
Appeal Decision

Site visit made on 17 June 2025

by **A Oyebade MSc, FCILT**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2025

Appeal Ref: APP/P4605/W/25/3364162
38 St Marys Row, Birmingham B13 8JG

- 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 Zahir Zahrane against the decision of Birmingham City Council.
 - The application Ref is 2024/06425/PA.
 - The development proposed is an external extraction flue.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect on the living conditions of the occupiers of the residential units in the vicinity of the proposed development, particularly in relation to noise and odour.

Reasons

3. The appeal site is within a row of 3-storey mixed-use properties on this side of the road, which comprises a range of shops, cafes and restaurants on the ground floor, plus residential properties on the two upper floors.
4. The rear of the buildings on this segment of St Mary's Row including the appeal site broadly faces onto a large public car park, in juxtaposition with a pedestrian route from the adjacent Alcester Road. Limited extraction flue was observed behind these properties.
5. The plans submitted in support of the proposed development only show an indicative form of the extraction flue, which is like the apparatus found in the same position on the mono-pitched roof section of the roof of the property during my site visit. Regarding noise impact of this device, I have reviewed the appellant's extraction duct specification statement listing the components of this equipment, consisting of duct silencers and speed control. However, the nature, workings and trials of this equipment in mitigating against noise have not been properly demonstrated.
6. Concerning control of odour, the mechanisms by which the intended carbon filters would minimise odour ensuing from the extraction flue have not been explained. It is also unclear from the available information the layout of the equipment in relation to its size, projection form and how it would sit comfortably in the mono-pitched roof segment with minimal protrusion.
7. I conclude that it has not been demonstrated that the proposal could avoid undue harm to the living conditions of the occupiers of the nearby residential units in

relation to noise and odour. Consequently, the development does not accord with Policy PG3 of the Birmingham Development Plan (Adopted January 2017) and Policies DM2 and DM6 of the Development Management in Birmingham Development Plan Document (Adopted December 2021). Together, these Policies seek to ensure that all new developments are of a high design quality and not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.

Other Matters

8. I have noted that there are two existing apparatus in and beside the mono-pitched extension roof area where this extraction flue is to be installed, and the appellant has not indicated whether these would be removed as part of the development proposal.

Conclusion

9. For the reasons given above the appeal should be dismissed.

A Oyeade

INSPECTOR