



Appeal Decision

Site visit made on 23 June 2026

by K Mee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2026

Appeal Ref: 6008647

65A Windsor Road, Prestwich, Bury M25 0DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Asim Humza against the decision of Bury Metropolitan Borough Council.
- The application Ref is 72414.
- The development proposed is the change of use from shop to restaurant/coffee shop (Class E(b)) including retention of front canopy with the installation of new extractor system at side and AC unit at rear.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted on 20 February 2024¹ for the temporary use as a restaurant (Class E) for a period of 12 months. The permission included a condition requiring customer use of the front canopy area to cease by 7:30pm.
3. The Council amended the description of development during the consideration of the application to one which more accurately describes the various elements of the proposal. I have taken the description above from the decision notice, which also appears in the appeal form. I am therefore satisfied that the main parties would not be prejudiced by use of the above description. I have determined the appeal accordingly.
4. The application form states that the development has already been completed. At the time of my site visit, the use was operating and a front canopy, extractor system and air conditioning (AC) unit were in place. However, the canopy installed includes additional solid vinyl panels on 3 sides, mounted on roller mechanisms, which are not shown on the submitted drawings and the extractor system also differs from that shown. For clarity, I have determined the appeal on the basis of the development as shown on the submitted drawings.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the effect of the proposed development on the living conditions of neighbouring residents with regard to noise and disturbance.

¹ LPA Reference 70340

Reasons

Character and Appearance

6. The appeal property occupies the end of a parade of commercial units characterised by a consistent rhythm of flush-fronted façades with ground floor shopfronts and fascia signage above, some with enclosed forecourts defined by low-level metal railings. Whilst some units retain commercial use across both floors, many have been converted at first floor level to separate residential accommodation. The commercial units comprise a mix of uses compatible with a residential context, the majority operating during daytime hours. The surrounding area is predominantly residential, comprising mainly traditional semi-detached dwellings.
7. The black metal canopy to the front elevation, incorporating a tinted glass balustrade to three sides, would be set on a raised platform projecting prominently from the façade of the building to the back edge of the pavement, facilitating outdoor seating. At the time of my visit, 4 tables and 8 seats were in place with lighting affixed to the underside of the canopy. The ground floor extractor system, incorporating a ventilation grille on the side elevation, would not be visually intrusive, and the rear AC unit would not be visible from public vantage points.
8. The scale, materials, means of enclosure and elevated form of the front canopy would result in an incongruous addition that draws the eye, particularly given the uniform, flush frontage of the parade and the predominantly residential character of the area.
9. The appellant suggests that the visual impact of the canopy could be mitigated through additional planters or green screening. However, no detailed proposals are before me and, in any event, such measures would not overcome the canopy's significant projection or its incongruous appearance in the local context.
10. Consequently, I find that the proposed development would materially harm the character and appearance of the surrounding area. It would therefore be contrary to Policy EN1/2 of the Bury Unitary Development Plan (August 1997) (the UDP) which seeks to protect the character and townscape from adverse impacts, having regard to the design, external appearance, choice of materials and relationship to the surrounding area of new development.

Living Conditions

11. The appeal site occupies a ground floor business unit with separate residential accommodation on the upper floor and is located in a predominantly residential area.
12. The proposal would introduce a covered outdoor seating area, enabling patrons to gather, converse and dine outside. Whilst relatively modest in scale, it could accommodate several people, and associated noise, including raised voices, would be perceptible, particularly in the early evening when background road noise is reduced.
13. The extractor system would be located on the side elevation, in close proximity and directly facing the neighbouring dwelling at 63b Windsor Road which has two openable windows at first floor level. Furthermore, the AC unit would be sited on

the rear elevation at first floor level directly between an entrance door and openable window for the existing flat above.

14. The proposed opening hours would be until 9pm. The nature of the canopy's use, with customers arriving, departing and socialising in small groups, would give rise to increased noise and disturbance, resulting in harm to the living conditions of nearby residents, particularly in the evening when residents would reasonably expect a quiet environment. This harm would be exacerbated in warmer months, when the canopy is more likely to be used and neighbouring occupiers are more likely to have windows open. This impact is further heightened by the site's location within a parade that is otherwise predominantly characterised by daytime uses.
15. The use has been operating for a period of time following the granting of a temporary permission². Objections have been received, even though the use of the canopy area was restricted until 7:30pm within the temporary permission. indicating potential harm to living conditions arising from noise associated with the business, including use of the front canopy, extraction system and AC unit. However, the appellant has failed to provide a noise assessment in support of the proposal or any technical information relating to the AC unit.
16. In the absence of any robust assessment or supporting technical evidence (other than limited information relating to the extractor system), I am unable to conclude that noise impacts would not be harmful to the living conditions of neighbouring residents. There is no information on noise levels above background or on the timing of potentially harmful effects. Consequently, even with the proposed limit on the use of the outside seating area to between 7am to 7pm, the appellant has failed to demonstrate that harm would not arise, and this would be difficult to enforce given the premises would be open until 9pm.
17. Consequently, in the absence of an acoustic assessment and any associated mitigation measures, on the evidence before me the development would be materially harmful to the living conditions of neighbouring residents with regard to noise and disturbance. It would therefore be contrary to Policies S2/6, EC4/1 and EN7/2 of the UDP which together, and amongst other things, seek to protect the amenity of residents.

Other Matters

18. The appellant identifies a range of benefits, including the provision of a livelihood for the operator, the occupation of a previously vacant unit, support for the local economy, increased footfall benefiting neighbouring businesses, an expanded range of services for local residents including a communal space for socialising, a dog-friendly space and has resulted in positive customer feedback. Nevertheless, there is no substantive evidence before me to demonstrate that the use could not operate in an alternative form without the elements that give rise to the identified harms and I give them only limited weight. These considerations do not therefore alter my conclusion.
19. I acknowledge the Council have not raised concerns with regards to highway safety or parking. However, while I have no reason to conclude otherwise, these are neutral matters which do not weigh in favour of allowing the appeal.

² LPA Reference 70340

Conclusion

20. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal should be dismissed

K Mee

INSPECTOR