
Appeal Decision

Site visit made on 1 July 2025

by A O'Neill BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2025

Appeal Ref: APP/X2410/W/25/3365042

48 Church Gate, Loughborough, Leicestershire LE11 1UE

- 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 Kai Chung Yip, 852 Loughborough Ltd, against the decision of Charnwood Borough Council.
 - The application Ref is P/24/2331/2.
 - The development proposed is the installation of a commercial kitchen ventilation system, including roof mounted external flue
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above has been taken from the decision notice, which adequately describes the proposal and omits additional non-planning text from that set out in the application form.

Main Issue

3. The main issue is the effect of the proposed development on neighbouring occupiers with particular regard to noise and odour.

Reasons

4. The appeal site is a two storey commercial unit in a town centre location, surrounded predominantly by other two storey commercial uses. The purpose of the flue is to provide ventilation for a commercial kitchen at the ground floor of the property.
5. Based on the third party representations submitted and my observations on site, I am aware that adjacent properties have active first floor uses. The occupiers of those adjacent properties would therefore be likely to be affected by any noise or odour resulting from the flue.
6. The appellant has provided acoustic information based on the flue manufacturer's specification. It is stated that the fan is designed to operate at relatively low noise levels. Be this as it may, the information submitted does not constitute a technical acoustic assessment which should take account of the surrounding context including factors such as the ambient noise level and proximity to receptors.
7. The Council identifies that a high level of odour control would be required based on the proposal and its context. The appellant has provided the flue system's odour control measures, stating that the purpose of the specified measures is to capture

airborne grease, smoke particles and odorous molecules prior to discharge. However, this information does not constitute a technical assessment of odour control, which should consider factors including the proximity of receptors, the size of the kitchen, the type of cooking and the level of extraction discharge.

8. In the absence of site-specific technical assessments, there is no reasonable assurance that noise or odour from the proposed flue would not adversely affect neighbouring occupiers.
9. I appreciate that the appellant is unable to operate their business without the proposed flue and they have suggested that the noise and odour assessments could be required by condition after the flue is installed. A condition simply requiring the assessments would not be precise. Moreover, there is no certainty that any required mitigation measures or adjustments could be provided once the flue is installed. Consequently, it has not been explained how such a condition would comply with the six tests set out in the National Planning Policy Framework (the Framework). I am therefore not persuaded that this would be a satisfactory way to overcome these issues.
10. Taking all of the above into account, I find that the proposal would be harmful to neighbouring occupiers with particular regard of noise and odour. As such, it would conflict with Policy EV/1 of the Borough of Charnwood Local Plan (2004) and Policy CS2 of the Charnwood Local Plan Core Strategy (2015) which require development to safeguard the amenity of the occupiers of adjoining properties. It would also conflict with the Framework which seeks a high standard of amenity for existing and future occupiers.

Other Matters

11. The site is located within the Loughborough – Church Gate Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
12. The CA includes the medieval centre of the town and its subsequent expansion and rebuilding in the Georgian and Victorian periods. Church Gate was an important part of the main thoroughfare that ran through the centre. The significance and special interest of the CA includes the variety in the nature of the streets and spaces, the surviving medieval street pattern, in particular the street width along Church Gate, and the value that traditional independent shops contribute to the character and vitality to some parts of the CA.
13. Based on the submitted evidence and my assessment of the appeal site, I agree with the Council that the building makes a neutral contribution to the significance of the CA. The Council has stated that the proposal would cause harm to the CA which is described as being at the lower end of 'less than substantial harm', in accordance with Paragraph 215 of the Framework. However, the Council also explain that the proposed development would only be partially visible within the CA and that there would be no impact to the character of the building. Based on this reasoning and my assessment of the case, including the fact that the Council has raised no heritage objection in its reason for refusal, it has not been necessary for me to assess the proposal against the public benefits of the development. I am therefore satisfied that no harm would be caused to the significance of the CA as a whole. Nevertheless,

this lack of harm is neutral factor and does not weigh in support of the appeal or alter my overall conclusions on the main issue.

14. Concerns regarding the manner in which the planning application was dealt with by the Council fall outside the scope of this decision.

Conclusion

15. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations that outweigh that conflict. Therefore, the appeal is dismissed.

A O'Neill

INSPECTOR