



Appeal Decision

Site visit made on 21 October 2025

by **N Bromley BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 November 2025

Appeal Ref: APP/K3415/W/25/3369990

Fish Face, Willow Court, Tamworth Road, Lichfield, Staffordshire WS14 9HD

- 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 S Singh, of Fish Face, against the decision of Lichfield District Council.
 - The application Ref is 25/00663/COU.
 - The application sought planning permission for change of use from A1 to A5 (fish and chip shop) without complying with a condition attached to planning permission Ref 13/01328/COU, dated 29 April 2014.
 - The condition in dispute is No 9 which states that: The premises shall be open for custom only between the following hours: 11.45am and 2.00pm and, 4.45pm and 10.00pm on Mondays to Thursdays inclusive; and 11.45am and 2.00pm and, 4.45pm and 11.00pm on Fridays and Saturdays inclusive. There shall be no opening whatsoever on Sundays, Public or Bank Holidays.
 - The reason given for the condition is: To safeguard the amenities of nearby residents, in accordance with the requirements of Policy DC1 of the Local Plan and Policy BE1 of the emerging Local Plan Strategy.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted for a change of use of the appeal property to a fish and chip shop in April 2014 and is now trading. The proposal seeks the variation of condition 9 of the planning permission which restricts the opening hours of the fish and chip shop. In particular, no opening is permitted on Sundays, Public or Bank Holidays. The appellant now seeks to extend the opening hours of the fish and chip shop to include Sundays and Bank Holidays from 4.00pm to 9.00pm.
3. Taking the above into account, the main issue is the effect that varying the opening hours of the fish and chip shop would have on the living conditions of the occupiers of surrounding residential properties with regard to noise, disturbance and odour.

Reasons

4. The appeal property is at one end of a block of three, single storey commercial units. The neighbouring units are in use as a funeral directors and wine shop. The site is located on a reasonably busy main road, albeit set back off the road by a shared access drive.
5. The shared access drive includes an adjacent block of residential maisonettes. There are also houses to the rear and on the opposite side of the road and the wider surrounding area is primarily residential in character.

6. The premises has been operating as a fish and chip shop for some time. The shop is open to customers for six days of the week and for a large proportion of the day, and late into the evening. As such, noise and disturbance from customers visiting the premises already exists during opening hours. Likewise, during my site visit, on a weekday, when the shop was open, I experienced cooking smells from the premises. The odour was particularly noticeable from outside the frontages of the houses opposite, even though there are a bank of trees and the busy road in between.
7. Extending the opening hours to allow the premises to operate seven days a week would inevitably result in more people visiting the premises and more cars parking, opening and closing doors, as well as more footfall to and from the shop. Similarly, increased odours can also be expected from extended cooking times. As such, open seven days a week, there would be little respite for neighbouring occupiers from these activities and odours.
8. It is the case that the appeal site does not physically adjoin the nearby maisonettes and that the shop is next to two other commercial units, one of which the appellant suggests is allowed to open on Sundays. Nevertheless, that shop is not a hot food takeaway and is not likely to generate odour.
9. Notwithstanding that condition No 7 of the original planning permission secured the implementation of an approved odour extraction system, I have limited details of whether the existing system has been installed in accordance with the approved details and is operating at acceptable levels. I am also mindful that the Council's Environmental Health Team has raised concerns.
10. In the absence of site-specific information, and detailed technical assessments, I must take a precautionary approach and therefore find that there is no reasonable assurance that the proposed additional opening hours would not adversely affect the living conditions of neighbouring occupiers.
11. My attention has been drawn to another fish and chip shop¹ elsewhere. The appellant suggests that it is allowed to open on Sundays. However, limited details have been provided. Furthermore, the issue of noise and odour are highly fact sensitive and site specific, turning on the individual circumstances of each case. Given this, even if that other shop does operate on a Sunday, it has not eased my concern that harm would arise in this case.
12. Consequently, for the above reasons, I conclude that varying the opening hours of the fish and chip shop would harm the living conditions of the occupiers of surrounding residential properties with regard to noise, disturbance and odour. As such, the proposal would be contrary to Policies CP3 and BE1 of the Lichfield District Local Plan Strategy (2015), which together and amongst other things, seek to protect the amenity of residents and improve their overall quality of life, avoiding development which causes disturbance through unreasonable noise, fumes or other disturbance.

Other Matters

13. The proposal would result in economic benefits to the existing business through increased trade and revenue from extending the opening hours, which could also

¹ Queens Fish and Chips of 4 Wheel Lane, Lichfield, WS13 7EA

lead to potential employment opportunities. I am also mindful that there is strong support for the proposal from the community, including a petition which is signed by a vast number of people. It is also the case that imminent residential development nearby could increase demand for the premises. There would also be increased variety and convenience for customers, and no objections are raised in respect of traffic or highway safety. However, the economic benefits have not been quantified and overall, the benefits of the proposal would be modest. Accordingly, the benefits do not outweigh the identified harm to the living conditions of nearby residential properties.

Conclusion

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

N Bromley

INSPECTOR