



Appeal Decision

Site visit made on 20 August 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2025

Appeal Ref: APP/K5030/W/25/3364974

Ground floor and basement retail unit, 165 Fleet Street, London, EC4A 2AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Dalton against the decision of City of London Corporation.
 - The application Ref 24/00236/FULL was approved on 30 October 2024 and planning permission was granted subject to conditions.
 - The development permitted is change of use of part ground floor and part lower ground floor from Class E to Sui generis: Ground Floor - noodle bar with cafe and part leisure (mini golf) Basement - upscale leisure destination 10 pin bowling (12 lanes) and ancillary facilities.
 - The condition in dispute is No 5 which states that: The mixed (Sui Generis) use hereby permitted shall not be open to customers between the hours of 23:00 on one day and 07:00 on the following day.
 - The reason given for the condition is: To safeguard the amenity of the adjoining premises and the area generally in accordance with the following policies of the Local Plan: DM15.7, DM21.3.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Much of the material in the documentation submitted with this appeal relates to the grant of a Premises License (Ref: 24/00859/AAPNEW) to the appeal venue by the City Corporation's Licensing Sub-Committee. The result was a license granted for the following opening hours: Sunday: 10:00 – 23:30, Monday – Wednesday: 10:00 – 00:30, and Thursday – Saturday: 10:00 – 01:30. An appeal was made to that decision, seeking to lower the closing times, that may well have been determined by now.
3. Planning Practice Guidance (PPG) advises against duplicating controls that are clearly governed under other regulatory regimes. There is obviously an overlap between the 2 regimes. Equally, they are plainly intended to operate alongside one another, but the decision under one legislative framework should not dictate the outcome under the other. I have therefore read all the material submitted, but my decision is based on planning policies and material considerations. The Premises License is, of course, a material consideration.

Main Issue

4. The issue in this case is whether the hours of operation of the development permitted should be extended in respect of closing time, taking account of the proximity of residential occupiers and their living conditions.

Reasons

5. The site is part of a nine-storey building within the Fleet Street Conservation Area and Fleet Street Principal Shopping Centre. The existing building provides for office use on the upper floors and a retail bank at part ground floor and basement level. The retail bank premises, which is the subject of this application has been vacant since late 2021. Fleet Street is a busy main thoroughfare, the frontage properties being in a variety of uses including offices, shops, cafés and restaurants, pubs, etc. The general area also has a substantial residential population, particularly on the north side of Fleet Street in the neighbouring courts and alleyways, such as Bolt Court to the east of the site and Johnson's Court on the western side.
6. The starting point for this decision is the policies of the development plan. A number of policies have been referred to, as well as policies of the London Plan, paragraphs of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). I have taken note of all of these references. The corporation's refusal notice to the appeal application makes reference to the City of London Local Plan (adopted January 2015), Policies DM 15.7 and DM 21.3. Since the use of the premises was accepted by the grant of planning permission, these local plan (and other) policies were, on balance, met. I consider that it is Policies DM 15.7 and DM 21.3 that are at the heart of the considerations in this case.
7. In Policy DM 15.7 'Noise and light pollution', it is the first 2 criteria that are relevant:
"1. Developers will be required to consider the impact of their developments on the noise environment and where appropriate provide a noise assessment. The layout, orientation, design and use of buildings should ensure that operational noise does not adversely affect neighbours, particularly noise-sensitive land uses such as housing, hospitals, schools and quiet open spaces.
2. Any potential noise conflict between existing activities and new development should be minimised. Where the avoidance of noise conflicts is impractical, mitigation measures such as noise attenuation and restrictions on operating hours will be implemented through appropriate planning conditions".
8. Again, in Policy DM 21.3 'Residential environment', it is the first 2 criteria that are relevant to this case:
"1. The amenity of existing residents within identified residential areas will be protected by:
 - *resisting other uses which would cause undue noise disturbance, fumes and smells and vehicle or pedestrian movements likely to cause disturbance;*
 - *requiring new development near existing dwellings to demonstrate adequate mitigation measures to address detrimental impact.**2. Noise-generating uses should be sited away from residential uses, where possible. Where residential and other uses are located within the same development or area, adequate noise mitigation measures must be provided and, where required, planning conditions will be imposed to protect residential amenity".*
9. I should also note that Policy D M 3.5 'Night-time entertainment' states that:
"Proposals for new night-time entertainment and related uses and the extension of existing premises will only be permitted where it can be demonstrated that, either individually or cumulatively, there is no unacceptable impact on the amenity of residents and other noise-sensitive uses; and environmental amenity, taking account of the potential for noise, disturbance and odours arising from the

operation of the premises, customers arriving at and leaving the premises and the servicing of the premises”.

10. The appellant argues that the venue is located in a central, mixed-use area of the City of London, where late-night bars, restaurants, and cultural venues operate regularly until midnight or later; that the surrounding area is characterised by a high concentration of commercial, hospitality, and late-night licensed premises, many of which operate until midnight or later; and that the nature of Fleet Street as a busy, urban corridor with limited residential receptors, means that the risk of late-night disturbance is minimal. The appellant adds that several comparable venues within a 500m radius (bars, restaurants, entertainment venues) operate without undue impact on local amenity.
11. In support of these contentions, 2 licensed premises are highlighted – The Punch Tavern Public House, 99 Fleet Street, and The Tipperary Public House, 66 Fleet Street. The former is licenced for the sale of alcohol from 10:00 AM to 12:00 AM on Weekdays and on Saturday, and from 12:00 to 10:30 on Sunday. The latter is licenced in respect of opening hours 11:00 AM to 12:30 AM on Weekdays and on Saturday, and from 12:00 to 11:00 PM on Sunday.
12. The Corporation, on the other hand, highlights that the site is near a large number of residential properties, and the proposed late-night operations, at the operational hours requested, would have a detrimental impact on the amenity of these residential occupiers and the quiet character of the area in general, particularly the courtyards and alleys surrounding the site.
13. However, the appellant, save for the details of 2 premises as mentioned above, does not set out in any details of the extent and location of the late-night bars, restaurants, cultural venues, hospitality, and late-night licensed premises that operate regularly until midnight or later. Nor does the corporation identify, except in very general terms, the location and numbers of residential occupiers that it is concerned about.
14. However, interested persons have provided a good deal of information, and although this has been criticised by the appellant, this has not been substantially challenged in respect of the loculations and numbers of residents and the details of closing times and patron activity of nearby licensed premises. Of particular help in understanding the nature of the area surrounding the appeal premises, and guiding my site visit, are the map of ‘Surrounding residential units’ that also showed the numbers of units, and the map headed ‘Actual closing in reality’ of licensed premises, given within the representations of Mr Toby Brown, and the reasonably detailed descriptive matter that supported these illustrations.
15. The appellant is clearly a very experienced operator of the type of use that is involved in this appeal: a new leisure venue named Tokyo Hit, comprising a noodle bar, café and mini golf facility at ground floor level, and ten pin bowling and ancillary facilities at basement level. The business model is for corporate business, predominantly during the week and families and parties at the weekend. I also fully understand that the entirety of the operation of the venue would be indoors, with no outside tables and seating, or other facilities.
16. An important element of the scheme is an Operational Management Plan (Management Statement) that is covered by condition 4 of the planning permission, and an Accessibility Management Plan (condition 3). The Management Statement

is subject to annual review, and covers, among other matters, CCTV, staff training, door supervision, no use of side exits, emergency-only access via St Dunstan's Court, and a 'Dispersal Policy' which would seek to ensure that patrons disperse gradually. I have no reason to think that the facility would not be professionally managed in accordance with these measures.

17. However, the concern relating to the closing time for the venue is patrons' activities once they have left the venue. There is very little control that the management can exercise at that point, especially since the residential areas are a little way back from Fleet Street. Given the evidence, I do not accept that the surrounding area is currently characterised by a high concentration of hospitality and late-night licensed premises.
18. The re-use of these vacant premises and the additional attraction contributing to the function, character and vibrancy of Fleet Street and providing facilities for the City's workforce, has been welcomed by the corporation, as is clear from the grant of planning permission. Nevertheless the most relevant policies, set out in paragraphs 7, 8 and 9, and not repeated here, are clearly restrictive where the proposed use is likely to cause noise conflict or disturbance, and in such cases, conditions will be used to mitigate the effects.
19. The planning balance, considering all the matters put to me, leads to the conclusion that extending the opening hours, as sought by the appeal, would have a harmful effect on the living conditions of the residential occupiers in proximity to the appeal site, due to late night noise and disturbance. In my view that is the legitimate basis for the hours stipulated in condition 5, and on balance, the judgement made in the decision issued by the Environment Department of the City of London Corporation should be upheld.
20. For these reasons, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR