



Appeal Decision

Site visit made on 4 March 2025

by **Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Appeal Ref: APP/J0540/W/24/3351768

68 Canterbury Road, Werrington, Peterborough, Cambs, PE4 6PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Holli Posnett against the decision of Peterborough City Council.
- The application Ref 23/01634/FUL was approved on 22 March 2024 and planning permission was granted subject to conditions.
- The development permitted is change of use from an existing shop (A1) into a micro pub (sui generis).
- The conditions in dispute are Nos 3, 6 and 9.
- Condition 3 states that: *"The micropub hereby approved shall only operate between the hours listed below and at no other time: Monday to Friday 12pm-10:30pm; Saturday 10am-10:30pm; and Sunday 10am-8pm"*.
- The reason given for Condition 3 is: *"In the interest of retaining the opening hours of the Local Centre and protecting the amenity of neighbouring occupiers in accordance with Policies LP16 and LP17 of the Peterborough Local Plan (2019)"*.
- Condition 6 states that: *"No amplified or live music shall be played at the development permitted at any time"*.
- The reason given for Condition 6 is: *"Protecting the amenity of neighbouring occupiers in accordance with Policy LP17 of the Peterborough Local Plan (2019)"*.
- Condition 9 states that: *"The activity as a micropub shall only operate from within the building and no external tables and/or seating shall be provided to the front or rear of the building at any time"*.
- The reason given for Condition 9 is: *"In order to ensure that no undue noise and disturbance is created for the nearby residents in accordance with Policy LP17 of the Peterborough Local Plan (2019)"*.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal disputes three conditions attached to the planning permission granting change of use from a shop to a micro pub. The appellant contends that conditions 3, 6 and 9 restrict the operational flexibility of the micro pub and are not consistent with the premises licence and the operation of nearby public houses. The Council considers that the conditions are needed due to the proximity of residential properties.
3. Therefore, the main issue is whether the disputed conditions are necessary and reasonable in the interests of the living conditions of neighbouring occupiers.

Reasons

4. The appeal site comprises a ground floor unit in a shopping parade on the west side of Canterbury Road, along with a service yard to the rear of the parade. There are four other units in this parade including a takeaway at No 56 which is open

daily from 4:30pm to 10:30pm based on its signage. There are residential flats above four of the units (including No 70 directly above the appeal site) and detached/semi-detached properties on the opposite side of the road.

5. The plans denote a small smoking/vaping area to the side of the unit at the end of the service yard. There are four garages next to this area that appear to be in multiple ownerships according to the appellant, and there is a rear door to the retail unit at No 72. To the rear of the service yard are bungalows at Ripon Close, with the property and garden at 1 Ripon Close immediately adjacent behind a close boarded fence. Consequently, the unit occupies a tight footprint with different owners and occupiers both adjacent and above.
6. The approved change of use has been implemented and the unit is trading as a micro pub known as The Butcher's Arms. At my site visit, I observed that the advertised opening hours are from 3pm or 4pm until 9:30pm or 10:30pm on weekdays (apart from when it is closed on Wednesdays) and from midday at weekends until 8pm (Sundays) or 10:30pm (Saturdays). These hours fall within those allowed by condition 3, the wording of which was taken directly from the application form.
7. The premises licence allows an additional half an hour opening on Fridays and Saturdays (until 11pm) and allows Sunday opening until 10:30pm along with late opening on New Year's Eve. The appellant would like condition 3 to be consistent with this licence. They would also like to be able to hold occasional private parties and special events where amplified and live music might be played (condition 6), and for customers to sit outside in the smoking/vaping area (condition 9).
8. With these changes, the unit would be open later than the takeaway on two nights of the week and would be open an additional two and a half hours on Sunday evenings. This is likely to increase noise and disturbance to nearby properties with comings and goings later into night-time hours. The flats above the parade are likely to be most affected by louder music even if it is intermittent, particularly for No 70. Sitting outside would increase noise levels throughout the day and evening to the flats above as well as to 1 Ripon Close. There would also be potential tension with anyone seeking to access the garages, although this would likely be infrequent and is essentially a private or civil matter.
9. There are two nearby public houses in Werrington known as Cock Inn and The Three Horseshoes. Both have outdoor seating areas, while Cock Inn advertises live music events. It is probable that adjoining properties are affected by noise and disturbance as a result, but both public houses are larger detached premises on more spacious corner plots. There is no evidence before me to show that there are separate residential properties above either public house. Moreover, the opening hours of both venues is unclear, and I have not been provided with specific information on their planning history or licencing arrangements. Thus, they do not set a precedent for this appeal which should be determined on its own merits.
10. There is considerable public support for the micro pub, no apparent noise complaints from the current use, and good access by public transport. However, the proposed changes, taken individually or collectively, would increase noise and disturbance to neighbouring properties including No 70 and 1 Ripon Close. This would have a negative effect on the living conditions for the occupiers of these properties. Although the current occupant of No 70 is content and supportive of the

business, it is important to have regard to the effects on any occupant both now and in the future.

11. Therefore, the disputed conditions are necessary and reasonable and accord with Policies LP16 and LP17 of the Peterborough Local Plan 2019. Amongst other things, these policies require development to respect the context of the site and its surroundings and avoid unacceptable impacts on the amenity of existing occupiers of any nearby properties having regard to noise and disturbance.
12. I consider that the planning permission should remain unaltered in terms of its conditions. It remains open for the appellant to discuss any variations to the permitted use with the Council to see if a compromise could be reached. However, it is not my role to comment on any alternative approaches.

Conclusion

13. For the above reasons, and having had regard to all other matters raised, the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR