

DELEGATED REPORT

Report by Tom Beirne	Date of report: 06/02/2025	Ref: 71075/FUL
Registration: 07/10/2024	LDfC: 30/10/2024	Expiry Date: 02/12/2024
Site Visit: 05/11/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Glazed structure to front of restaurant to form extended dining area.

Location: 1 South Street, Bury, BL9 0JS

Description

The application relates to a small restaurant on South Street, on The Rock, close to the junction with Rochdale Road. The unit already has an informal outdoor seating area on the frontage. The unit immediately to the north is a toy shop and to the south is a pizza restaurant. Across the pedestrian walkway is the side of Nandos restaurant.

The proposal involves installing a single storey glazed extension on the front to form a more formal dining area. It would extend 7.2m across the width of the frontage with a depth of 2.2m. The eaves would be 2.1m with a mono-pitched pitch glazed roof to a maximum height of 2.7m.

Relevant Planning History

54542 - 1 No. internally illuminated fascia sign and 1 no. internally illuminated projecting sign - Approve with Conditions 14/11/2011

Publicity

Immediate neighbours notified by letter dated 08/10/2024. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection
Environmental Health - No objection
Waste Management - No objection
The Coal Authority - No objection

Pre-start Conditions - N/A

Development Plan and Policies

S1/1	Shopping in Bury Town Centre
S2/1	All New Retail Proposals: Assessment Criteria
S2/2	Prime Shopping Areas and Frontages
S2/6	Food and Drink
NPPF	National Planning Policy Framework
PfE	Places for Everyone

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.

Economy - The additional seating area would add approximately 10 covers to the restaurant's capacity which equates to approximately 20%. The additional area would clearly improve the restaurant's commercial viability by increasing capacity. The proposal would be acceptable in principle and comply with the NPPF, PfE and UDP policies S2, S2/2 and S2/6 with regard to the town centre and food and drink.

Visual amenity - The proposed extension is relatively simple in form and modest in scale. In isolation, whilst slightly incongruous within streetscape, a lightweight, temporary structure would not impact significantly on the character of the walkway. However the proposal, in its more permanent state, would have a greater, more detrimental impact on the character of the streetscape, in particular as it would set a standard for future similar style development within the shopping arcade.

In term of visual amenity, the extension would constitute a prominent and incongruous structure within the pedestrianised walkway. The proposal is unacceptable in its proposed form and conflicts with UDP Policies EN1/2 Townscape and Built Design and EN1/8 Shopfronts.

Residential amenity - The nearest residential dwellings are the flats within The Rock development. Given the nature of the proposal, there are no residential amenity issues arising. As such the proposal is acceptable in terms of residential amenity and complies with UDP Policy S2/6 Food and Drink.

Pedestrian access - The walkway along South Street links Rochdale Road with the central area of The Rock and is unadopted. The extension would project out 2.2m out from the frontage over what is an existing walkway, although it is currently used during opening hours as an outdoor customer seating area. As the majority of the pedestrian walkway along South Street remains open and accessible, there are no pedestrian access issues arising. The traffic team have no objection to the scheme. Complies with UDP Policy HT6/1 Pedestrian and Cyclist Movement.

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 extension would introduce a permanent and discordant feature into the pedestrianised walkway within the shopping arcade. The proposal would be out of character and conflict with the following policies of the Unitary Development Plan: EN1/2 Townscape and Built Design, EN1/8 Shopfronts, S2/1 All New Retail Proposals and S2/2 Prime Shopping Areas and Frontages.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	06/02/2025	HL -	19/02/2025