



Appeal Decision

Site visit made on 23 December 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2025

Appeal Ref: APP/B4215/W/24/3349898 701 Wilmslow Road, Manchester M20 6RE.

- 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 Housam Issa against the decision of Manchester City Council.
 - The application ref is 139699/FO/2024.
 - The development proposed is a covered external seating area in association with the proposed cafe.
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Decision

1. The appeal is allowed, and planning permission is granted for a covered external seating area in association with the proposed cafe at 701 Wilmslow Road, Manchester M20 6RE in accordance with the terms of the application, Ref 139699/FO/2024, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby approved shall be carried out in accordance with the drawings nos. 3033-001, 3033-003 and 3033-005a.
 - 3) The development hereby approved shall not be used outside the following hours: 0800-1800hrs on Mondays to Saturdays, 1000-1800hrs on Sundays.
 - 4) The bin storage area shown on the approved plans shall be erected and made available for use prior to the development hereby approved becoming operational and retained thereafter.

Preliminary Matters

2. When I visited the site, it was apparent that an open-air seating area has been constructed without planning permission to the side of the appeal building in the same approximate location as the proposed café extension. I subsequently wrote to the parties inviting comments on the implications of the unauthorised development and the responses received have been taken into account in reaching my decision.

Main Issues

3. The main issues are the effect of the proposed development on, firstly, the character and appearance of the area and, secondly, the living conditions of local residents living on King's Lynn Close.

Reasons

Character and appearance

4. The appeal property is currently used as a café trading under the name 'Levante'. It sits at the corner of the busy A5145 Wilmslow Road and King's Lynn Close, a small side road/cul-de-sac. The former forms the main throughfare through the centre of Didsbury and serves a wide variety of commercial uses along its length. I noted that it is not unusual for commercial premises fronting Wilmslow Road to extend into intersecting side roads. Indeed, the existing café already has a frontage and presence within King's Lynn Close.
5. In some respects, the unauthorised open-air seating area provides good indication of the likely effects of the proposed development upon the streetscene. There would be some loss of openness around the junction with Wilmslow Road however given the fairly modest proportions, this would be minimal. Accordingly and given the highly built-up and commercialised nature of the local area I would be hard-pushed to agree with the Council's assessment that the seating area would cause unacceptable harm to the King's Lynn Close streetscene particularly given the existence of a similarly projecting extension to NatWest bank on the opposite side of the road.
6. I therefore conclude that the proposed development would not harm the character and appearance of the area. Accordingly, there would be no conflict with Policies DM1 and SP1 of the Manchester Core Strategy (the CS), the National Planning Policy Framework (NPPF) or the National Design Guide insofar as they seek high quality design that is appropriate to its surroundings in terms of siting, layout, scale and form.

Living conditions

7. As I observed when I visited the site, the surrounding area is anything but tranquil with noise from the heavily trafficked Wilmslow Road almost ever present. This along with noise emanating from the general hustle and bustle of nearby commercial premises is experienced well into King's Lynn Close. Against the above baseline, I find it almost inconceivable, even accounting for occasional noise from cutlery and crockery as well as amplified music, that the proposed seating area would cause unacceptable harm to the living conditions of local residents.
8. Adding credence to the above is the Appellant's Noise Assessment which based on worse case modelling scenario found that the noise levels associated with the seating area would be below background noise levels. Consequently, there would be No Observed Adverse Effect Level. Beyond, a comment in relation to the proposed opening hours on a Sunday¹, there was no objection to the assessment from the Council's Environmental Health team and no technical evidence has been submitted at the appeal stage. The evidential basis for the Council's noise objection therefore remains altogether unclear.
9. I therefore conclude that the proposed development would not harm the residential amenity and living conditions of the nearest residential occupiers on King's Lynn Close as a result of the unacceptable levels of noise, disturbance and activity

¹ I concur with the Officer's assessment that 08:00 is too early for a Sunday.

associated with the proposed seating area. Accordingly, there would be no conflict with saved Policy DC26 of the Manchester Unitary Development Plan, CS Policies DM1 and SP1 or the NPPF insofar as they seek to protect residential amenity and resist development that would give rise to unacceptable levels of noise.

Other Matters

10. I have noted comments regarding on-street parking in the immediate area. However, I concur with the Highway Officer's assessment, that the proposed development would not materially affect existing levels of on-street parking.

Conclusion

11. I have imposed conditions covering time limits and the approved plans to provide certainty. I have imposed a condition relating to opening hours to safeguard the living conditions of local residents and note the Appellant's agreement to the hours proposed by the Council. In light of the opening hours, I do not consider a condition prohibiting amplified music to be reasonable or necessary.
12. For the reasons given above the appeal should be allowed.

D M Young

INSPECTOR