



Appeal Decision

Site visit made on 16 September 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2025

Appeal Ref: APP/W4705/W/25/3367828

Rehana Lounge, Express House, White Abbey Road, Bradford BD8 8EP

- 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 Mr Ali against the decision of City of Bradford Metropolitan District Council.
 - The application Ref is 24/03564/VOC.
 - The application sought planning permission for the change of use from Use Class A1 to A3 cafe (dessert parlour) at first floor level without complying with a condition attached to planning permission Ref 20/00990/FUL dated 6 May 2020.
 - The condition in dispute is No 3 which states that: The use of the first floor unit as a café as shown on plan 2019035(0_) 03 hereby approved shall be restricted to the house from 08:00 to 23:00 Mondays to Saturdays and from 09:00 to 20:00 on Sundays, Bank or Public Holidays.
 - The reasons given for the condition is: In the interests of the amenities of neighbouring residents and to accord with Policy DS5 of the Core Strategy Development Plan Document.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Council officers recommended that the proposal should be approved but the Council's Area Planning Panel (APP) took a different view and decided, as they are entitled to do, to refuse planning permission. The Council has not submitted a statement of case, but has supplied copies of the officer report, and minutes of the APP. However, it is also incumbent upon me to consider the comments raised by interested parties.

Background

3. The planning permission that gives rise to the disputed condition is application Ref: 20/00990/FUL (the previous permission). This allowed the change of use of the first floor appeal premises from an (A1 use) to a café (A3 use), with an outdoor terrace. Condition 3 to this previous permission manages the operational hours of the use to between the hours shown in the heading above. The condition was imposed in the interests of the living conditions of the occupants of neighbouring residents.
4. This application sought to vary condition 3 so that the premises can operate at between 14:00 to 01:00 on Sunday to Thursday; and 14:00 to 02:00 on Friday to Saturday. No restrictions for operational hours have been suggested for bank or public holidays.

Main Issues

5. The main issue with this appeal is therefore whether or not condition 3 of the previous permission is reasonable and necessary in the interests of the living conditions of the occupants of nearby homes, with particular regard to noise and disturbance.

Reasons

6. The appeal premises mainly comprises the upper floor of a commercial building which is located on the corner of City Road and White Abbey Road. It is also next to the narrow Hardaker Street, which is partly residential. Here the front and side of homes face the side elevation of the appeal building and the adjoining warehouse. Although this mixed use area contains a number of commercial businesses, as well as community facilities, the presence of numerous dwellings within very close proximity of the appeal premises, including those opposite across White Abbey Road means that this is a noise sensitive environment, in which the potential for the effect of any additional noise and disturbance must be carefully considered.
7. The use as a café creates noise, such as music from inside the building. Noise from patrons when arriving and departing the building and using the first floor terrace is also likely. In addition, the noise from patrons using vehicles to visit the venue also occurs. However, as it is proposed to open the business into the early hours of the morning the intensification has the potential to cause noise and disturbance when residents are entitled to expect a reasonable standard of amenity within their homes including, quieter conditions for relaxation and sleeping later in the evening and early hours of the morning.
8. The noise and activity that would occur would be likely to be in close proximity to the occupiers of homes on Hardaker Street. This street provides opportunities for free parking and manoeuvring off the main White Abbey Road and City Road which has parking restrictions. The first floor terrace, although screened by a hit and miss barrier, is also towards the corner of the building facing Hardaker Street. Occupiers of homes across White Abbey Road are less likely to experience the same overall intensity of effects as those residing closer to the site given the separation distance afforded by White Abbey Road.
9. I appreciate the Council's Environmental Health Memo simply states there are no objections. Matters of noise can require technical assessment, however the effect on living conditions also requires the exercise of judgement. To this end, interested parties have raised concerns which suggest that unwanted noise and disturbance is occurring. The Area Planning Panel minutes, dated 11 December 2024, suggest that planning officers were aware of the business operating beyond the approved 23:00 hours. They also acknowledge harm with patrons coming and going.
10. Interested parties living near the premises have identified they have experience odour from smoking, noise from customers, such as shouting, revving cars, slamming doors and loud music. This is stated to have affected sleep and well-being. Despite the absence of technical evidence, there is compelling evidence that the above unwanted effects are not baseless.

11. However, the appellant has sought to objectively address this and identify the existing noise environment and noise levels. The Noise Impact Assessment¹ (the NIA) submitted with the planning application assessed the potential impact of noise from the business on nearby noise sensitive receptors (NSR). Hardaker Street NSR was approximately 25m from the appeal premises and homes on Sedgwick Close NSR across White Abbey Road was around 45m away close to White Abbey Road.
12. The NIA identifies that existing noise levels in the location are relatively high, even in the evening. The ambient noise levels were measured between 23:00 and 02:00 over a single weekend comprising Friday to Monday morning. The levels of noise were less than, but not overly dissimilar to the level of the existing final consented opening hour between 22:00 to 23:00. In this context, the NIA finds the effects from internal, breakout, external noise and idling cars at the parking spaces would be below or similar to the prevailing noise levels.
13. That said, these findings rely to a considerable extent on the existing noise climate. This is for the most part due to the presence of traffic. Despite the significant number of vehicle movements, I am not certain that that traffic movements and patterns are stable, and that the same constant level of traffic would occur at 02:00 as at 23:00. I am not certain that hour to hour, as well as weekday to weekend variations in traffic would not potentially result in fluctuating ambient noise levels, or that noise levels are the same further away from White Abbey Road down the more enclosed Hardaker Street.
14. Even if this is not the case, it seems to me that atypical noise sources from car doors slamming, cars revving or shouting would be likely to have a different impact to that of more recessive road traffic noise or prevailing noise levels. The evidence suggest that indiscriminate parking in the area does occur, and the NIA is not certain that the parking spaces are used by the appellant's business. Furthermore, because there are no parking restrictions on Hardaker Street, vehicle movements and activity could occur immediately outside residential boundaries up and down this street. An increase in prevailing noise is also predicted at the façade of the nearest noise sensitive receptor from idling car noise. I am not convinced it has been demonstrated that there would not be a greater change than predicted, which may represent a significant change.
15. The APP minutes also state that the planning officer did acknowledge the limited benefits of the noise assessment, similarly as I have found, to quieter parts of the night. Again as I have also noted, it is highlighted that noise receptors deployed did not capture noise such as shouting or car engines revving or doors slamming which as specific noise event could have a significant impact even if short in duration.
16. Correspondence has been submitted from Council's assistant ward officer that the neighbourhood policing team had no reports of anti-social behaviour in correspondence dated September 2024. I also note options were considered, such as a Traffic Regulation Order (TRO) and closing of the terrace at 23:00 hours. These have not been explained or proposed in this appeal. Although measures have been put forward in respect of litter picking, fencing to bin areas, CCTV and proposed manned security, in the absence of specific details from the appellant

¹ Noise Impact Assessment ENS Ltd Ref: NIA/11092/23/11317/v1/Bradford 4th October 2023

about how the instances of noise and disturbance experienced might be prevented, I am not convinced that suitable measures could be imposed either through a condition or TRO to manage the identified effects.

17. The appeal site is in a mixed use and commercial area and White Abbey Road is a busy. It is inevitable that there will be some spillage of activity and noise into the surrounding residential streets. Whilst people living nearby will necessarily expect and be prepared for some degree of disturbance from the activities and noise the site is not in the central part of the city and the immediate area is not proliferated by late night social entertainment venues or restaurants.
18. Taking all these factors into account, the extended opening hours have the potential to generate noise and disturbance which would be unduly intrusive at such late hours and detract from the quality of life experienced by the occupiers of homes on Hardaker Street in particular. Whilst the existing noise levels are high, this is more a reason to ensure that the situation for residents does not deteriorate rather than justifying further adverse impact, and I consider that there would be a significant detrimental impact on their living conditions.
19. I conclude that condition 3 of the previous permission is reasonable and necessary, having regard to the effect that varying and removing them in the manner proposed would have on the living conditions of the occupiers of nearby homes, with particular regard to noise and disturbance. The proposal would be contrary to Policy EN8 of the Bradford Core Strategy Development Plan Document, July 2017. Overall this seeks development that development will only be permitted if measure are implemented to provide a s high standard of protection for health, environmental quality and amenity.
20. The proposal would also be at odds with paragraph 135 of the National Planning Policy Framework (the Framework) seeks to ensure that developments create places with a high standard of amenity for existing and future users. Furthermore it would fail to support paragraph 198 of the Framework which advises that decisions should ensure development is appropriate to its location and takes into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life.

Other Matters and Planning Balance

21. The committee minutes indicate that Councillors made a declaration at the beginning of the meeting. They also indicate that there was support from an unnamed ward councillor. Whether the decision was politically motivated is a matter between the main parties and not one which involves the planning merits of the case. Breaches relating to the lawful use of the building, smoking, food and drink sales, pavement parking, licensing and enforcement action are matters are also beyond the scope of this appeal.
22. The planning statement referred other premises with late-night opening. I do not know the full circumstances of the other examples. Consequently, there is insufficient evidence for me to make a direct comparison to the proposal now before me.

23. The Framework seeks to create the conditions in which businesses can invest, expand and adapt and places significant weight on the need to support economic growth. The proposal would provide a social venue for the community and potential contribute to the viability of the business and contribute to the local economy by potentially providing employment opportunities. However, these are not expanded on, and the benefits should not be at the expense of creating places with a high standard of amenity for existing and future users. The benefits of the scheme are insufficient to outweigh the harm I have identified in this case which provides sufficient grounds in itself to resist the proposal.

Conclusion

24. I conclude that the proposal would not accord with the development plan for the area taken as a whole and there are no identified material considerations that indicate the decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

K Williams

INSPECTOR