear.*

The amended plans retained the shop front with two separate doors, and included a takeaway that was accessed through one door and a restaurant through the other door. The takeaway shown was 24 square metres, with it's own kitchen and counter area it is clearly not a subsidiary element but appeared as a separate use to the restaurant shown. Given the extent of the proposed takeaway element within the proposed restaurant, the opening hours proposed (11 am until midnight/1am), and the changes being proposed to

the description that would go beyond what was originally submitted and consulted upon the amendments were not accepted. It is considered a new planning application would be required should the applicant wish to progress a restaurant use with new shop front. The applicant however should be mindful that any takeaway element needs to be clearly subsidiary to the main Class E use.

Amenity

In addition to UDP Policy S2/6 UDP Policy EN1/2 seeks to ensure that the proposals for development are considered in relation to their relationship to the surrounding area.

The nearest residential properties would directly face the site, with flats sited above No. 7 Silver Street. Given that the proposed flue is located to the rear of the site and the existing flats are already located in close proximity to bars located at the ground floor within adjacent properties it is not considered that the proposal would have any additional amenity impacts on these residential units.

Conditions have also been proposed by Environmental Health in terms of odour and noise. As such no residential amenity issues are foreseen.

Access and Servicing

In addition to UDP Policy S2/6 which has been set out above UDP Policy EN1/2 requires the consideration of the design and appearance of access, parking and service provision. PfE Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport. PfE Policy JP-C5 states that proposals should provide appropriate places and routes for servicing, deliveries and "drop-off". PfE policy JP-C6 includes the provision to create, where needed, dedicated separate space for people walking and cycling. In addition when considering layouts PfE Policy JP-P1 states that all development should be functional and convenient, enabling people and uses to act efficiently with minimal effort, and responding to needs relating to servicing, recycling facilities, refuse collection and storage.

The proposal shows bin storage to the rear of the site, accessed from one of the kitchens. It is not clear how the waste from the second kitchen would be transferred to the bin store as there is no direct access and it would appear any future users would either have to walk through the front door within the shop frontage that has not been applied for, or walk through a public seating area and through the second kitchen. This layout would not be acceptable.

No provision has been shown for customer litter.

The proposed 660ltrs bins shown on the floor plans also have a width of approximately 615mm. 600ltr bins, with hinges are typically 720 - 780mm wide and as such it is also unclear how these bins would be maneuvered through the 745mm wide bin store door shown opening onto the shared access/courtyard area.

The application and submitted plans also contain insufficient information to ensure that adequate off-highway bin storage arrangements can be provided for the proposed use, and the retained first and second floor uses within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins.

Biodiversity Net Gain

While every grant of planning permission in England is deemed to have been granted subject to the biodiversity gain condition, commencement and transitional arrangements, as well as exemptions, mean that certain permissions are not subject to biodiversity net gain.

The proposed change of use would occupy an existing building and therefore the

de-minimis exemption applies.

Carbon and Energy

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

The application has confirmed within their submission documentation that their development would prioritise the minimisation of energy demands and maximisation of energy efficiency through a number of measures.

Digital Connectivity

PfE Policy JP-C2 requires development to have full fibre to premises connections unless infeasible or unviable, with multiple-ducting. The policy supports the provision of free, secure, high-speed public wi-fi connections, particularly in the most frequented areas.

The applicant has confirmed property will be served by full fibre broadband.

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 over concentration of Hot Food Takeaway Uses within the locality which would have an adverse impact on local health, a detrimental impact on the character of the shopping area and frontage, and would fail to preserve or enhance the Conservation Area within which it is sited. The proposal is therefore considered to be contrary to Bury Unitary Development Plan and Places for Everyone Joint Development Plan Policies S1/1 - Shopping in Bury Town Centre, S2/3 - Secondary Shopping Areas and Frontages, S2/6 - Food and Drink, EN2/1 - Character of Conservation Area, EN2/2 - Conservation Area Control, JP-P2 - Heritage, Emerging Supplementary Planning Document 19 - Hot Food Takeaways and the National Planning Policy Framework.
- 2 The application and submitted plans contain insufficient information to ensure that adequate off-highway bin storage arrangements and customer litter arrangements can be provided for the proposed use within the curtilage of the site in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins contrary to Bury Unitary Development Plan and Places for Everyone Joint Development Plan Policies S2/6 - Food and Drink, EN1/2 - Townscape and Built Design, JP-P1 - Sustainable Places, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	17/04/2026	DM	17.04.2026