

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	29th JULY 2014
SUBJECT:	PLANNING APPEALS
REPORT FROM:	DEVELOPMENT MANAGER
CONTACT OFFICER:	JOHN CUMMINS
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> • Decided • Lodged <p>Enforcement Appeals:</p> <ul style="list-style-type: none"> • Lodged
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:- Copy Appeal Decisions attached

Contact Details:-

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**Planning Appeals Decided
between 16/06/2014 and 20/07/2014**



Application No.: 56951/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr M Afzal

Appeal Decision: Dismissed

Date: 01/07/2014

Appeal type: Written Representations

Location: 2 Suthers Street, Radcliffe, Manchester, M26 1JW

Proposal: Change of use of part of ground floor from shop (Class A1) to fish and chip shop (Class A5); Shopfront to side elevation and Extraction flue at rear.

A Copy of the Planning Inspectors Report is attached.

Appeal Decision

Site visit made on 23 June 2014

by Victoria Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 July 2014

Appeal Ref: APP/T4210/A/14/2214256

2 Suthers Street, Radcliffe, Manchester, M26 1JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammed Afzal against the decision of Bury Metropolitan Borough Council.
 - The application Ref 56951, dated 7 November 2013, was refused by notice dated 7 February 2014.
 - The development proposed is change (part) to fish and chip shop.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development proposed on the character and appearance of the area;
 - The effect of the development proposed on the living conditions of neighbouring occupants, with particular regard to noise, disturbance, odour and parking; and
 - The effect of the development proposed on highway safety.

Reasons

Character and appearance

3. The appeal property, No. 2 Suthers Street (No. 2) is situated in a residential area. Rows of terraced dwelling line Suthers Street itself, whereas the majority of dwellings along Sefton Street are semi-detached. The area close to No. 2 therefore has a residential character and the dwellings along the respective streets are of a relatively uniform appearance.
4. The appeal property is currently operating as a shop. In addition to the shop front facing onto Suthers Street, there is an existing serving hatch in the side elevation facing Sefton Street. The appeal proposal would see the change of use of part of the existing shop to a hot food takeaway (HFT) selling fish and chips. As part of the proposal, a shop front and customer entrance would be installed in the side elevation facing Sefton Street.

5. Although there is an existing serving hatch on Sefton Street, it is small scale and low key in appearance. It therefore blends into the appearance of the streetscene and is not seen as a visually prominent feature. The installation of an additional shop front and customer entrance would be visually prominent additions to the side elevation of No. 2 itself when compared with the existing situation. They would therefore be at odds with the existing residential character of the area, particularly along Sefton Street. For these reasons, the proposal would be seen as a visually incongruous feature that would detract from the character and appearance of the area.
6. Accordingly, I conclude that the proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policies EN1/2 and S2/6 of the Council's Unitary Development Plan (Adopted 1997) (UDP) and Development Control Policy Guidance Note 16 'Design and Layout of New Development in Bury' (2008) which, together, seek to ensure that new development reflects, and is sympathetic to, its context.

Living conditions

7. As the area surrounding No. 2 is predominantly residential in character, it is relatively quiet. This would be particularly so in the evenings when noise from traffic using the surrounding road has reduced and sounds tend to travel further due to the lower level of ambient background noise.
8. The submitted application states that the proposed opening times for the HFT would be from 12:00 to 22:00 on Mondays to Fridays and Saturdays and from 14:00 to 21:00 on Sundays and Bank Holidays. The proposed HFT would therefore be open late into the evenings.
9. Customers using the proposal would be likely to arrive on foot and by car. As such, the sound of doors slamming, vehicle engines starting up and conversations as customers leave or enter the premises are all likely to occur. This would be at a time when most neighbouring residents are likely to be at home and entitled to expect a quieter environment. The proposal would therefore be likely to generate additional noise and disturbance which would be harmful to the living conditions of neighbouring occupants.
10. The Council and a neighbouring occupant have also raised concerns regarding the effect of odour arising from cooking activities at the proposed HFT and its effect on the living conditions of neighbouring occupants. In some cases details of how fumes and odours are to be dealt with can be left to a condition. However, this requires a reasonable certainty that there is a viable and effective means of controlling fumes and odours.
11. The plans submitted with the application do show an extraction canopy and flue would be fitted as part of the proposed development. However, few details have been provided regarding the design or specifications of any equipment to deal with fumes and odours, or the type and level of noise it might give rise to. I am therefore not persuaded that it has been clearly shown that there is a reasonable certainty that a viable and effective solution would be available. Consequently, there is a significant risk that neighbours could be subjected to unacceptable levels of cooking odour and fumes which would adversely affect the living conditions they currently enjoy.

12. Accordingly, I conclude that the proposal would be harmful to the living conditions of neighbouring occupants, with particular regard to noise, disturbance and odour. The proposal would therefore conflict with policy S2/6 of the UDP which, among other things, states that in considering proposals for hot food takeaways, regard will be had to the amenity of nearby residents by reason of noise and smell.

Living conditions-Parking and Highway safety

13. No on-site parking spaces are proposed as part of the appeal proposal. Whilst customers using the proposed HFT may well arrive on foot, many would still arrive by car. As such there would be some increase in demand for on-street parking during the opening hours of the proposal.
14. During the site visit I was able to observe that the majority of residents appear to use on-street parking for their vehicles. This is particularly so along Suthers Street where dwellings front directly onto the highway. Several vehicles were also parallel parked along the highway. Although I acknowledge that these observations only represent a 'snap shot' of the existing situation, they do indicate that there is a relatively high demand for on-street parking spaces.
15. This is likely to be particularly so in the evenings when the majority of residents will be at home and therefore likely to park their cars outside their dwellings. It is therefore during the evenings that customers using the proposed HFT and arriving by car are more likely to come into conflict with neighbouring occupants when seeking to park their cars on the street. This would be harmful to the living conditions of residents as a result.
16. Customers arriving by car and delivery vehicles visiting the appeal property would also be required to manoeuvre on the highway network as they arrive and depart from the premises. Given the prevalence of parallel parking along the highway close to the appeal property, this would lead to an increase in vehicle movements in a relatively confined space. This, in combination with the likely increase in on-street parking, would be likely to interfere with the free flow of traffic along the road network to the detriment of highway safety.
17. The Council's decision notice also refers to the loss of storage facilities for the existing shop leading to an increase in vehicles parking and manoeuvring on the highway. Whilst the proposal may result in some loss of storage area for the existing shop, it is not clear to me in what way that would result in an increase in vehicles parking or manoeuvring. The highway authority has also raised concerns regarding the access gates in the rear yard of the appeal property opening directly onto the highway. However, having regard to the submitted plans, this appears to be an existing access. I therefore attach limited weight to these considerations.
18. Accordingly, I conclude that the proposal would be harmful to the living conditions of neighbouring occupants in regard to parking. It would also be harmful to highway safety. The proposal would therefore conflict with policy S2/6 of the UDP which, among other things, states that in considering proposal for hot food takeaways, regard will be had to parking and servicing provision associated with the proposed development and its effect in terms of road safety. The proposal would also conflict with policy HT2/4 of the UDP and Development Control Policy Guidance Note 11 'Parking Standards in Bury'

(2007) which together seek to ensure that developments make adequate provision for car parking and servicing requirements.

Other Matters

19. I appreciate that the appeal proposal would generate additional income for the shop owners and that a bin storage area would be provided. Whilst I have had regard to these considerations, they do not outweigh the harm that I have identified above.
20. In support of the appeal, the appellant has sought to draw my attention to the lack of any objection from local residents to the proposed development. However, the absence of objections can be for any number of reasons and does not necessarily equate to support. In any event, an objection to the proposal was made.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Victoria Lucas-Gosnold

INSPECTOR

**Planning Appeals Lodged
between 02/05/2014 and 20/07/2014**



Application No.: 57501/FUL

Appeal lodged: 27/06/2014

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Mr Mohammed Khan

Location 27 Hazel Road, Whitefield, Manchester, M45 8EU

Proposal New door and external staircase at rear (retrospective)

Total Number of Appeals Lodged: 1

Details of New Enforcement Appeals Lodged
between 10/03/2014 and 20/07/2014



Case Ref: 12 /0011 **Date of Appeal:** 06/25/2014
Appeal Type: REP

Location: Ainsworth Hall Farm, Ainsworth Hall Road, Ainsworth, Bolton, BL2
5QT

Issue: Unauthorised developments

Case Ref: 12 /0011 **Date of Appeal:** 06/25/2014
Appeal Type: REP

Location: Ainsworth Hall Farm, Ainsworth Hall Road, Ainsworth, Bolton, BL2
5QT

Issue: Unauthorised uses/developments

Total Number of Appeal Cases:1

Please note that this is a 'linked' Appeal regarding two different breaches of Planning Control and as such, counted as 1 case.