



## Appeal Decision

Hearing held on 16 July 2025

Site visit made on 16 July 2025

by **J Moore BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

**Appeal Ref: APP/A3010/W/25/3358387**

**Harworth Post Office, Main Street, Harworth, Nottinghamshire DN11 8LE**

- 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 Mr Richard Booth against the decision of Bassetlaw District Council.
- The application Ref is 24/00669/COU.
- The development proposed was originally described as change of use of The Old Post Office Site to multiple commercial uses (Class E).

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Although the appeal form indicates that the description of development has not changed, a different description has been entered, which is the same as that used in the Design and Access Statement (DAS): *'the application seeks to formalise the property's use as an estate agents, sports massage therapist and bistro and bar, thereby converting the entire plot to commercial use.'* The description on the decision notice is: *'change of use of The Old Post Office Site to multiple commercial uses estate agents, sports massage therapy (use class e) and bistro and bar (sui generis).'* However, there is no evidence to demonstrate that a change was agreed. Moreover, the appellant confirmed verbally at the event that he wishes me to consider the application as originally proposed and that advice has been taken in this regard. I have therefore used the description of development as stated on the application form in my banner heading above. The application was clearly made and considered on a retrospective basis, and therefore so shall I.
3. The application form details two proposed use classes, namely use class E(e): Medical or Health Services, and use class E(b): Sale of food and drink for consumption mostly on the premises. I shall respectively refer to these as the proposed therapy use and the proposed bistro and bar. The estate agency business would fall to be considered as use class E(c): Financial and Professional Services. The appellant advises that the estate agency and therapy businesses are no longer in operation.
4. There are differences between what is shown on the existing and proposed plans, and what is in situ. The DAS clearly states that no new structures are planned and there are no elevation plans before me. The proposed plan indicates that the outdoor patio area would accommodate the bar structure and seating for the bistro and bar. The annexe building would accommodate further seating for the bistro and bar and a toilet. The estate agency and proposed therapy use would occupy the

main building, with a kitchen serving the proposed bistro and bar. At my visit I saw that the proposed therapy room was laid out as a further commercial kitchen to serve the bar and/or bistro, and the proposed staff garden appeared to be used for the storage of equipment, materials, and waste bins. Certain structures in situ at the appeal site are referenced in evidence, but do not appear on the existing or proposed plans, including (but not limited to) an entrance gate with signage at the back of the footway, a wooden lean-to structure including an entrance door, and various means of enclosure to the outdoor space. The arrangement on site is such that the seating does not accord with that on the proposed plans and the lean-to structure includes a podium and two dart boards for informal games/matches, with lighting and power outlets.

5. For the avoidance of doubt, as an Inspector dealing with a section 78 appeal, it is not my role to consider whether the appeal site is in accordance with the submitted plans, nor whether any act of development has been lawfully undertaken. That is a matter for the main parties to resolve. I have considered the application as originally proposed and as shown in the submitted plans.
6. As set out in my pre-hearing note, and in light of subsequent communications with the main parties, I have relied upon various on-line sources for certain evidence, including the policies and supporting text of the Bassetlaw Local Plan 2024 (BLP). Neither party raises any objection in this regard. During the hearing, the Council advised that a review of the Harworth and Bircotes Neighbourhood Plan 2015 (NP) is in progress. The main parties were given an opportunity to submit further comments on this matter after the hearing, and I have taken account of comments made. A pre-submission draft of the emerging NP was published for consultation on 6 May 2025. Due to its early stage, the emerging NP attracts very little weight in my consideration of the appeal.
7. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024, with further amendments made in February 2025 which do not constitute a change to policy. The main parties have had an opportunity to consider this matter within the appeal timetable.

## **Main Issues**

8. The main issues are the effects of the proposal upon:
  - highway safety, with particular regard to parking arrangements, and the safe operation of the highway network; and,
  - the living conditions of neighbouring occupiers, with particular regard to levels of noise and disturbance.

## **Reasons**

### *Highway safety*

9. The appeal site is located on a classified B-road, and the surrounding area is predominantly, but not exclusively in residential use. Properties along this section of Main Street are largely sited at the back of the footway, with access points to the highway, including those immediately adjacent to and opposite the appeal site. Several access points appear to serve more than one property, including one immediately opposite the appeal site serving Vine Villa and The Cottage. There are some parking restrictions in the vicinity, including double yellow lines at the egress

from Church Lane to the west, restrictions at the bus stop at the nearby War Memorial, and tapered restrictions at the bus stop near the easterly end of the street. The arrangement enables on-street parking parallel to the kerb, save for the restricted areas and the presence of numerous access points. The proposal would result in three businesses operating at the appeal site, each of which would be staffed and visited by customers.

10. There is no substantive evidence before me concerning any on-street parking capacity or parking stress, or the nature of traffic flow in the area. Oral evidence and my own observations indicate that traffic flow varies depending on peak times and activities within the vicinity. There are a number of nearby businesses and other facilities which generate parking demand. These include a hairdresser to the east of the appeal site; and on the opposite side of the street further west, there is a beauty salon, barber shop, and a public house with its own car park. There is a post box in active use immediately outside the appeal site, and the War Memorial includes space to congregate, beyond which there is a residential care home agreed to care for elderly persons.
11. The Village Institute (VI) is opposite the appeal site. Parties at the hearing drew my attention to exercise classes held at this community facility on Wednesday evenings which are considered to generate a level of parking demand such that traffic flow is significantly impeded in the vicinity. Other events are given to take place at the VI, although bingo events were disputed by the appellant. My attention was also drawn to events at All Saints Church which are given to create parking demand in the vicinity. The church is located further to the west of the appeal site in an elevated position at the end of very narrow lanes. A parking area is sited in front of the church at Church Walk which would accommodate a limited number of vehicles and appears to be controlled by a barrier. There was little space for the turning of vehicles. It seems to me that parking demand would be generated from events at these community facilities.
12. The appellant considers that the road is wide in the vicinity of the appeal site. However, my own observations indicate that the width of the road does not alter the fact that even if one or a few vehicles are parked along the street in the vicinity of the appeal site and/or elsewhere along the street, travelling vehicles are seen to wait in the face of any oncoming traffic to safely pass parked vehicles. Although my observations are a series of snapshots during consecutive weekdays, such manoeuvres took place when there were no activities at the VI and the proposed bistro/bar was closed, and the estate agency and therapy use were not in operation. I also observed vehicles parking over the kerb.
13. The evidence given at the hearing indicates that the former post office and annexe benefitted from off-street parking along the flank of the main building and this space now forms the entrance way to the proposed bistro and bar. While the former post office is given to have sold newspapers, some convenience goods and lottery tickets and thus may have generated more footfall, the duration of any on-street parking would likely have been short.
14. The proposed therapy use would operate 09:00-17:00 Monday-Friday. The estate agency hours displayed at the premises appear to be Mondays and Saturdays by appointment, and 09:30-16:30 Tuesday-Friday. These would be within customary daytime business hours. However, the proposed operating hours for the bistro and bar are 16:00-21:00 Monday-Friday, and 12:00-21:00 on Saturdays, Sundays and

bank holidays. In terms of covers, the proposed plan indicates about 30 covers in the outdoor patio area. The annexe is shown with about 18 covers (4 tables for 4 persons and one table for 2 persons), with 2 further benches that could accommodate at least 4 persons. It seems to me that the total number of covers on the proposed plan is in the region of 52 persons, which is a significant capacity. Takeaway and delivery services are also offered.

15. In the absence of any compelling evidence to demonstrate otherwise, it seems to me that parking demand arising from the proposal and the appeal site as a whole would be markedly different compared to that arising from its former uses. There would be no on-site car parking spaces and staff and customers arriving by vehicle would park on-street for longer duration, such that this would result in a longer length of parked vehicles along the highway. The effect of the proposal would be such that the free flow of traffic would be impeded over a longer length, with reduced visibility at access points; the efficient delivery of goods, access by service and emergency vehicles would likely be impeded; and the likelihood of parking over the kerb would be increased. The proposal would therefore result in a material effect upon the highway.
16. Parking requirements for commercial uses are set out within the Nottinghamshire County Council Highways Design Guide (HDG). The requirements are expressed as a minimum and comply with the Framework in this regard. A proposed change of use is an act of development, and therefore the requirements apply in this case. In summary, the appellant argues that the minimum requirements should be set aside, and account should be taken of actual travel patterns and business models in operation at the site. However, the HDG also sets out at paragraph 4.2.2 that *"Where a lower level of parking provision is proposed this must be justified within a Transport Assessment or Statement."* No such assessment or statement is before me.
17. During the hearing, the main parties agreed that the HDG minimum requirement would be 4 spaces for the estate agency and 3 spaces for the proposed therapy use. The minimum parking requirement for restaurants/cafes is 1 space per 5m<sup>2</sup> of public area, plus 1 space per two FTE<sup>1</sup>. During the hearing, I was not satisfied that either party was certain as to the number of spaces required by the HDG and I therefore invited further written submissions on this matter.
18. In summary, and with my emphasis in italics, the Council *estimates* the area of the proposed bistro and bar to be *approximately* 150m<sup>2</sup>, and a minimum of 30 spaces would be required, with a further 4 spaces based on 7 FTE. The appellant states that the annexe building is *approx* 37m<sup>2</sup>, and the external patio area is *approx* 50m<sup>2</sup>. The appellant indicates that not all the area serving the proposed bistro and bar is '*usable customer space*' and suggests that this would exclude circulation space, kitchen, storage and toilet facilities, but this is not quantified and the HDG clearly refers to public space. The appellant considers the capacity to be about 42 covers, but it is not clear how this figure is calculated.
19. If the total public space were 87m<sup>2</sup>, this would equate to about 17 spaces, with further spaces required for staff. Taken together with the minimum of 7 spaces for the estate agent and therapy use, this could result in a minimum requirement in the

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<sup>1</sup> Full-time equivalent

region of 24 spaces. The fact of the matter is that neither party appears to be able to ascertain or agree a minimum parking requirement in the terms of the HDG.

20. The appellant suggests 2 spaces would be needed for the therapy use (one for the therapist and one for a customer), and one for the estate agency business, which includes staff working from home and on-line services. However, no account appears to have been taken of any visiting customers to the estate agency or any waiting customer for the therapist. The appellant suggests that 6 spaces would be needed for the proposed bistro and bar, based on (among other things) a position that only 3 staff have access to a vehicle, and that only 2 staff would attend the proposed bistro and bar at any one time. However, this does not seem to account for the delivery service. This position appears to indicate only 3-4 spaces would be needed for customers of the bistro and bar, to include takeaway customers. It seems to me that this is not a robust or realistic assessment.
21. There is no dispute that the appeal site is in an accessible location and the appellant's position is that customers largely walk to the proposed bistro and bar. However, the appellant's analysis of the walking distances of customers appears to be based on the addresses of those who support the proposal, rather than any survey of customer travel patterns. Although CCTV and other evidence is stated by the appellant to demonstrate customer travel patterns, this is not before me, nor has any summary of that evidence been submitted to the appeal.
22. As the appeal site is within a residential area with street lighting and footways, and within the settlement boundary, it seems reasonable to me that some customers would choose to walk or cycle. However, it is by no means certain that all customers would choose to do so, particularly during inclement weather or the hours of darkness, or if they were limited by any disability. Moreover, there are no crossings along Main Street near the appeal site, and there are no signalled crossings at the double roundabout arrangement at the easterly end of the street where several routes converge, such that it would not be an attractive route for all.
23. While the application form indicates there are 4 existing cycle parking spaces, these are not indicated on the existing or proposed plans. The appellant advises that cycle parking space is just before the entrance to the lean-to structure, and some staff are given to travel by cycle. However, during my visit I saw no cycle parking stands, signage or markings to identify cycle parking, whether for staff or customers. Due to the entrance doors in the lean-to structure, and seating arrangement alongside the entrance way (which are not indicated on the proposed plans), this would not provide a convenient arrangement for the parking of cycles and would likely cause an obstruction. I am therefore not satisfied that the proposal seeks to promote more sustainable patterns of transport in terms of cycle parking, and I would not be content to leave such matters to a condition.
24. Drawing all the above together, there is no robust or compelling evidence of trip generation or travel patterns before me, such that I could be certain that the proposal would not result in harm to highway safety if parking requirements were relaxed. Regardless of whether the proposed bistro and bar is not always fully occupied, and even if most customers were to travel more sustainably than by private vehicle, there would still be a demand for parking of a greater magnitude and duration than the former uses, and this would have a material effect upon the operation of the highway.

25. The main parties have considered a proposed arrangement to use the VI car park. I find no reason to disagree with the appellant's view that the car park presently appears as a scrap yard with vehicles in a state of disrepair and other materials stored within it. Regardless of any dispute concerning the capacity or standard of the car park and any potential concerns regarding its lawful use, the land does not appear to be readily available for use by staff or customers of the proposed development. Moreover, the land is not included within the application site as edged red; there is no evidence to demonstrate that the land is within the control of the appellant; and there is no agreement before me, or any proposed mechanism to secure this matter. Consequently, I am not satisfied that any parking could or would be delivered at this location.
26. In written evidence and further comments on parking requirements, the appellant draws my attention to a redevelopment scheme and/or recent permission at the former Harworth Cinema at 19 Scrooby Road, for a boxing centre, gym, retail showroom, café/soft play area; and four residential flats. The scheme is given to generate a significantly large number of patrons/customers and to include 10 parking spaces, 4 of which are disabled spaces. The appellant suggests that this development is an example of a Council decision to relax minimum parking requirements for a scheme of a much larger scale and impact to that before me. However, the full details of the circumstances which led to the permission are not before me, including whether a transport assessment or statement was submitted, and each site and permission will have its own context. The BLP proposals map and my own observations indicate that the site is within or close to the defined town centre boundary, about half a mile from the appeal site. Consequently, I cannot be certain of the reasons for any purported relaxation of parking requirements for that scheme, nor whether it is directly comparable to that before me.
27. For the reasons above, and in the absence of any transport assessment or statement, I am not satisfied that a clear and compelling justification has been made to set aside the minimum parking requirements of the HDG, nor that the proposal would not unacceptably harm highway safety if they were relaxed in this case. Furthermore, paragraph 116 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. As the proposal fails to demonstrate there would be no unacceptable or severe impacts in such terms, the proposal would not accord with the Framework.
28. I therefore conclude that the proposal fails to demonstrate that it would not result in an unacceptable impact upon highway safety, with particular regard to parking arrangements, and the safe operation of the highway network. Consequently, there is conflict with BLP Policy ST53, which seeks to ensure that development contributes towards a sustainable, safe, active transport network and provides well-designed, safe and convenient access for all, giving priority to the needs of pedestrians, cyclists and other users in a way which would not compromise the free flow of traffic on the public highway, pedestrians, public transport and cycling or any other transport mode; or exacerbate traffic congestion on the existing highway network or increase the risk of accidents or endanger the safety of road users including pedestrians, cyclists and other vulnerable road users.

### *Living Conditions*

29. The appeal site is in a predominantly residential area. The main elevation of Highfield Cottage faces the westerly boundary of the appeal site with an intervening driveway and private amenity space. The main elevation includes windows serving habitable rooms, including bedrooms at the upper level. The private amenity space at Orchard Cottage abuts the easterly flank of the appeal site. On the opposite side of the street, there are other residential properties with windows serving habitable rooms, such that living rooms and bedrooms face the appeal site. The proposed operational hours of the bistro and bar include times when neighbouring occupiers would expect peaceful enjoyment of their properties and children would be sleeping.
30. Having regard to all I have read and heard, together with my own observations, there are several factors that could generate significant levels of noise and disturbance that could affect neighbouring occupiers. These include the capacity of the proposed bistro and bar, the presence of a bar and about 30 covers in the outside patio area, the proposed operating hours, the availability of takeaway and delivery services, ad hoc events held at the premises, and the comings and goings of staff and customers. Ad hoc events held at the premises are given to include 'open mic' nights, karaoke, screening of sports events and other hosted events, with amplified sound. These factors individually and/or in combination would result in a material change in the noise character of the appeal site compared to its former use as a post office and residential annexe.
31. Although a noise report was requested by the Council during the determination phase, the need for such a report was disputed at that time by the appellant, on the grounds that only one complaint was considered to have been received. The Council advises that further complaints have been made, including complaints of noise and disturbance outside operational hours. While neighbouring properties may have glazing treatments that could offer some degree of control over received levels of noise, this would impede ventilation if kept closed.
32. The appellant states that various measures have been installed at the premises to mitigate noise. However, I do not have sufficient or detailed evidence of any installed mitigation measures to ascertain their effectiveness in relation to noise generating activities at the site, nor in relation to observed effects at any receptor. Although a telescopic canopy is anchored within the floorspace of the outdoor patio area, it is raised and lowered as part of the operational practice of the business. Moreover, photographic evidence and my own observations indicate that the edges of the canopy do not form any sealed barrier to any adjoining structure, such that there are gaps where noise would escape.
33. The appellant's evidence includes data from a noise monitoring device (NMD) sited near the entrance way under the eaves of the main building. It seems to me that this siting would not capture the level and character of noise arising within other parts of the proposed bistro/bar area, including the area abutting Orchard Cottage, and nor would it capture observed effects at any receptor. While the NMD is given to raise staff awareness if a certain noise level is reached, and signage is in place to encourage customers to be quiet when leaving the premises to avoid disturbing neighbours, there is no detailed management plan before me to control such matters.

34. Data from the NMD has been submitted which covers a period of one week in July 2024, during the Men's European Football tournament, when an England match was screened. The appellant contends that the recorded noise levels and a calculated level at a nearby receptor would be well below any harmful or disruptive level, but without reference to any defined standard. Moreover, PPG<sup>2</sup> makes clear that in terms of observed effects, a 'level' of noise does not mean that the effects can only be defined in terms of a single value of noise exposure.
35. Drawing all the above together, the fact of the matter is that there is no noise report before me, nor any compelling evidence to demonstrate how levels of noise and disturbance have been considered in relation to any technical standard or guidance, nor in relation to any pre-existing noise character of the appeal site and its surroundings. I am therefore not satisfied that it has been demonstrated that the proposal would not give rise to unacceptable levels of noise and disturbance, nor that any necessary mitigation measures have been or would be installed, such that levels of noise and disturbance could be suitably controlled if I were to allow the appeal.
36. Paragraph 187 of the Framework makes clear that planning decisions should contribute to and enhance the natural and local environment by (among other things) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution. Paragraph 198 seeks to ensure new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on (among other things) living conditions. This paragraph also makes clear that potential adverse impacts resulting from noise from development should be mitigated and reduced to a minimum, and development should avoid noise giving rise to significant adverse impacts on health and the quality of life.
37. For the reasons above, I conclude that the proposal fails to demonstrate that the living conditions of neighbouring occupiers would not be unacceptably harmed with particular regard to levels of noise and disturbance. Consequently, there is conflict with BLP Policy 46, which seeks to ensure that development proposals do not generate a level of noise which cannot be mitigated to an appropriate standard; and where changes of use could have a significant adverse effect on residential amenity, appropriate mitigation will be required before the development can be occupied.

### **Other Matters**

38. Within the surrounding area, there are eight listed buildings including the nearby War Memorial, some nearby residential properties and All Saints Church. I have therefore had regard to the statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council's Conservation Officer finds no harm to the significance and/or settings of these heritage assets. Having regard to the listed building entries before me and my own observations, I find no reason to consider otherwise.
39. The appellant suggests that the proposal would enable the optimisation of the VI car park for the benefit of the wider community. However, there is no mechanism before me to deliver such a benefit and therefore this matter attracts no weight for

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<sup>2</sup> Planning Practice Guidance - Noise, Paragraph: 004 Reference ID: 30-004-20190722 - Revision date: 22 07 2019

or against the proposal. A large volume of support for the proposal does not render the proposal acceptable, nor does it alter my conclusions on the main issues.

40. The proposal would support the government's objectives for the efficient use of land by using vacant land and buildings, and the need to support economic growth and productivity. As two businesses are no longer operating at the site, I cannot be certain that the proposed employment opportunities would be delivered.
41. The proposal would deliver social benefits in the form of opportunities for socialising, and sport massage therapy. Furthermore, NP objective 4 seeks to encourage restaurants and cafés to locate in the neighbourhood plan area providing amenities for all the family. This objective is modified in the emerging NP, to encourage restaurants and cafes which support the day and night time economy. in this regard. However, the emerging NP is afforded very little weight due to its early stage, and the objectives and policies of the NP and the emerging NP seek to support growth in a sustainable manner.

### **Planning Balance and Conclusion**

42. The proposal fails to demonstrate that it would not result in unacceptable harm to both highway safety and the living conditions of neighbouring occupiers. The policies with which the proposal conflicts are in strong conformity with the Framework, and I attach substantial weight to each of these conflicts. The benefits of the proposal, to which I collectively attach moderate weight, would clearly not outweigh the unacceptable harms that I have found.
43. The proposal conflicts with the development plan read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons above, I therefore conclude that the appeal should be dismissed.

*J Moore*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|           |                                        |
|-----------|----------------------------------------|
| J Burgess | Legal Executive, instructed by R Booth |
| R Booth   | Appellant                              |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                     |                            |
|---------------------|----------------------------|
| K Harte             | Strategic Planning Officer |
| A Broadhurst, MRTPI | Major Projects Manager     |

### **INTERESTED PARTIES:**

|              |                |
|--------------|----------------|
| R Schuller   | Local Resident |
| G Delaney    | Local Resident |
| O Cowling    | Local Resident |
| K Bergemanas | Local Resident |

### **DOCUMENTS:**

Harworth and Bircotes Review Neighbourhood Plan 2025 (by hyperlink).