



Appeal Decision

Site visit made on 26 August 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/M4510/W/25/3367236

208 Stamfordham Road, Newcastle Upon Tyne NE5 3JE

- 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 Sheila Khatun, Hollywood to Bollywood against the decision of Newcastle Upon Tyne City Council.
 - The application Ref is 2025/0365/01/DET.
 - The development is for proposed lawful change of use from use Class E pharmacy with ancillary takeaway/delivery and erection of rear extraction flue duct system with high level termination above eaves.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner heading above has been taken from the application form rather than the appeal form. However, the appellant has indicated in section E of the appeal form that the description of the development had not changed. Therefore, the description of the development in the banner heading above has been taken from the application form rather than the appeal form.
3. The property was used as a pharmacy which is a Class E use. The current application includes the change of use from pharmacy to restaurant with ancillary takeaway/delivery (Class E). However, the use of the property as a Class E use does not need planning permission as the unit is already in that use class.
4. The Council is not disputing the lawfulness of a Class E use at the appeal building. Whilst there are concerns that the scale of the equipment proposed suggests a sui generis use (restaurant with hot food delivery and takeaway), this has not been applied for. Any breach would be a separate enforcement matter and the planning application, and this appeal, have been taken at face value.

Main Issues

5. The main issues are:
 - the effect of the development on the living conditions of neighbouring occupants with regard to light, outlook, odour and noise; and
 - the effect of the development on the character and appearance of the area.

Reasons

Living conditions

6. The upper floors of both the appeal property and the neighbouring buildings in the terrace, and surrounding area, are in residential use and would be near the proposed flue.
7. A document titled Canopy Extract System Design by Miko Engineering Limited details the design of the extraction system and a recommended maintenance schedule. This document states that a noise survey would be required to assess the potential noise impact of the plant against the background noise level. It also identifies that the use represents a high impact risk of odour contamination; and details the type of filters proposed.
8. The appellant has highlighted that the extraction system was designed to avoid excessive noise and anti-vibration mounts would ensure that the noise impacts would remain acceptable. They have also highlighted that the extraction system is designed to mitigate odour impacts resulting in an improvement for neighbouring occupants over what is existing. Several documents have also been submitted detailing general manufacturing information of extraction equipment.
9. However, detailed noise and odour assessments were not submitted in support of the development. Without any substantive evidence, I am unable to find that neighbouring occupants would not be adversely affected by noise or odour from the proposed extraction system. As such, I am not certain that the development would not harm the living conditions of neighbouring occupants.
10. It is acknowledged that the flue would be positioned close to a second floor window of the flat above the host property. Notwithstanding this, its size and level of projection from the rear elevation is such that it would not limit views from this window which would primarily look past the side of the proposal allowing relatively unrestricted views over the rear extension and courtyard. Therefore, I am not persuaded that neighbouring occupants would find the level of outlook across these rooms to be dominated by the proposal. Further, given the scale of the development and orientation of the building I find it would be unlikely that it would harm the living conditions of neighbouring occupants with regard to sunlight or daylight.
11. For the reasons detailed above I cannot be certain that the proposal would not harm the living conditions of neighbouring occupants with regard to noise and odour. Therefore, it would conflict with Policy CS14 of the CS and DM23 and DM24 of the DAP which require that development contributes towards an equitable living environment and ensure that noise, smells and other harmful effects from surrounding land uses and/or associated operations will not have an unacceptable adverse impact on residential amenity. They also require that proposals demonstrate that they would not result in unacceptable adverse environmental and health impacts from the development; this includes noise and odour impacts.

Character and appearance

12. The appeal site is located within a primarily residential area. However, 208 Stamfordham Road is located on the end of a terrace of three properties that comprise retail and commercial uses on the ground floor with residential

accommodation above. A vehicular access lane runs along the side of the host property to the rear, where there is access to the rear door of the buildings on the terrace. Opposite the rear of the terrace is a garage and what appears to be a two storey commercial building.

13. The proposed extraction flue is large and would run from the top of a single storey rear extension of the building and up the rear elevation of the two storey outrigger of the building. While the lane to the rear of the terrace can be accessed by the public, as the lane provides access to a number of commercial premises the flue would not appear unusual within the immediate rear. Further, as the flue would be to the rear of the building views of it would be localised and it would not be visible from within the street.
14. For the reasons detailed above the development would not harm the character and appearance of the area. Therefore, the proposal would accord with Policy CS15 of the Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (CS) and Policy DM20 of the Newcastle upon Tyne Development and Allocations Plan 2015-2030 (DAP) which require that development responds positively to local distinctiveness and character and accommodates an appropriate mix of uses.

Other Matters

15. The development supports a commercial operation that provides both short term and long-term economic benefits. There have also been environmental benefits through the redevelopment and use of an existing building. The Framework identifies that decisions should support the re-use of existing buildings and the positive role that such development can have within local communities, and this scheme does support this aim. Despite the limited scale of the development, I attribute modest weight to these benefits.
16. I have found that, the development would not cause unacceptable harm to the living conditions of the neighbouring occupiers with regard to outlook and light and would preserve the character and appearance of the area. However, there is no substantive evidence before me to demonstrate that the noise and odour produced by the proposal would not harm the living conditions of neighbours which leads to a conflict with relevant development plan policies. This is a conflict with the development plan as a whole. Overall, the benefits that arise from this development do not outweigh the identified harm.
17. My attention has been drawn to representations which consider that the extraction flue would not harm the character and appearance of the area and also support the re-use of the building and the associated economic benefits. As detailed above I attach modest weight to these benefits which is not sufficient to outweigh the harm identified.

Conclusion

18. The appeal scheme conflicts with the development plan and the material considerations do not indicate that the appeal should be determined other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Livingstone INSPECTOR