

DELEGATED REPORT

Report by Tom Beirne	Date of report: 19/02/2026	Ref: 72414/FUL
Registration: 09/12/2025	LDFC: 04/01/2026	Expiry Date: 03/02/2026
Site Visit: 03/02/2026	Site Notice: N/A	Press Date: N/A
Objections: 6	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: 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

Location: 65A Windsor Road, Prestwich, M25 0DB

Description

The application follows the refusal of planning permission for the change of use, front canopy and extractor flue on grounds that the large flue would be seriously detrimental to the amenity of the immediate neighbours. The refused application followed on from a previous temporary approval for the change of use, canopy and smaller flue for a period of 12 months, granted in 2024.

Following the removal of the large extractor flue, this current application now seeks permanent consent for the change of use, front canopy, extractor system and air conditioning unit on the rear elevation. Proposed opening hours are 7am - 9pm.

The first floor would remain in residential use with access via an external staircase at the rear.

The building has a ground floor area of 67sqm and is situated at the end of a row of two storey commercial properties that form a Neighbourhood Shopping Centre. The property was previously a jewellers shop which closed in 2022. The attached property on the east side is No.67 and is an accountant's office and on the west side, the detached property comprises two apartments (Nos.63A and B). Properties across Windsor Road and to the rear are also residential.

The previous application, submitted in 2023 initially sought permanent consent with opening to 11pm but, after concerns were raised about the potential impact from noise and disturbance to surrounding residential properties later in the evening, it was agreed that, in the first instance, to seek a temporary consent for 12 months and restrict opening to 9pm with the use of the covered open canopy limited to 7.30pm. This was attached to enable the business operations to be monitored in the light of any residential amenity issues such as noise and disturbance. This current application proposes opening hours between 7am and 9pm.

Relevant Planning History

69917 - Change of use of ground floor from shop to restaurant (Class E) with installation of a external flue pipe at the rear of the building - Refused 26/10/2023 (activities associated with the proposed use (outside seating) and insufficient information in relation to refuse collection/management and proposed extractor flue).

23/0337 - Enforcement - Unauthorised change of use of property to restaurant/ take away and installation of flue at rear of building - 21/09/2023.

70340 - Change of use of ground floor from shop to restaurant (Use Class E) with opening

times 07.30 - 21.00; canopy at front and installation of an external flue pipe at the side/rear (Temporary consent for 12 months) - Approved with conditions 20/02/2024.
71520 - Change of use from shop to restaurant and the retention of extract flue and AC unit
- Refused 22/07/2025

Publicity

Immediate neighbours notified by letter dated 11/12/2025.

Six objections have been received from residents and these are summarised below:

- The extractor is causing a nuisance
- The front canopy is visually intrusive and out of character.
- Use of the canopy area in the evening creates disturbance and hasn't been used in accordance with the condition restricting the time.
- Opening beyond closing time, sometimes until midnight and later causing neighbourhood tension, disruption and conflict.
- Parking pressures increased.

Statutory/Non-Statutory Consultations

Traffic Section - No comment received.

Prestwich Village Neighbourhood Forum - No comment

Public Health - Conditions relating to noise and fumes.

Waste Management - No comment received.

Pre-start Conditions - N/A

Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/8	Shop Fronts
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
EC4/1	Small Businesses
EC6/1	New Business, Industrial and Commercial
S1/5	Neighbourhood Centres and Local Shops
S2/6	Food and Drink
EN5/1	New Development and Flood Risk
JP-J1	Supporting Long-Term Economic Growth
JP-P1	Sustainable Places
JP-S1	Sustainable Development

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.

Use - The principle of the use of the premises as a cafe is acceptable and indeed, for the original building, would be permitted development. The use of the canopy, particularly in the evening appears to be the problematic issue and has appeared to have caused disturbance and amenity issues with neighbours.

Visual amenity and streetscape - The canopy on the frontage, when it was first erected without planning permission sometime in 2023, was a significantly more open structure and more lightweight in appearance. The subsequent planning application for the canopy and its use was approved on a 12 month temporary the basis with a time limit for its use to 7.30pm.

Following the expiry of planning permission, a further application was submitted for the retention of the use, along with the retention of a extractor flue and AC unit (71520). This application was refused permission on the basis that the flue was causing serious amenity problems (noise and fumes).

The current application seeks to retain the canopy in its present form which is more enclosed and includes the full plastic/vinyl covers on all sides and a screen along the shared front/side boundary with No.63. It is noted that there are no other canopies along the commercial frontage of the Neighbourhood Centre. With its more enclosed and solid appearance, the structure in projecting out over 3m to the back edge of the public footway, appears rather dominant on the frontage and has a seriously detrimental impact on the character of the streetscape.

The proposal, with regard to the retention and construction of the front canopy would be seriously detrimental to visual amenity and character of the streetscape and as such would be unacceptable and contrary to UDP Policy EN1/2 Townscape and Built Design.

Residential Amenity - Although the site is within a Neighbourhood Shopping Centre, during the evening, the locality around the site is a relatively quiet residential area. Although the previously problematic extractor flue has been removed and replaced with a more acceptable internal system with a vent in the wall, the use of the external canopied area for customers until 9pm is likely to cause noise and disturbance to surrounding neighbours. The disturbance would likely come from the use of the canopied area and the associated comings and goings of customers, including those with vehicles. It is noted that a condition on the previous temporary approval required the use of the canopy for customers would cease at 7.30pm. Although there have been instances where the premises have been open beyond 9pm, this is not a factor that would be considered in this assessment. More relevant is the potential for the canopied area to be used beyond 7.30pm and this is a factor that counts against approval with a condition limiting the use of the canopy.

The proposal, with the use of the canopied area to 9pm, would be unacceptable and cause noise and disturbance, both from the use of that external area and related comings and goings of customers. The proposal is therefore contrary to UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.

Highways - Although there were initial concerns relating to increased pressure on parking in the immediate area, given the use of the building as a cafe is not an issue, there is no strong objection to the proposal.

Environmental Health - Conditions are recommended to regulate noise emissions from any extractor and AC equipment.

Servicing - Bins are kept in the rear yard and brought to the front on collection day. This is considered to be acceptable.

Public Comments - The concerns of the neighbours have been addressed in the above report and, where relevant, are reflected in the reasons for refusal.

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 canopy at the front would, by reason of its siting within the streetscene and design would be a prominent and intrusive feature in the street scene and would therefore be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policies EN1/2 Townscape and Built Design and the principles of the NPPF.

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- 2 The use of the covered canopy during the proposed opening hours (0700 - 2100hrs) would be seriously detrimental to the residential amenities of nearby residents and the area in general by reason the the general noise and disturbance caused. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: S2/6 Food and Drink, EC4/1 Small Businesses and EN7/2 Noise Pollution.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	19/02/2026	DM	19.02.2026