
Appeal Decision

Site visit made on 15 October 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2025

Appeal Ref: APP/U4610/W/25/3369592

40 Moor Street, Coventry, CV5 6EQ

- 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 Siraj Ali against the decision of Coventry City Council.
 - The application Ref is PL/2024/0002355/FUL.
 - The development proposed is flue extraction system installation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that the development was completed in February 2024. Based on the evidence before me and from my site visit, I have considered the appeal on the basis that the development has already taken place, as did the Council.
3. The appellant provided additional evidence during the appeal process including Specification on current extraction system with advisory recommendation notes by Powered Ventilation Ltd and Odour Control Equipment Specification by Extechnology Ltd dated May 2025 and a File Note by FreshBreeze Environmental Ltd dated August 2025.
4. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
5. Furthermore, given the nature of the public objections, accepting this evidence may prejudice the interests of the interested parties. As such, I have proceeded to determine the appeal on the basis of the evidence on which the Council made its decision.

Main Issue

6. The main issue is the effect of the development on the living conditions of neighbouring occupants with regard to cooking smells, smoke and fumes.

Reasons

7. The appeal building, 40 Moor Street (No 40) is adjacent to residential development as well as other commercial properties and is located outside of a designated local centre. No 40 is currently a restaurant and the development subject of this appeal

provides a flue to treat any fumes, odours or other emanating issues which arise because of the restaurant given its proximity to residential dwellings.

8. The flue is relatively low in height and is close to the windows and balconies of neighbouring occupants of residential dwellings including Nos 38A and 38B Moor Street. Based on the evidence before me, the proximity of the development to residential windows/balconies as well as its low height, there is limited substantive evidence to adequately demonstrate that the flue extraction system prevents unacceptable harm to the living conditions of neighbouring occupants regarding cooking smells, smoke and fumes.
9. The scope of the appeal before me does not include previously approved development. Planning Practice Guidance states that once the local planning authority has granted planning permission, there is no right of appeal to the Secretary of State against the decision, except by the original applicant where they are appealing against a condition. A decision by the local planning authority can only be challenged in the courts on a point of law; for example, the way in which the decision has been made and whether the correct procedures have been followed. A challenge in the courts has to be brought within 6 weeks¹.
10. Therefore, whilst the appellant states that neighbouring residential windows on the party wall should be either permanently closed, moved or blocked this is not a matter that can be considered in this appeal given it relates to a permission that was previously approved and implemented.
11. Regarding an appeal decision at Saturn Centre, Spring Road, I do not have the full circumstances before me and therefore cannot be certain that it is wholly comparable to the appeal scheme before me especially given it was determined under different legislation. Nevertheless, each application is determined on its own merits. Therefore, given the site-specific context and proximity to residential development of the appeal scheme before me, it does not lead me to a different conclusion.
12. In conclusion, based on the evidence before me including the comments from interested parties, I consider that I need to take a precautionary approach. Therefore, I cannot be certain that the proposal does not result in unacceptable harm to the living conditions of neighbouring occupants regarding cooking smells, smoke and fumes. The appeal scheme therefore conflicts with Policies R6 and DE1 of the Coventry Local Plan 2017 insofar as they seek to ensure, amongst other things, that the layout and design of developments including restaurants do not result in significant harm to the amenity of nearby residents.
13. Representations were made regarding the effect of the development on the neighbouring occupant's human rights under Article 8 of the First Protocol, as set out in the Human Rights Act 1998. Since I have decided to dismiss the appeal for the development, there will be no interference with the neighbouring occupant's right to respect for private and family life.

Other Matters

14. The appeal site is located within the Earlsdon Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires

¹ Planning Practice Guidance Paragraph 008 Reference ID: 16-008-20140306

special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The CA is predominantly residential and was originally laid out as a 'garden village' in 1852 by the Coventry Freehold Land Society. It has a large number of Victorian/Edwardian architecture and red-brick housing.

15. Whilst there has been some variation of architectural style introduced into the CA, the historic integrity, architectural unity and well-preserved quality of the CA contributes positively to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset. Nevertheless, bearing in mind the extent, nature and location of the development subject of this appeal, the character and appearance of the CA as a whole would be preserved. Nevertheless, this lack of harm is a neutral factor and therefore does not amount to a consideration in support of the appeal nor does it alter my overall conclusion on the main issue.
16. The appellant refers to the application of separation distances in relation to the neighbouring residential dwellings and outlook. The Council has not included this as a putative reason for refusal and given its scale and massing, I find no reason to disagree.
17. I note that the appellant also outlines that they would be willing to change the location of the duct. However, the appeal procedure should not be used to advance proposals and therefore significant material amendments to the development would be best achieved through the submission of a revised planning application.
18. The appellant has drawn my attention to the conduct of the Council during the application process. This is a matter between the parties and not determinative to the outcome of the appeal.

Conclusion

19. The appeal scheme conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR