



Chartered Town Planners & Architectural Technicians

**APPEAL UNDER SECTION 78 OF THE TOWN &
COUNTRY PLANNING ACT 1990**

Appeal statement in respect of the refusal of planning permission to retain outdoor covered seating area, and associated works.

Appeal by: Mr. Ben Hourahine.

Property Address: 310 Wilmslow Road, Manchester, M14 6XQ.

Local Authority: Manchester City Council.

Planning Application Ref. No. 132914/FO/2022.

May 2022

1.0 INTRODUCTION

1.1 This Appeal Statement is submitted on behalf of Mr. Ben Hourahine (the appellant) in respect of the refusal of planning permission by Manchester City Council for works consisting of the retention of an outdoor covered seating area, and associated works at No. 310 Wilmslow Road, Manchester, M14 6XQ. The appellant has retained the services of 4D Planning to make this appeal. Please address all correspondence to 4D Planning at the contact details set out on the appeal form.

1.2 The application was validated on the 11th February 2022. The application was determined on the 06th April 2022.

1.3 Planning permission was refused for the following two reasons:

“1) The covered enclosed area by reason of its excessive scale and inappropriate materials forms an over dominant and visually intrusive feature in the street scene that is out of character with the historic pattern of development found in the area. The views through to the host property are interrupted by the structure and it does not provide any enhancement to the building itself or the area within which it is located. The development is therefore contrary to the provisions of Core Strategy policy DM1.

2) The existence of the canopy facilitates a more intensive use of the external area and, by reason of its open design would give rise to unacceptable impacts on the amenity of the occupiers of nearby residential properties by reason of noise and disturbance associated with the use. The development would therefore be contrary to the provisions of Core Strategy policies SP1, DM1 and C10 and saved Unitary Development Plan policies DC10 and DC26.”

2.0 APPLICATION PROPERTY AND SURROUNDING AREA

2.1 The existing premises is a two storey end of terrace / corner entertainment and hospitality venue. The premises has a large outdoor curtilage area.

2.2 Surrounding properties are of differing scale, form and appearance.

2.3 The site is located within a predominantly commercial character area. There is a wide variety of land uses nearby. There is a wide variety of building scales and architectural styles in the surrounding area.

3.0 PROPOSED DEVELOPMENT

3.1 The proposed works comprise the erection of timber support posts on top of which is a polycarbonate roof, and timber screens to the sides (the screens to the side are removable and indeed are not in position at the moment due to more favourable weather over the summer months). The covered structure would cover most of the front curtilage area which has long been used by customers in mostly fine weather conditions albeit without any shelter. On occasions large moveable umbrellas were used but these present storage and safety issues.

3.2 The proposed structure has a high quality appearance to complement the existing building. Its purpose is to encourage greater use of the outdoor curtilage to the betterment of neighbouring street-life. The structure is to enable the business to function outside in all weather conditions (i.e. rain, wind, sun).

3.3 The proposed structure is also sought arising from Covid 19 which although is not presently posing the threat it once did, it has fundamentally changed entertainment and hospitality trends. Covid 19 will have a profound impact on businesses for the foreseeable future and this is an issue that Planning Authorities will need to be cognisant of. Part of the many 'new normals' include staggered working arrangements, flexible working hours, longer opening hours as a means of avoiding gatherings of people, and (of importance to this proposal) maximising use of outdoor spaces. This translates into food and drink businesses in a number of ways:

- With the need to social distance, more space is needed both internally and externally to accommodate customers.
- Outside space, if it is available, takes on much more importance and is a vital feature for minimising close social contact and enhancing ventilation. To use outside space it is necessary for some degree of shelter from the elements.

It is requested that the Planning Inspectorate take a pragmatic approach in this instance to a genuine request to facilitate an evolving business with ways of working which have been compounded by Covid 19 developments. The greater use of outside space through covered structures will safeguard existing employment, and hopefully lead to more employment, and this should be encouraged and facilitated by the planning system.



Figure 1 – Outdoor covered seating structure.



Figure 2 – The front curtilage area prior to the erection of the covered seating structure.

4.0 PLANNING POLICY

NATIONAL PLANNING POLICY FRAMEWORK (2021)

4.1 Para. 130 of the recently updated NPPF seeks to ensure a high quality of design in new developments. Point c) in particular seeks to ensure developments that:

“are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.”

The proposed development is a modest high quality solution to achieving more efficient use of an outdoor area.

Manchester Core Strategy (2012) and UDP Saved Policies (2017)

4.2 As per the Manchester Proposals Map, the site is within the Fallowfield District Centre. Policy C2 of the Core Strategy is of relevance. It states that:

“Development will support thriving district centres, with distinct local character, providing a good range of accessible key services, including retail, health facilities, public services, leisure activities and financial and legal services

“Development in District Centres should:

Prioritise delivery of key 'visitor' services, including retail, public and commercial services and food and drink. The Council will ensure... that provision is made in District Centres for commercial and service uses, leisure and community facilities and other uses which make a positive contribution to vitality and viability of centres”.

4.3 Policy C6 deals specifically with the Fallowfield district centre and it is stated ‘In Fallowfield and Withington development which creates more diverse centres will be supported’

The proposed structure very much aligns with the above Core Strategy policies in that it will enable enhanced and flexible use of a hospitality premises during times and measures (i.e. Covid 19 and its knock-on impacts) which are extremely tough on this industry in particular. The premises has a long established use and is in the vicinity of other food / drink businesses. The area has an established commercial character, much of it derived from food / drink businesses, and in this context the proposed structure would not at all look out of place.

4.4 Policy CC9 (Design and Heritage) states that design of new buildings will need to be of the highest standard in terms of appearance and unction.

The proposed structure is a modest addition that does not fundamentally alter the scale and proportions or visual impact of the overall premises. It would be seen in the context of much

larger built-form nearby. The structure provides for side openings thereby maintaining an active frontage and views to / from the premises. The structure will add visual interest to the streetscene and bring activity to the front curtilage area which will also enliven the streetscene.

4.5 Section 26 of the UDP deals with development and noise. It is not considered the proposed structure would be contrary to any UDP policies. The front curtilage has long been used as part of the business for use by customers. If anything the structure is likely to better contain any slight noise that might exist through normal day to day use of the front curtilage. The applicant is amenable to conditions regarding use of amplified music and noise levels when the structure is in use.

5.0 PRECEDENT

5.1 There is much precedent for structure of the nature proposed in the wider area including but not limited to the following:

- Folk: 169-171 Burton Rd, West Didsbury, Manchester M20 2LN.
- Brewski: 537-539 Wilbraham Rd, Chorlton-cum-Hardy, Manchester M21 0UE.
- Laundrette: Chorlton, 32 Beech Road, m21 9el Manchester.
- 256 Fallowfield: 256 Wilmslow Rd, Fallowfield, Manchester M14 6LB.
- Volta Didsbury: 167 Burton Rd, West Didsbury, Manchester M20 2LN.
- Various bars: Barlow Moore Road, Chorlton

(Refer to Figures 3-12 below)



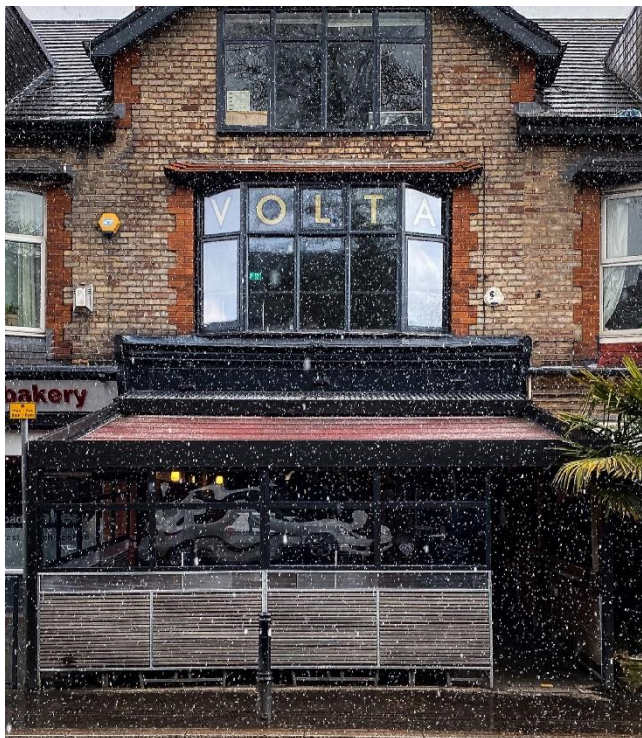


Figure 3-12: Precedent in wider area.

6.0 GROUND OFS OF APPEAL & CONSIDERATION OF PLANNING ISSUES

6.1 It is considered the above planning policy and precedent analysis demonstrates the acceptability of the works in question. However, it is sought to respond specifically to each of the two reasons for refusal which are considered over-zealous and wholly exaggerated of the true impact of the development.

Refusal Reason 1: Alleged excessive scale and inappropriate materials forming an over dominant and visually intrusive feature in the streetscene that is out of character with the historic pattern of the development found in the area, and injurious to views through to the host building.

6.2 It is failed to see how this refusal reason can stand up to scrutiny. The premises has had a physical outside presence for many years (see Figures 13-14 below) and in this regard the works in question represent a logical and relatively minor increase in prominence as to what was there previously. The predominant material used, i.e. wood, can hardly be considered unusual or unsightly when it is to be found in abundance nearby including on many shopfronts. The polycarbonate roof is considered quite un-intrusive as it is translucent. The streetscene along this section of Wilmslow Road is very varied with many premises nearby offering outdoor drinking and dining in a manner not dissimilar to No. 310 when pergolas/umbrellas etc. are factored in – see Figures 15-17 below. It is simply not correct that the works in question impede on views through to the host building - the screens to the side are removable and indeed are not in position at the moment due to more favourable weather over the summer months.

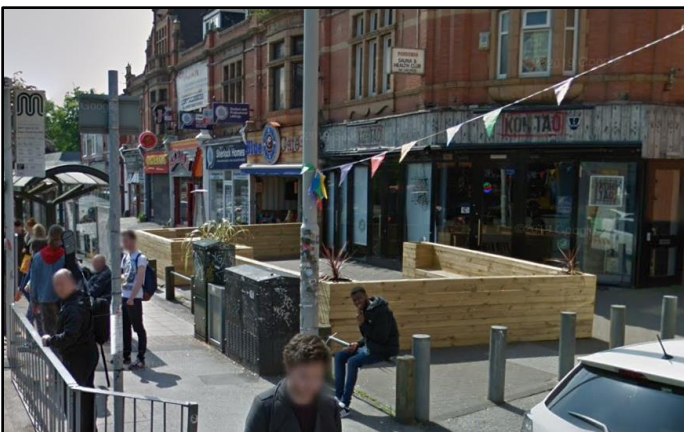


Figure 13: Google streetview image from 2015 in which outdoor seating area is evident.

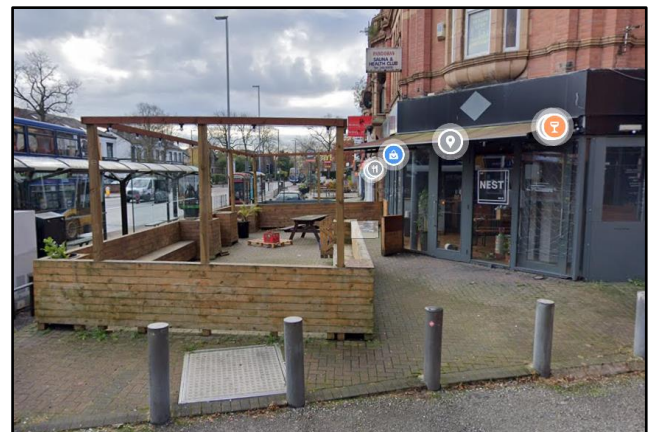


Figure 14: Google streetview image from 2020 in which outdoor seating area is evident.

6.3 We wholly disagree with the Planning Authority view that the works in question are out of character with the historic pattern of the development in the area. Such reasoning would suggest that no new development should ever take place. We note the premises is not in a conservation area and

there are no listed buildings nearby. No. 306 Wilmslow Road on the opposite side of Wynnstay Grove is a very large scale more recent addition to the area.



Figure 15: Outdoor eating/drinking area to Abduls at 324-326 Wilmslow Road.



Figure 16: Outdoor eating/drinking area to Mc Donalds at 336 Wilmslow Road.



Figure 17: Outdoor eating/drinking area to The Friendship Inn at 353 Wilmslow Road.

6.4 Amongst the findings of a recent Royal Town Planning Institute Research Paper (*Planning for Post Covid Cities*, December 2020) were that:

- Visits to local shops may continue to decline post Covid-19.
- There appears to be general consensus among commenters that there will be ‘no going-back’ to previous shopping habits.
- With reduced face-to-face contacts with family, friends and colleagues, commenters suggested that High Streets could be revitalised as a hub for social interaction.

The proposed works very much align with the likely future nature of shopping areas / local centres in that local centres are less about what business takes place in properties but rather the activity that takes place on the street and how this is fostered by adjoining businesses.

Refusal Reason 2: Alleged existence of canopy facilitating a more intensive use of the external area and by reason of design would give rise to unacceptable impacts on the amenity of the occupiers of nearby residential properties by reason of noise and disturbance.

6.5 We strongly disagree with this refusal reason. As stated above, the premises has had a physical outside presence for many years and at least since 2015. The addition of a canopy roof is a logical and incremental addition to the established front curtilage use. There are no residential units directly above No. 310.

6.6 The appellant notes that many of the objections made to the Planning Authority are from persons who do not live anywhere near to the premises and in this regard it is considered that there may be an ulterior motive or vexatious element to such objections. There is simply no substance to the content of many of the objections made to the Planning Authority and we refer below to just a few of the contradictory and/or untrue nature of comments made:

- It was claimed the outdoor seating area obstructs users of the footpath. ***The outdoor seating area does not encroach in any way whatsoever on the public footpath. It is entirely on land owned by the appellant.***
- It was claimed noise is causing harm to nearby residences. ***The premises has not received or been notified of any noise complaints in the recent past.***
- It was claimed the venue is well known for its noisy and very frequent late events. ***No events are held at the premises. It functions as a public bar only as is attested to by its facebook page and website.***

It is considered that the planning officer has been unduly swayed by what are felt to be many lazy, spurious and incorrect objections by members of the public.

A recent freedom of information request by the appellant indicates that there has only been one complaint to the Council since the structure was erected in September 2021. This is considered exceptionally low for any bar in general.

Planning conditions

6.6 Notwithstanding and without prejudice to the above contents of this appeal statement, the appellant is amenable to conditions addressing the following issues:

Hours of use: the appellant would be willing to cease use of the front curtilage area by 11.45pm each night.

Appearance: the appellant would be willing to paint the structure grey to match the external paint colour of the host building.

Structure sides: the appellant would be amenable to a condition requiring no side timber screens such that there would always be visibility through to the host premises.

7.0 CONCLUSION

7.1 The proposed development is considered to be in compliance with policies / guidance set out in the Manchester Core Strategy and UDP.

7.2 The works are modest additions/alterations to the existing premises. It is not considered there would be any adverse visual impacts or adverse impacts to the residential amenities of neighbouring properties. Canopies / shelter structures are a necessary feature of hospitality premises with external curtilage space.

7.3 The works are necessary to adapt the existing business and help it to grow by facilitating external eating and dining. It is hoped more employment can be created and that there will be a spin-off for neighbouring businesses. The works are also sought as a result of Covid 19 which has changed socialising / hospitality habits with one impact being a reduction in the amount of persons willing to be catered for internally at any one time. It is thus vital that more efficient and intensive use is made of outdoor spaces and this necessitates a degree of shelter from the elements (i.e. shelter from sun, rain and wind).

7.4 It is submitted that the appeal should be allowed.