

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	1 July 2026
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
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"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
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:-

Contact Details:-

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**Planning Appeals Lodged
between 19/05/2026 and 19/06/2026**



Application No.: 72759/FUL

Appeal lodged: 09/06/2026

Decision level: DEL

Appeal Type:

Recommended Decision: Refuse

Applicant: Mohammed Arshad

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

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

Application No.: 73062/FUL

Appeal lodged: 03/06/2026

Decision level: DEL

Appeal Type:

Recommended Decision: Refuse

Applicant: AIG Bury Ltd

Location 150-156 Heywood Street & 61 Kershaw Street, Bury, BL9 7DY

Proposal Amendments to external wall finish to render

Total Number of Appeals Lodged: 2

**Planning Appeals Decided
between 19/05/2026 and 19/06/2026**



Application No.: 72530/FUL

Appeal Decision: Allowed

Decision level: DEL

Date: 08/06/2026

Recommended Decision: Refuse

Appeal type: Written Representations

Applicant: Mr I Alexander

Location: Land at Ivy Bank, Walmersley Old Road, Bury, BL9 6RU

Proposal: Application for permission in principle for the erection of 1 no. dwelling



Appeal Decision

Site visit made on 12 May 2026 by L Clark MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2026

Appeal Ref: 6002664

Ivy Bank, Walmersley Old Road, Walmersley, Bury BL9 6RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Ian Alexander against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 72530.
 - The development proposed is for one dwelling.
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Decision

1. The appeal is allowed and permission in principle is granted for one dwelling at Ivy Bank, Walmersley Old Road, Walmersley, Bury in accordance with the terms of the application reference 72530.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters & Main Issue

3. The reason for refusal refers to the proposed development being for four dwellings on a 0.48-hectare site. However, these are typing errors as confirmed by the main parties. This has not changed anything fundamental nor prejudiced the ability of any party to make their case in respect of the appeal.
4. This way of obtaining planning permission for housing development has two stages. The first establishes whether a site is suitable in-principle. The second is Technical Details Consent (TDC). This is where the detailed development proposals are assessed. This appeal relates to the first stage. The scope of the considerations thereunder is limited to location, land use and the amount of development. All other matters are considered as part of a subsequent TDC application should one for the principle stage be successful. The Council has found no harm with regard to location and land use, and I have no reason to disagree. Therefore, the main issue is whether the site is suitable for residential development having regard to the amount thereof.

Reasons for the Recommendation

5. The appeal site is a grassed plot located on the outer edges of Walmersley. It is accessed from Walmersley Old Road and raised higher than other housing development to the southern side. There is a row of stone cottages located alongside the site and some other sporadic detached dwellings. Otherwise, the site

is surrounded by open countryside. Alongside Walmersley Old Road, the site is bordered by a stone wall and protected mature trees that screen it from wider views. These factors combine to create a pleasant sense of rurality around the site.

6. Policy JP-H4 of the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2024 (LP) is concerned with ensuring that new housing development is delivered at a density appropriate to its location. For the appeal site, the policy states that there should be a minimum net residential density of 35 dwellings per hectare. There is a dispute between the main parties of 0.01 hectares as to the actual area of the appeal site. Whichever measurement is correct, when rounded to the nearest whole number, both plot sizes would equate to a housing density requirement of two. That being said, the policy also states that lower densities may be acceptable where they can be clearly justified by site-specific issues such as the design context and any potential impact on the wider landscape.
7. The land levels are substantially raised from within the site and gradually rise from Walmersley Old Road. The land is also bordered by a large number of mature protected trees, the crowns of which stretch into the site. Both of these matters could restrict the developable space available. The site is located within a rural setting, and it is typical here for detached dwellings to be set-in good-sized plots. The dwelling would be one of the last properties heading out of Walmersley where the existing housing density appears to be much lower. Therefore, subject to a TDC, the proposal could reflect the wider landscape. Furthermore, the policy position would only technically require one more dwelling than the appeal scheme which would not amount to an extensive difference in housing numbers for the purposes of the policy. Nonetheless, in broad terms there would be no reason why another dwelling could not come forward in the future separate to the appeal scheme before me. With this and the above in mind, a lower density would be acceptable in this instance. The proposal would therefore comply with Policy JP-H4 of the LP. The aims of which I have set out.
8. Baldingstone House is a Grade II listed building sat a short distance west of the appeal site. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to preserving the listed building or its setting or any features of special architectural or historic interest. The appeal site is visually distinct from Baldingstone House. It is screened heavily by mature trees and the listed building's wider setting is already influenced by a number of other dwellings of low density and mixed sizes/designs. The principle of a dwelling at the site could therefore preserve the setting of the listed building, with detail to be set out in any future TDC.

Recommendation

9. The appeal scheme would comply with the development plan. I therefore recommend that it should be allowed.

L Clark

APPEAL PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed, and permission in principle is therefore granted.

John Morrison

INSPECTOR

20 May 2026

Complaint reference:
25 021 115

Complaint against:
Bury Metropolitan Borough Council

The Ombudsman's final decision

Summary: We will not investigate this complaint about the way the Council dealt with Mrs X's reports of statutory nuisance and breach of planning control at sites near her home. Complaints about matters arising before December 2024 are made too late. And we have not seen enough evidence of fault in the way the Council considered later complaints to justify an investigation.

The complaint

1. Mrs X complains about the way the Council dealt with:
 - Planning applications for sites close to her home;
 - Reports of statutory noise and pollution nuisances; and
 - Reports of breaches of planning control.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done.
(Local Government Act 1974, sections 26B and 34D, as amended)
4. We investigate complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or continue an investigation if we decide there is not enough evidence of fault to justify investigating.
(Local Government Act 1974, section 24A(6), as amended, section 34(B))

How I considered this complaint

5. I considered information provided by Mrs X and the Council.
6. I considered the Ombudsman's Assessment Code.

My assessment

7. The law says a complaint must be made to the Ombudsman within 12 months of the complainant becoming aware of the matter. I have seen no reason why Mrs X could not have come to use much sooner about events which occurred so long ago. Therefore I will not consider parts of Mrs X's complaint which concern events which occurred more than a year before she first contacted us.
8. The Council confirms it has visited her neighbour's property several times and confirmed there are no breaches of planning control at his property.
9. The Ombudsman is not an appeal service. The Council has considered Mrs X's reports of breaches of planning control. It has visited the site and communicated with the owner. It is satisfied there are no breaches of planning control at her neighbour's property. We will not investigate the way the Council considered Mrs X's reports of breaches of planning control at her neighbour's property. This is because we have not seen enough evidence of fault in the Council's actions.
10. Mrs X also complains the Council failed to act on her reports of statutory noise and smoke nuisance caused by her neighbour.
11. Councils have a duty to investigate noise complaints they receive but their powers to take enforcement action in noise matters are discretionary. They may only use their powers where they are satisfied the noise identified amounts to a statutory noise nuisance. The assessment of whether a noise is a statutory nuisance is for officers to make. It is also for officers to decide what investigations of noise reports are required to make their statutory nuisance decision.
12. The Council has investigated Mrs X's concerns. It has listened to her noise recordings and is satisfied the noise does not meet the threshold for a statutory nuisance. It has also investigated her reports of smoke nuisance. It has visited Mrs X's neighbour's home. It is satisfied the neighbour's appliance was correctly installed and they are burning the correct fuel.
13. The Ombudsman is not an appeal body. This means we do not take a second look at a decision to decide if it was wrong. Nor can we tell the Council what is or is not a statutory noise nuisance. Instead, we look at the processes a Council followed to make its decision. If we consider it followed those processes correctly, we cannot question whether the decision was right or wrong, regardless of whether a person disagrees with the decision the Council made.
14. Mrs X says the Council failed to act on her report of a breach of planning control at another site which has planning permission in principle to build new homes. The Council confirms officers have visited the site and spoken with the owner. The owner has confirmed they are not implementing the planning permission for the new homes. Rather they have carried out preparatory work to erect a retaining structure. The Council advised the owner this would require planning permission and they should stop work until they have obtained planning permission. The Council has also confirmed it will monitor the site.

Final decision

15. We will not investigate Mrs X's complaint because:
 - It is too late to complain about events which occurred before December 2024; and

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- We have not seen enough evidence of fault in the way the Council considered her reports of breaches of planning control and statutory noise and smoke nuisance to justify an investigation.

Investigator's decision on behalf of the Ombudsman

18 June 2026

Complaint reference:
25 024 832

Complaint against:
Bury Metropolitan Borough Council

The Ombudsman's final decision

Summary: We will not investigate this complaint about the Council's decision not to take enforcement action against a breach of planning control. We have not seen enough evidence of fault in the Council's actions to justify an investigation.

The complaint

1. Mr X complains the Council refuses to take enforcement action against a breach of planning control.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or continue an investigation if we decide there is not enough evidence of fault to justify investigating.

(Local Government Act 1974, section 24A(6), as amended, section 34(B))

How I considered this complaint

3. I considered information provided by Mr X and the Council.
4. I considered the Ombudsman's Assessment Code.

My assessment

5. Mr X reported his late mother's neighbours have breached planning control by building an extension without planning permission. He also says the extension encroaches onto his late mother's property.
6. Certain extensions to residential homes are permitted development if they are no more than four metres high and do not project more than three metres from the rear elevation. The Council confirms the unauthorised building measures less than four metres in height but projects slightly more than three metres from the rear elevation. Therefore the extension requires planning permission.
7. Planning authorities can take enforcement action where there has been a breach of planning control. A breach of planning control includes circumstances where someone has built a development without permission. It is for the council to

decide if there has been a breach of planning control and if it is expedient to take further action. Government guidance stresses the importance of effective enforcement action to maintain public confidence in the planning system but says councils should act proportionately.

8. The Ombudsman does not act as an appeal body against enforcement decisions. Instead, we consider if there was any fault with how the decision was made.
9. In this case, the Council investigated Mr X's concerns and agrees there is a breach of planning control because the neighbour's extension is slightly more than three metres long. However, it decided this does not cause enough harm in planning terms and planning permission would likely be granted if the neighbours applied for it. Under the circumstances the Council decided it is not expedient to take enforcement action. This is a decision the Council is entitled to take.
10. I understand Mr X is concerned the extension encroaches onto his late mother's property and has damaged the property. However, boundary issues and property damage are civil matters and are not matters for the Council to consider.

Final decision

11. We will not investigate Mr X's complaint because we have not seen enough evidence of fault in the way the Council considered his report of a breach of planning control to justify an investigation.

Investigator's decision on behalf of the Ombudsman