



Appeal Decision

Site visit made on 20 May 2025

by **G Powys Jones MSc FRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/D0121/W/24/3357976

The Portishead Cruising Club, Pump Square, Pill, Bristol, BS20 0BG

- 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 Mr Kerry Melmoth on behalf of the Portishead Cruising Club against the decision of North Somerset Council.
 - The application Ref 24/P/0330/FUL was approved on 21 June 2024 and planning permission was granted subject to conditions.
 - The development permitted is change of use from Old Pill Ferry Terminal Building to Clubhouse with storage, workshop and boat yard facilities.
 - The condition in dispute are Nos 2, 3, 4, 5 & 6. The conditions and the reasons given for their imposition are set out in full in Schedule 1 to this decision.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. Planning permission, subject to conditions, was first granted in 1975¹ for the change of use of the appeal property to a clubhouse with storage, workshop and boatyard facilities. Condition 2 imposed on the permission provided that *'This permission shall enure for the benefit of the applicants only'*. The applicants were the Portishead Cruising Club, the current appellants (the Club). The reason for the imposition of the condition was given as *'in the interests of the amenities of the area'*. I understand that a further permission was granted in 1985 to extend the club, but the details of this decision have not been put to me.
3. The Club wished to relocate and intended to sell the clubhouse. However, since condition 2 imposed on the original permission restricted its use to the Club alone it was decided to apply to the Council under section 73 of the Act² to delete it, otherwise no prospective purchaser would be entitled to use the premises.
4. Two other conditions were imposed on the 1975 planning permission, the first of which related to the statutory period for implementation which is no longer effective since the permission had been implemented. No application was made to vary or remove condition 3 imposed on the 1975 permission, which provides:

'Plans showing full details and materials to be used of any external alterations to the building shall be submitted to the District Planning Authority before any work commences.'

¹ Ref 668/75 dated 3 March 1975

² The Town and Country Planning Act 1990 (as amended)

5. The Council granted permission and agreed to the deletion of the original condition No 2. However, the fresh permission granted was made subject to 6 conditions. The appellants are aggrieved with 5 of them, as numbered in the banner heading above and set out in the Schedule, and they wish them deleted.
6. Shortly prior to my visit the appellants' agent, on enquiry from me, confirmed that the clubhouse has been sold subject to contract and conditions, and it was hoped that completion of the sale would take place in mid June. A board announcing that the premises had been sold was displayed on the building when I visited. The agent acting for the appellant has since confirmed that he is not privy to the detailed financial implications or the sale contract conditions, which are confidential between the parties for now.
7. Accordingly, no information has been provided as to whether or not the prospective new owners are also aggrieved with the conditions in dispute, and whether or not their purchase is dependent on the appeal or parts of it succeeding. No information has been provided as to the prospective new owners' identity, and the appeal has not been withdrawn. I shall therefore proceed accordingly.
8. The first paragraph of the appellants' statement of case says:
'...please find enclosed an appeal against the imposition of 5no. additional (new) planning conditions on the parent consent (ref. 668/75) for the Cruising Club's use of the clubhouse..'
9. Also, in their final comments, the appellants say:
'...should the Appellant be unable to sell the premises at the reserve price, they would remain at the site, and could not operate as they would like with these new restrictions...'
10. Although a matter of law, that is not my understanding of the practical outcome of the Council's decision to grant the latest permission³, subject to conditions. In my view, there are now two free standing permissions – the original, Ref 668/75, and the latest, Ref 24/P/0330/FUL. The appellants are not therefore obliged to implement the latter should their sale not proceed. However, a different party would be in breach of condition 2 imposed on the original permission, and may be obliged to rely on the second, most recent permission to be in lawful occupation.
11. The Clubhouse stands on the banks of the Avon on a restricted area of land. Between it and the river is an accessway leading to a slipway, which enters the river. There is a covered area beneath the clubhouse's first floor alongside the accessway where boats are stored. To the south of the clubhouse is a small area of greenery which appears to be publicly accessible, and several tables and benches are in evidence. Opposite, on the other side of the green to the south is a public house, and dwellings overlook the green at close quarters from the west. Some of the dwellings are close to the clubhouse and are at the same level.

Main Issue

12. The main issue is the effect of deleting the conditions in dispute on local residential living conditions with reference to noise and other nuisance.

³ Bearing in mind that the application was made under section 73 of the Act

Reasons

13. There is no firm evidence before me that the Club's activities have materially affected local residential amenities for the lengthy time that they have been in occupation. However, the Council's main concern is that the deletion of condition 2 would mean that the use would no longer be tied to a particular occupant, and that the premises could be occupied by any user or organization operating as a club. The use as a '*sui generis*' club could continue, in essence, with an unrestricted planning permission, unless conditions were imposed. The reasons for the imposition of the conditions reflect the Council's concerns to protect neighbouring residential living conditions.
14. I consider the Council had sound reason for caution. The Club has made no secret of its desire to relocate and to sell its clubhouse, but the issue of concern is the nature of the user replacing it in the event of a sale. The appellants' arguments appear to be promulgated on the basis that any new occupants would be a '*similar organisation*' to the Club, that is, directed to river activities. However, there is no certainty of that. It seems to me that other users could fall within the scope of the established, consented use, and there is no obligation in my view that the lawful use of the clubhouse should necessarily be restricted to a club engaged in boat related activities. There is therefore considerable merit in the Council's concern that it could operate as a '*private members club*'⁴ without an active link to the river. The appellant had provided no convincing argument to the contrary, and nor has any clarity been provided as to the prospective future occupant, even though the premises has been sold, albeit subject to contract and conditions.
15. In these circumstances and given the close proximity of dwellings, a restriction on hours of operation is not unreasonable given that otherwise, the clubhouse, which has a bar, could feasibly be open all day and all year giving rise to the possibility of nuisance. Similarly, and for the same reason, a restriction on amplified noise is not unreasonable. Eating and drinking outside the premises could also cause nuisance, particularly when residential properties are so close. Whilst I note the appellants' arguments in respect of conditions 5 & 6, they are little different in effect to condition 3 imposed on the 1975 permission, which remains in being. They only differ in the requirement to obtain the Council's approval to the details submitted prior to works taking place, which may have been an oversight in 1975.
16. The appellants, it appears to me, seek an open cheque enabling the clubhouse to be run in future by a currently unknown individual or organisation without planning restriction as to the conduct of the use. The residents of the locality cannot reasonably be expected to rely on the prospect that any new occupant would be as neighbourly or considerate as members of the Club have been. The Council's safeguards are therefore wholly understandable on a precautionary basis.
17. I have not been provided with any suggested amended conditions, and since I am satisfied that the conditions in dispute meet the tests set out in the Framework⁵, I conclude that the conditions in dispute should remain in place for the same reasons as set out by the Council in the latest permission, otherwise local residents' living conditions with particular reference to noise and disturbance would be put at unacceptable risk.

⁴ As described by the appellants

⁵ National Planning Policy Framework, paragraph 57.

18. I have taken account of all other matters raised in the representations including those of the Parish Council, a local resident and the Council's Environmental Health Department. No other matter is of such strength or significance as to outweigh the considerations leading to my conclusions.

19. Accordingly, the appeal is dismissed.

G Powys Jones

INSPECTOR

SCHEDULE 1: The Conditions in dispute

2. The use of the clubhouse including deliveries arriving at the site shall not take place outside the hours of 10:00 hours to 23:00 hours Mondays to Saturdays and 12:00 hours to 22:30 hours on Sundays and Bank and Public Holidays, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to minimise noise nuisance in the interests of nearby occupants and in accordance with policy CS3 of the North Somerset Core Strategy.

3. No amplified sounds, including microphones and amplified music shall be used or played in the clubhouse or in any outside areas at the site.

Reason: In order to minimise noise nuisance in the interests of nearby occupants and in accordance with policy CS3 of the North Somerset Core Strategy.

4. No outdoor areas at the site including the ground floor covered area shall be used for the consumption of food or beverages.

Reason: In order to minimise noise nuisance in the interests of nearby occupants and in accordance with policy CS3 of the North Somerset Core Strategy.

5. No means of external lighting shall be installed on the site unless it is in accordance with details which have first been submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of the living conditions of occupants of neighbouring properties and in accordance with policy CS3 of the North Somerset Core Strategy and policy DM32 of the North Somerset Sites and Policies Plan (Part 1).

6. No new or replacement external plant or equipment including ventilation, extraction, cooling, or heating systems or odour control, including any roof mounted plant, shall be installed unless details of its size, appearance, location, colour, and noise output, has been submitted to and approved in writing by the Local Planning Authority. Any approved plant shall be installed in accordance with the approved details.

Reason: To ensure that its appearance is acceptable and to reduce the potential for harmful impacts on nearby residents by reason of noise or odour, in accordance with policies CS3 and CS12 of the North Somerset Core Strategy.