



Appeal Decision

Site visit made on 15 August 2025

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Appeal Ref: APP/J0540/W/25/3363181

56 Oundle Road, Woodston, Peterborough PE2 9PA

- 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 Zaffer Hussain against the decision of Peterborough City Council.
 - The application Ref 24/01427/FUL was approved on 6 January 2025 and planning permission was granted subject to conditions.
 - The development permitted is proposed ground floor rear extension to hot food take away and first floor rear extension to create 2no bedroom flat (part-retrospective).
 - The conditions in dispute are Nos 3, 4, 5, 6, and 7 which state that: *"Prior to installation and operation details of the make, model, location, sound power level and frequency spectrum data of any mechanical plant shall be submitted to and approved in writing by the Local Planning Authority. The information will demonstrate that the mechanical plant is in compliance with the noise levels specified in condition 9, and be carried out in accordance with BS 4142: 2014 +A1:2019. Thereafter the development shall be implemented in accordance with the approved details, including any necessary mitigation, and shall thereafter be retained and maintained as such for the lifetime of the development"*, *"Prior to occupation of the residential flats and operation of the kitchen extract a scheme to protect the residential flats from noise from the ground floor takeaway and kitchen extract shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with approved details, including any necessary mitigation, and shall therefore be retained and maintained as such for the lifetime of the development"*, *"Prior to occupation a mitigation scheme for protecting the proposed first floor flats from noise from the main road in front of the premises (i.e. Oundle Road) shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved details, including any necessary mitigation, and shall be retained and maintained as such for the lifetime of the development"*, *"All ventilation of steam and cooking fumes to the atmosphere should be suitably filtered to avoid nuisance from smell, grease or smoke to persons in neighbouring or nearby properties. Details of the nature and location of such filtration equipment should be submitted to and agreed in writing by the Local Planning Authority before installation and should be installed before the use of the premises commences"* and *"Prior to occupation, details of an enclosed and secure cycle shelter to accommodate a cycle shall be submitted and agreed in writing with the Local Planning Authority. This area shall thereafter be retained for the purposes of cycle parking in connection with the development in perpetuity."*
 - The reasons given for the conditions are: *"In the interest of protecting residential amenity"* and *"In the interests of highway safety and to encourage travel by sustainable modes, in accordance with Policy LP13 of the Peterborough Local Plan (2019)"*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Norman Branston was listed as the appellant on the Appeal Form. It has since been confirmed in writing that the appellant is Mr Zaffer Hussain and Mr Branston is the agent acting on his behalf.

3. The appellant has indicated that the application is part-retrospective and on the Application Form they have indicated that the work has started but is not complete. During my site visit I observed a development which was different to that shown on the application plans. I will therefore refer to the proposal as the proposed development, although aspects of it may be complete.

Main Issue

4. The main issue of the appeal is whether conditions 3, 4, 5, 6, and 7 are reasonable and necessary.

Reasons

5. The Proposed Floor, Elevation and Block plan¹ includes details of the proposed glazing and floor construction. Also submitted with the planning application was the Proposed First Floor Extraction System plan, a Noise Impact Assessment² (NIA) and the specification for the extraction system³.
6. A suitably qualified expert has produced the NIA. It concludes that the proposed floor specifications are sufficient to achieve appropriate mitigation of noise generated by the takeaway within the first floor areas and that the extraction system would have a 'low impact' at all of the identified noise sensitive receivers. Nonetheless, the proposed extraction system appended to the NIA differs from the Proposed First Floor Extraction System plan. Therefore, it is unclear whether the results of the assessment applies to the proposed development.
7. The NIA is also based on several assumptions. This includes the silencer attached to the extraction system providing a flat reduction of 14dB across the frequency spectrum and that the external building envelope is double masonry brick and block construction with a 45mm uninsulated cavity. The specification for the extraction system specifies that the silencer reduces fan noise level by 10-14dB. Also, the Council has indicated that properties along this section of Oundle Road tend to have solid brick walls which provide less noise insulation than the assumed construction. As such, further evidence is required to prove the assumptions and to ensure that the indicated results could be achieved.
8. Consequently, it has not been demonstrated that the proposed noise mitigation measures would provide appropriate living conditions for occupiers of the residential accommodation and further information is necessary to determine that appropriate mitigation could be secured. Therefore, conditions 3, 4, and 5 are reasonable and necessary.
9. An Odour Impact Assessment⁴ was submitted with the planning application. The Assessment does not specify what plans it is based upon or whether it is based upon the installed extraction system. Given there are differences between what has been installed and the proposed extraction systems, it has not been demonstrated that the proposed development would be acceptable. As such, Condition 6 is both reasonable and necessary to ensure appropriate mitigation could be secured.

¹ Drawing No. 22041/2 N

² Reference No. 2704231.2NR Revision. 2

³ Proposal for New Extraction System, 56 Oundle Road, Peterborough, PE2 9PA, Made 2 Shine Ltd

⁴ Odour Impact Statement, dated 4 September 2024

10. I have no reason to doubt the appellant's assertion that the cycle storage has been approved under a previous consent. However, there is no substantive evidence before me of what has been approved. Without further evidence, Condition 7 is both reasonable and necessary to ensure that appropriate cycle storage is secured as part of this planning permission.

Other Matters

11. I acknowledge the appellant's comments in relation to the conduct of the Council during the determination of the planning application. However, these are matters between the appellant and the Council and it is not a matter for my consideration on the acceptability of the proposed development.

Conclusion

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

J Hobbs

INSPECTOR