



Appeal Decision

Site visit made on 26 March 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2025

Appeal Ref: APP/U5360/W/24/3349094

2-4 Paul Street, Hackney, London EC2A 4JH

- 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 Punch Pubs against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/1676.
 - The development proposed is described on the application form as 'use of first and second floors as pub/bar space in connection with ground floor pub (change of use from offices (Class E(g)(i) to drinking establishment (Sui Generis)).'
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Decision

1. The appeal is allowed and planning permission is granted for use of first and second floors as pub/bar space in connection with ground floor pub (change of use from offices (Class E(g)(i) to drinking establishment (Sui Generis)) at 2-4 Paul Street, Hackney, London EC2A 4JH in accordance with the terms of the application Ref 2023/1676, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Punch Pubs against the Council of the London Borough of Hackney. This application is the subject of a separate decision.

Preliminary Matters

3. The development has been carried out and therefore I am considering this appeal retrospectively.

Main Issues

4. The main issues are:
 - the effect of the development on the provision of office floorspace in the Priority Office Area (POA); and
 - the effect of the development on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

Background

5. The appeal building provides accommodation over three floors, with basement level. The ground and basement floors are in use as drinking establishments, albeit the basement level is under separate management. The ground floor pub,

known as The Joiner on Worship, has been present on the site since the 1990s. The ground floor has access to its own kitchen, toilets and storage/cellar areas.

6. The first and second floors of the building are currently in use as drinking establishments, although it is understood that their lawful use is Class E (most recently offices). Although physically connected with the ground floor pub, these floors can be accessed independently via a separate entrance and staircase off Paul Street. It is these upper floors which the appellant seeks to retain as a drinking establishment.
7. The area surrounding the site contains a range of uses and is of a vibrant commercial character. The principal use in the area is office activity, although this is interspersed with other uses including education, retail, hospitality and residential. There is an evident, active night-time economy in the area.

Office floorspace

8. The appeal site is located within a Priority Office Area. Policy LP27(H) of the Local Plan (LP, 2020) clearly sets out that development involving the net loss of office floorspace in the POAs will not be permitted. From that perspective, the development conflicts with LP Policy LP27.
9. The appellant has submitted an Office Viability Report (OVR). This report includes details of office supply and demand in the area as well as the overall ability to let the upper floors of the appeal site as office space. The report sets out that the upper floors, if let without significant refurbishment, would consist of Grade B office space, for which there is an exceptionally low level of occupier demand.
10. A list of nearby office space available to rent has also been provided. Whilst I acknowledge that this captures only a snapshot in time, I have no reason to disagree with its findings, in particular that there is a considerable supply of office space in the surrounding area, with increasing void periods. I also observed, during my site visit, a reasonably high number of properties containing vacant floorspace, or which was being marketed. This leads me to conclude that there remains less than optimal demand for such space.
11. The report further sets out that there are a number of factors which would make the upper floors unattractive to prospective tenants. This includes the upper floor position of the space (including accessibility limitations), the sharing of communal space with a retained drinking establishment and there being insufficient space for 'end of trip' facilities such as cycle parking and showers.
12. While I do not doubt that the upper floors could, physically, be used as office space again, the content of the OVR, the submitted plans and my own observations on site all lead me to conclude that the upper floors present several clear and significant challenges. These would, in all likelihood, deter potential occupiers, in an area with no evidenced undersupply of available office accommodation.
13. Overall, the development conflicts with the relevant provisions of LP Policy LP27, which resists the net loss of office floorspace in POAs. This is in a similar vein to the relevant provisions of Policies E1 and E2 of the London Plan (2021). However, the evidence before me demonstrates contextual challenges in respect of the

ability to let the upper floors for an office use. This is a material consideration that should be given weight in this decision. This is a matter I return to subsequently.

Noise and disturbance

14. A noise assessment was undertaken by RBA Acoustics to consider noise impacts on neighbouring residential occupiers, including at 34 Worship Street. The attended assessments took place from 23.00 to 03.00 hours on two occasions during a Saturday night into Sunday morning. As such, the assessment covered times when patrons will have attended and left the premises. It is also apparent from photographs that the assessments took place at times when some patrons were outside the venue. On both occasions the ground floor use was in operation and one of the two upper floors was in operation.
15. The assessment sets out that noise break-out from the site was audible, including from music. However, the dominant noise source related to vehicle movements. Patron noise from the appeal site was not deemed to be a dominant noise source. The report sets out that even the worst-case assessment would be classified as being 'none/not significant' in respect of noise effects. The proposed installation of an electronic noise limiter device on the first and second floors has been concluded as sufficient to further mitigate against noise breakout from inside the venue. The Council's environmental health specialists have reviewed the evidence and have confirmed no objection from a noise pollution perspective, subject to the inclusion of a condition. I have no reason to come to an alternative conclusion.
16. The Council, in its officer report, raises concerns in respect of the submitted Operational Management Plan (OMP). The OMP sets out, in part, arrangements to minimise any external disruption, nuisance and noise through staff and management processes, including the ongoing use of CCTV and door staff being on-site every evening. It is acknowledged that greater numbers of patrons may use the upper floors in the evenings, compared with a daytime only use such as an office. However, given the commercial nature of the area, a certain level of late-night activity would be expected here. I am satisfied, based on the submitted noise assessment and OMP, together with the principally commercial character of the area that the development causes no unacceptable harm.
17. The OMP also sets out the opening hours for each floor. I understand the premises is already operating in accordance with a premises licence matching those hours and has been for approximately 5 years. Although details of that licence are not before me, I have no reason to doubt this claim. The Council has suggested further restrictions to opening hours if the appeal was allowed, less than currently allowed under the premises licence. However, this is without any clear justification. Concerns relating to odours have not been substantiated, particularly as no additional extraction equipment is proposed in connection with the development and the only kitchen is associated with the established ground floor pub.
18. Overall, based on the evidence before me, together with the lack of objection from the Council's environmental health specialist, I conclude that the development is acceptable in respect of the living conditions of nearby occupiers. It is in accordance with the relevant provisions of Policies LP2, LP38 and LP58 of the Hackney Local Plan (2020) and Policies D13 and D14 of the London Plan (2021). These policies, in summary, seek to ensure development does not harm the

amenities of non-commercial uses and incorporates measures to mitigate and manage any noise impacts for neighbouring residents and businesses.

Other Matters

19. The appeal property is a Grade II listed building and lies within a conservation area (CA). Accordingly, I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it may possess, as required under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I have also had regard to section 72(1) of the Act in respect of the CA. There is no dispute in respect of heritage matters, and I have no reason to disagree. Accordingly, the development does not harm the significance of these designated heritage assets.
20. In coming to my decision, I am aware of a previously dismissed appeal¹ at the site. While I have very limited information before me in respect of that case, I am aware that it did not include supporting documents such as a noise assessment. From that perspective, the two schemes (and decisions) are not directly comparable, and I have assessed only the scheme before me.

Planning balance and conclusion

21. I have found that the change of use away from (and therefore the loss of) office use conflicts with the relevant provisions LP Policy LP27(H). This is in a similar vein to the provisions of Policies E1 and E2 of the London Plan. However, the evidence presented, in particular the OVR, is a material consideration. I afford this considerable weight in the balance, and it leads me to conclude that, in this particular case, permission should be granted for a development otherwise than in accordance with a policy of the development plan.
22. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

23. The Council has provided a list of conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance.
24. As the change of use has already started, the standard time limit and approved plans conditions are not required. To protect the living conditions of nearby residents, a condition is necessary in respect of the submitted Operational Management Plan (OMP). I have also imposed an hours of operation condition. This is necessary for certainty.
25. A condition relating to noise mitigation measures is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matter before the development takes place. The

¹ APP/U5360/W/16/3142084

condition will ensure that the development can be enforced against if the requirements are not met.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within 2 months of the date of this decision details for the sound limiting device to control all amplified sound levels on the first and second floors of the premises, is submitted in writing to the Local Planning Authority for approval in consultation with Hackney's Environmental Protection, and unless the approved details are implemented within 2 months of the Local Planning Authority's approval, the use of the upper floors of the site shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 4 months of the date of this decision, the use of the site shall cease until such time as a scheme approved by the Local Planning Authority is implemented.

Upon implementation of the approved details specified in this condition, those details shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The use shall be carried out in strict accordance with the submitted Operational Management Plan (dated July 2023) for the duration of the development.
- 3) The use hereby permitted shall only take place between the following hours:

First floor: 1000 – Midnight Mondays – Wednesdays, 1000 – 0100 (the following day) Thursdays – Saturdays, 1000 – Midnight Sundays and Bank or Public Holidays.

Second floor: 1200 – 2330 Mondays – Wednesdays, 1200 – 0230 (the following day) Thursdays – Saturdays. Not at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE