



Appeal Decision

Site visit made on 20 May 2025

by **Andreea Spataru BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/R0660/W/25/3361089

Proper Sound, 6-8 Chestergate, Macclesfield, Cheshire SK11 6BA

- 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 Miss Lucie Wright (Proper Sound) against the decision of Cheshire East Council.
 - The application Ref is 24/0603M.
 - The development is described as 'currently 80% retail ancillary café/bar. We need to move more into the café/bar sector so a change of use is required'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form indicates that the change of use was completed on 31 August 2023. Therefore, the development is retrospective. I have considered it on this basis.
3. The Planning Officer's report indicates some inconsistencies regarding the address of the appeal site and the submitted plans. The address above in the banner heading was taken from the application form, although the Council asserts that No 6 Chestergate does not form part of the site. Nevertheless, the discrepancies regarding the plans and the address did not impede my assessment of the development regarding the main issue. Given the outcome of my decision, I did not find necessary to ask further clarification on these matters.

Main Issue

4. The effect of the development on the living conditions of the occupiers of nearby residential units, with particular regard to noise and disturbance.

Reasons

5. The appeal site is the ground floor unit of a four-storey mid-terrace building in a town centre. The upper floors are in residential use. The Council indicates that the appeal site has permission for use Class E Schedule 2 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (Class E). The appeal site has been in use as retail and café/bar for some time, thus the development is seeking retrospective permission for a change of use to Sui Generis.
6. The application form indicates that the proposed hours of opening for the shop/café/bar would be 9am – 11.30pm, Monday to Sunday, including Bank

Holidays. The submitted Courtyard Policy indicates that courtyard closes at 9.30pm and that on event days no music would be played in the courtyard. The appellant's evidence shows that the appeal site currently has a licence which allows for the sale of alcohol from Sundays to Thursdays from 10am until 9 pm and for Fridays and Saturdays between 10am until 11pm.

7. Given the layout of the building, the residential units located at the upper floors have windows facing Chestergate, where the entrance to the appeal site is, as well as windows facing the courtyard. The appellant's appeal statement indicates that decibel tests were carried out and found to be within recommended limits. However, I have not been provided with substantive evidence in this regard and there was no Noise Impact Assessment (NIA) as part of the evidence submitted.
8. It is expected for residents who live or would live above the commercial units in this part of the town centre to experience a certain level of noise and disturbance generated from the operation of existing businesses late into the evening and other high-time activities such as people accessing public transport. However, in the absence of a NIA, the development fails to demonstrate that the levels of noise generated from the use of the premises as a retail and café/bar are acceptable, having regard to the living conditions of the occupiers of the nearby residential units.
9. The measures outlined by the appellant to minimise the effect of the development on the living conditions of the occupiers of the upper floors residential units are the time restriction for the use of the courtyard and to ensure that on event days music is not played in the courtyard. The submitted evidence includes correspondence between the appellant and Onward Homes, in which the appellant suggested noise insulation to be provided in the upper residential units. However, no specific measures are proposed to be implemented in this regard. In the absence of substantive evidence to demonstrate that the levels of noise are appropriate, I am unconvinced that the proposed measures related to the courtyard are sufficient.
10. The appellant indicates that no further complaints have been received since the retail café/bar unit has been operating in accordance with the terms of the licence that was granted in April 2024. The appellant also states that some of the residential units have not been in use for some time. Be that as it may, this does not negate the need to ensure that the development is appropriate in terms of noise levels for any existing and future occupiers.
11. The appellant has drawn my attention to other restaurants and bars, including No 10 Chestergate (No 10), which are operating within the surrounding area. Reference was also made to other change of use applications. However, I have not been provided with full details of those businesses/cases as to demonstrate that the appeal development is directly comparable with them. The Planning Officer's report indicates that No 10, which has permission to operate as a restaurant serving alcohol, has hours of operation similar to those proposed for the appeal development. However, the Council's evidence indicates that the appeal site and development differentiate from No 10 because it has a courtyard, residential units directly above, and the café/bar use. Accordingly, I have considered the appeal development based on its own planning merits and site-specific circumstances.

12. Thus, in conclusion, in the absence of sufficient information to contrary I must find the scheme harms the living conditions of the occupiers of nearby residential units with particular regard to noise and disturbance. Therefore, the development is contrary to Policy EG 5 of the Cheshire East Local Plan Strategy 2010 – 2030 adopted 2017 (LP) and Policies HOU 12 and RET 5 of the Cheshire East Site Allocations and Development Policies Document adopted 2022, which collectively require that developments protect residential amenity. The development is also contrary to the aims of the National Planning Policy Framework (the Framework), which at paragraph 135 states that developments should promote a high standard of amenity.
13. Policy SE 1 of the LP relates to design, and requires, amongst other things, that developments ensure appropriate level of privacy for new and existing residential properties. As the appeal development concerns the living conditions of the nearby residents with particular regard to noise, there would be no direct conflict with the aims of this policy.

Other Matters

14. The appeal site is a grade II listed building within the Macclesfield Town Centre Conservation Area (CA). The significance of the CA is derived from the traditional layout, architectural quality of buildings and its historic use and communal value as a consequence of the town centre. The Council found the development acceptable in terms of its effect on the designated heritage assets. Given the nature of the development, where no internal or external works are proposed, I am also satisfied that the development has a neutral effect on both designated heritage assets.
15. The development has received a high number of support letters, including a Rule 6 statement of support. Further support for the development has been shown in the petition signed by hundreds of people. Furthermore, I note that the Environmental Protection team had no objection to the application, subject to a condition to secure the opening hours as per the approved licence. In addition to these, I have also had regard to paragraph 90 of the Framework, which states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Whilst I acknowledge the cultural, social, and economic benefits of the development, they do not outweigh the harm identified above. Furthermore, the dismissal of this appeal does not negate the ability of the appeal site to function under its lawful use under Class E.
16. I note that the appellant has not been satisfied with the Council's approach during the application process. However, my assessment has been limited to the development before me.

Conclusion

17. For the reasons given above, I conclude that the development would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

Andreea Spataru

INSPECTOR