



Appeal Decision

Site visit made on 4 November 2025

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2025

Appeal Ref: APP/W2845/W/25/3372693

Land behind 4&6 The Green, Upper Harlestone, NN7 4EX

- 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 Lee Burrows against the decision of West Northamptonshire Council.
 - The application Ref 2025/1296/FULL was approved on 12 June 2025 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a 10 x 4 ft kiosk shed to be used for preparing and selling drinks and snacks.
 - The conditions in dispute are Nos 5 and 6 which state that:
 - Condition 5: The kiosk hereby permitted, located on land to the rear of 6 The Green, Upper Harlestone, shall be used solely for the purpose of a coffee hut and for no other purpose whatsoever.
 - Condition 6: The kiosk hereby approved shall be open and operating only between the hours of 08:00 and 17:00 Mondays to Saturdays and shall remain closed on Sundays and Bank Holidays.
 - The reason given for both conditions is: To protect the residential amenity of neighbouring properties and to preserve the rural character of the surrounding countryside and conservation area.
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Decision

1. The appeal is allowed and the planning permission Ref 2025/1296/FULL for the erection of a 10 x 4 ft kiosk shed to be used for preparing and selling drinks and snacks, at Land behind 4&6 The Green, Upper Harlestone, NN7 4EX, granted on 12 June 2025 by West Northamptonshire Council, is varied by deleting conditions 5 and 6 and substituting them for the following conditions:
 - 5) The kiosk shed hereby permitted shall be used for the preparation and sale of drinks and snacks only.
 - 6) The use of the kiosk shed hereby permitted shall open between the hours of 10:00 and 17:00 Monday to Saturday and between 10:00 and 15:00 on Sundays and Bank Holidays only.

Preliminary Matters

2. The description of development on the application form is "Retrospective planning required for a 10 x 4 ft kiosk shed to be used as a coffee hut to provide tea and coffee to people walking through the village via the footpath that runs through the land that the kiosk is situated." The local planning authority amended this to "Erection of a 10 x 4 ft kiosk shed to be used as a coffee hut (retrospective)".
3. The term coffee hut has not been defined by either party and whilst this is what was applied for, it is clear from the application form and correspondence referred to in the submissions before me that it was not the intention of the appellant to only prepare and sell coffee. The sale of alternative drinks and ancillary snacks would not result in any material change of use and would be very difficult to enforce given that most coffee establishments sell more than just coffee. I have therefore

amended the description of the development for the purposes of avoiding confusion, and any potential conflict between the description and conditions.

Main Issues

4. The main issues are the effect that varying the conditions would have on i) the living conditions of occupiers of neighbouring properties and ii) the rural character of the surrounding countryside and conservation area.

Reasons

Living conditions

5. The kiosk is situated within a grass field at the end of the long rear gardens of several dwellings. It is accessed via a well-used public footpath that runs alongside its northeast boundary. The field is enclosed by timber post and rail fencing and boundary trees and hedges.
6. The kiosk comprises a small timber shed with serving hatches. It is sat on and surrounded by a small number of paving slabs. It is used to provide walkers passing by with a small range of drinks and snacks. A small number of unfixed tables and chairs are available on the paving slabs and grass immediately adjacent to the kiosk for customers to sit and rest whilst enjoying their refreshments purchased on site.
7. The opening hours sought on the application form are 10:00 to 15:00 every day. This reflects the times displayed on the gate between the site and the public footpath. The kiosk does not open on Wednesdays albeit there is no planning reason for this.
8. The opening hours sought would avoid disturbance to occupiers of nearby dwellings early in the morning or in the evening and would reflect the times that walkers are most likely to be ready for a break. It is therefore unclear why the local planning authority have allowed longer opening times of 08:00 to 17:00, which would be more likely to disturb residents early in the morning, but have restricted any opening on Sundays or Bank Holidays, which is when most people are likely to be off work and enjoying a walk in the countryside. Indeed, the Council's report refers only to the need to impose a condition to ensure the use does not result in noise and disturbance during early mornings or late evenings and makes no reference to Sundays and Bank Holidays.
9. In its appeal statement, the Council suggest that Sunday and Bank Holidays need to be restricted to protect traditionally quieter periods and to prevent increase in noise and parking demand. This is not justified given the Council's conclusions that the use would not result in any material increase in parking or noise, given its limited scale and nature and its purpose of catering for passing walkers.
10. Whilst I agree that the use of the kiosk and its opening times do need to be restricted due to the proximity of neighbouring gardens and the location of the site in a rural area, given the distance of the kiosk from nearby houses and the scale and nature of its operations, I do not consider that its use between 10:00 and 15:00 on Sundays and Bank Holidays would result in any unacceptable noise and disturbance to occupiers of adjoining houses. Moreover, I have not been provided with any evidence of noise and disturbance or of any concerns from Environmental Health. I also fail to see how the serving of alternative drinks to coffee, together

with snacks such as cakes and biscuits, would result in any additional noise or any harm to neighbours.

11. I therefore conclude that the conditions as worded, restricting the use of the kiosk as a coffee hut only, and preventing Sunday and Bank Holiday opening, fail to meet the relevant tests for conditions and are not reasonable or necessary to protect the living conditions of adjacent residents.

Character of the countryside and conservation area

12. The site is located within the Harlestone Conservation Area (HCA) the special significance of which is largely derived from its open rural landscape. The parties are agreed that the small timber kiosk, due to its modest scale, proposed colour, screening around the site, and back drop of hedges and domestic outbuildings and structures, with a few moveable tables and chairs on the paving slabs and grass besides it, would not result in harm to the character and appearance of the HCA, provided the spread of tables and seating are controlled. In this respect I note that condition 4, would control this, and given the scale of the kiosk, and its purpose of serving walkers passing by, it is unlikely to generate or to be capable of catering for large numbers of visitors at the same time.
13. I acknowledge the concerns regarding litter and note from the Council's initial report that the applicant had confirmed that food and drink would be served using only reusable crockery and cutlery. I have not been provided with a copy of this correspondence and the planning permission granted does not include conditions to prevent the sale of take-away drinks or snacks, to require onsite consumption only, or to require refreshments to be served using only reusable cups, plates and cutlery.
14. However, customers enjoying drinks and snacks onsite would be able to hand any litter back to the kiosk operator for disposal, or a small removable bin could be placed alongside the kiosk to be emptied and removed at the end of each day. Those taking drinks or snacks away would dispose of their litter at bins elsewhere along their route if available or would alternatively take their litter home with them. I have not been provided with any evidence of the use generating litter in the area and in any event, walkers often carry their own drinks and snacks, which would also be in wrappers, cans, bottles and cartons, which they are expected to dispose of responsibly.
15. Given that the kiosk and outdoor seating have been granted planning permission, I do not consider that Sunday and Bank Holiday opening between 10:00 and 15:00, or selling alternative drinks to coffee, together with ancillary snacks such as cakes and biscuits, would have any greater effect on the character or appearance of the HCA, or increase the likelihood of litter compared to its use as a coffee hut operating 09:00 to 17:00 Monday to Saturday only.

Other Matters

16. I note that concerns were also raised to the development on parking grounds but that is not relevant to my consideration of the conditions in dispute. The provision of toilet and camping facilities are not part of the appeal before me.

Conditions

17. Whilst I have concluded that it is necessary to restrict the use and opening hours of the kiosk to protect the living conditions of nearby residents and the rural nature of the countryside, the restrictions imposed by the Council are overly onerous, Accordingly, I will replace the conditions with revised ones, which more accurately reflect the development that was applied for, with some additional flexibility should this be required. All other conditions on the planning permission remain in force and unaltered by this decision.

Conclusion

18. For the reasons given, I conclude that the planning permission granted should be varied by replacing the originally imposed conditions 5 and 6 with those set out in the decision above. The variation of these conditions would not result in the development failing to comply with any of the relevant planning policies I have been referred to and provided with copies of.

R. Bartlett

INSPECTOR