



Appeal Decision

Site visit made on 2 September 2025

by **A Caines BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 September 2025

Appeal Ref: APP/G3110/W/25/3368318

44-46 Cornmarket Street, Oxford OX1 3HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by McDonald's Restaurants Ltd against the decision of Oxford City Council.
 - The application Ref is 24/02789/VAR.
 - The application sought planning permission for change of use from restaurant/café (Use Class E(b)) to a mixed-use restaurant and hot food takeaway (Sui Generis) without complying with a condition attached to planning permission Ref 24/01125/VAR, dated 20 June 2024.
 - The condition in dispute is No 3 which states that: *The restaurant and hot food take away use hereby permitted shall only operate and be open for business during the hours of 06.00hrs to 00:00hrs Monday to Saturday and 06.00hrs to 00:00hrs Sunday and Bank Holidays and at no other times unless otherwise first agreed in writing by the Local Planning Authority.*
 - The reason given for the condition is: *To protect the amenities of nearby residential properties and to comply with policy H14 and RE7 of the Oxford Local Plan 2036.*
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Decision

1. The appeal is allowed and the planning permission Ref 24/01125/VAR for change of use from restaurant/café (Use Class E(b)) to a mixed-use restaurant and hot food takeaway (Sui Generis) at 44-46 Cornmarket Street, Oxford OX1 3HA granted on 20 June 2024 by Oxford City Council, is varied by deleting Condition 3 and substituting it with the following condition:
 - 3) The use hereby permitted shall only take place between the hours of 0600 - 0300 Monday to Sunday, including Bank and Public Holidays.

Background

2. Permission was originally granted under Ref 24/00489/FUL for a change of use from restaurant/café (Use Class E(b)) to a mixed-use restaurant and hot food takeaway (Sui Generis). Condition 3 restricted the opening hours between 0600 - 0000 Monday to Friday and 0600 - 0000 on Sunday and Bank Holidays.
3. A subsequent Section 73 application (Ref 24/01125/VAR) amended condition 3 to include Saturday trading from 0600 - 0000, creating a separate permission.
4. The current appeal seeks a further variation to extend opening hours to 0300 daily.

Main Issue

5. The main issue is the effect of the extended opening hours on the living conditions of nearby residential occupiers, particularly in relation to noise and disturbance.

Reasons

6. The appeal site is a McDonalds restaurant located on Cornmarket Street, a busy pedestrianised street in Oxford's city centre. The street hosts a range of retail, hospitality, and leisure uses, with some residential accommodation on the upper floors. The Plush nightclub is an underground venue located behind the main frontage, but is accessed via a passage between 51 and 52 Cornmarket Street.
7. The Council's concern relates to potential external noise from customer activity during the early morning hours, especially given the presence of student accommodation above nearby premises.
8. However, prior to relocating to the appeal site, McDonalds operated for over two decades at 57 Cornmarket Street (approximately 100 metres to the south) with identical opening hours of 06:00 - 03:00. There is nothing before me to suggest that this operation caused significant disturbance during that time.
9. While the appeal site may be closer to sensitive receptors, this is a vibrant city centre location where late-night activity is expected. The proposal does not introduce a new use, but extends hours for an existing use. The nearby Plush nightclub already operates until 0300 on Tuesdays and 0330 Thursday to Sunday. This contributes to a high baseline of early morning activity and ambient noise in the vicinity. No evidence, including objections from any of the Council's technical consultees, has been provided to show that the extended opening hours would materially alter this established pattern or result in cumulative harm.
10. I therefore conclude that the extended opening hours would not materially harm the living conditions of nearby residential occupiers, with particular regard to noise and disturbance. Thus, the proposal complies with Policies RE7 and RE8 of the Oxford Local Plan (2020), which seek to ensure that development does not result in unacceptable harm to residential amenity, including from noise impacts.

Other Matters

11. As no external alterations are proposed, there would be no noticeable effect on the character and appearance of the Central Conservation Area (CA) and the setting of any nearby listed buildings. Consequently, the character and appearance of the CA and setting of the listed buildings will be preserved.

Conditions

12. Given the findings above, I will replace the disputed condition with one that allows opening until 0300 daily. All other conditions previously imposed remain unchanged and unaffected by this decision.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed and the planning permission varied as specified.

A Caines

INSPECTOR