



Appeal Decision

Site visit made on 24 April 2025

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/H5390/W/24/3356901

Media Works Building, 191 Wood Lane, London W12 7FP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Whitewood Media Village GP Limited against the Council of the London Borough of Hammersmith and Fulham.
- The application reference is 2024/01519/VAR.
- The application sought planning permission for the installation of eight flues and a low-level balustrade at roof level of Mediaworks Building without complying with a condition attached to planning permission reference 2023/01995/FUL, dated 19 April 2024.
- The condition in dispute is No 6 which states that:
*"Prior to the occupation of the development hereby permitted, a report with details of the eight Fume Extraction Cabinet exhaust flues of the building in order to mitigate air pollution shall be submitted to and approved in writing by the Local Planning Authority.
The report shall include the following:*
 - a) *Details to demonstrate that the termination height of the Flue stacks have been installed at roof level at a minimum of 3 metres above any Ventilation air intakes and openable windows on the building*
 - b) *Details to demonstrate the flue volume discharge flow rate is a minimum of 0.225m³/s*
 - c) *Details to demonstrate the flue exhaust discharge velocity is a minimum of 15m/s**Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained."*
- The reason given for the condition is:
"In the interests of air quality and to comply with NPPF, London Plan (2021) and LBHF Local Plan (February 2018) Policy CC10."

Decision

1. The appeal is allowed and planning permission is granted for the installation of eight flues and a low-level balustrade at roof level at Media Works Building, 191 Wood Lane, London W12 7FP in accordance with the application reference 2024/01519/VAR, without compliance with condition number 6 previously imposed on planning permission reference 2023/01995/FUL dated 19 April 2024, and subject to the conditions in the attached schedule.

Background and Main Issue

2. The Media Works Building is a modern six-storey building within the White City Place development. Planning permission was granted in April 2024 for the installation of eight flues to serve fume cupboards within a suite of laboratories and associated offices on the third and fourth floors of the building – this is the "original planning permission". Condition 6 on that permission ("the disputed condition") requires the submission of further details, including demonstrating that the exhaust discharge velocity would be a minimum of 15m/s (metres per second).

3. The appellant maintains, as they did at the time the original planning application was being determined, that a lower minimum discharge velocity of 10m/s would be appropriate, so applied under section 73 of the Act to have the disputed condition varied. The Council had not determined that application by the time the appeal was lodged; it explained in its statement that it considers the minimum emission discharge velocity from the proposed eight flues should remain set at 15m/s “to ensure that the cumulative impact of the operation of the eight flues on local air quality is minimised” and that, had it determined the application, it would have refused planning permission.
4. The main issue is therefore whether the disputed condition is necessary, and reasonable in all other respects, having regard to the effect that varying it would have on local air quality.

Reasons

5. White City Place is bounded by the A40 Westway to the north, Wood Lane to the east, South Africa Road to the south, and Dorando Close to the west. It comprises a group of large commercial buildings, with squares and walkways at ground level. The nearest residential buildings to the Media Works Building are some 50m or so away on the western side of Dorando Close.
6. As part of the original planning application the appellant submitted a dispersion modelling report (“the DMR”)¹, which was resubmitted as part of this appeal. This considered emissions from the flues at a range of flue exit velocities, and their dispersion at ground level² and at the closest sensitive receptors. The DMR showed that the modelled proportion of emissions reaching the most-affected residential receptor (Wolfe House, just across Dorando Close from the Media Works Building) would be unchanged by reducing the flue exit velocity from 15m/s to 10m/s. The modelled proportion of emissions reaching the most-affected “ground level” location (an area of the square between the Media Works Building and the Westworks Building to its north-east) would increase by 0.2 percentage points.
7. It appears to me that the Council may have misread the DMR in respect of Wolfe House; the evidence before me is clear that the modelled proportion of emissions reaching that site would not be changed as a result of lowering the flue exit velocity³. There would be a small change in respect of the square in front of the Media Works Building. However, guidance published by Environmental Protection UK and the Institute of Air Quality Management advises that numbers used in modelling of pollutant concentrations should be treated “with recognition of their likely accuracy”, that users should “not assume a false level of precision”, and that changes of less than 0.5 percentage points will be described as “negligible”⁴. In this light, the small modelled increase in the proportion of emissions reaching the most-affected ground location is insignificant.
8. The appellant also drew my attention to the specification for ducted fume cupboards BS EN 14175, which states that “discharge velocities should not normally be less than 7m/s and a design figure of 10m/s is preferable. Higher discharge velocities are sometimes employed, especially in windy locations, but

¹ *Grow-on Labs 3rd Floor Fume Cupboard Flue Dispersion Modelling Report* – SWECO, 1 March 2024

² Or, more accurately, 1.5m above ground level, representing typical human exposure.

³ As set out in Table 5 and Graph 1 of the DMR.

⁴ *Land-use Planning & Development Control: Planning for Air Quality* Institute of Air Quality Management, 2017

they may cause a noise problem". There is no substantive evidence before me to suggest that the appeal site is a particularly windy location where a higher discharge velocity might therefore be required. I note also the negative implications for the appellant of requiring a minimum discharge velocity of 15m/s, including increased system energy consumption, though of course this is not a consideration which would outweigh any significant health and safety concerns.

9. However, taking into account all of the evidence which has been put to me, I conclude that the disputed condition is not necessary and reasonable in all other respects, inasmuch as it could be varied so that it required a minimum flue exit velocity of 10m/s without having a significant adverse effect on local air quality, and I shall vary the disputed condition accordingly. The condition requiring the submission and approval of details of the extraction system, and the retention and maintenance of such a system thereafter, remains necessary to comply with Policy CC10 of the 2021 Hammersmith and Fulham Local Plan which seeks to reduce the potential adverse air quality impacts of new development, including by requiring mitigation measures to be implemented to reduce emissions.

Conditions

10. I have deleted the disputed Condition 6 and, for the reasons I have set out above, replaced it with a new condition with a lower minimum flue exhaust discharge velocity. In line with the requirements of Section 73(5) of the Town and Country Planning Act 1990, the time limit for implementing this permission runs from the date of the original permission, and I have therefore also replaced the original Condition 1 to this effect.
11. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. Conditions 2, 3, 4, 5 and 7 of the original planning permission are therefore reimposed, for the same reasons as they were originally required.

Conclusion

12. I conclude that the appeal should succeed. I will therefore grant a new planning permission without the disputed Condition 6 but substituting for it a new Condition 6 requiring a lower minimum flue exhaust discharge velocity. The other undisputed conditions are restated.

M Cryan

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 19 April 2027.
- 2) The development shall be carried out and completed in accordance with the following approved drawings and documents:
 - 1041_07_23_205 EXISTING AND PROPOSED EAST ELEVATION
 - 1041_07_23_206 EXISTING AND PROPOSED SOUTH ELEVATION
 - 1041_07_23_207 EXISTING AND PROPOSED NORTH ELEVATION
 - 1041_07_23_208 EXISTING AND PROPOSED WEST ELEVATION
 - 1041_07_23_1017 ROOF PLAN PROPOSED
 - White City Place, Mediaworks - Flues, Design and Access Statement, Dated: July 2023, Prepared by: Allies and Morrison
- 3) The development hereby approved shall be carried out and completed in accordance with the materials (including colour and finish) specified on the drawings hereby approved. The development shall be permanently retained in accordance with the approved details. Any works of making good to existing elevations shall be carried out in materials to match the elevation to which the works relate.
- 4) The external sound level emitted from plant, machinery or equipment at the development shall be lower than the lowest existing background sound level by at least 10dBA in order to prevent any adverse impact. The assessment shall be made in accordance with BS4142:2014+A1:2019 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

A post installation noise assessment shall be carried out where required to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

- 5) Prior to commencement of the development, details of anti-vibration measures shall be submitted to and approved in writing by the Council. The measures shall ensure that machinery, plant/ equipment, extract/ ventilation system and ducting are mounted with proprietary anti-vibration isolators and fan motors are vibration isolated from the casing and adequately silenced. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.
- 6) Prior to the occupation of the development hereby permitted, a report with details of the eight Fume Extraction Cabinet exhaust flues of the building in order to mitigate air pollution shall be submitted to and approved in writing by the Local Planning Authority.

The report shall include the following:

- a) Details to demonstrate that the termination height of the Flue stacks have been installed at roof level at a minimum of 3 metres above any Ventilation air intakes and openable windows on the building
- b) Details to demonstrate the flue volume discharge flow rate is a minimum of 0.225m³/s
- c) Details to demonstrate the flue exhaust discharge velocity is a minimum of 10m/s

Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

- 7) No part of the development shall be used or occupied until all flues have been installed in accordance with the submitted details and the development shall be permanently retained in this form and maintained as necessary thereafter.