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## Appeal Decision

Site visit made on 13 November 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th November 2025

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**Appeal Ref: APP/Z2260/W/25/3370936**

**2-3 The Broadway, Addington Street, Ramsgate, Kent CT11 9JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for 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 Stuart Langley against Thanet District Council.
- The application Ref is F/TH/24/1326.
- The application sought planning permission for variation of condition 4 of planning permission F/TH/13/0691 for the change of use from retail (A1) to retail and cafe (A1 and A3), installation of new shopfront, insertion of door at rear, and use of rear yard as a seating area to allow extended opening hours without complying with a condition attached to planning permission Ref F/TH/16/0213, dated 6 April 2016.
- The condition in dispute is No 4 which states that: The use hereby approved shall not be used other than between the hours of 0900-2100 Sunday-Thursdays and 0900-2200 Friday, Saturday and Bank Holidays.
- The reason given for the condition is: To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy D1 of the Thanet Local Plan and the National Planning Policy Framework.

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### Decision

1. The appeal is allowed and planning permission is granted for the variation of condition 4 of planning permission F/TH/13/0691 for the change of use from retail (A1) to retail and cafe (A1 and A3), installation of new shopfront, insertion of door at rear, and use of rear yard as a seating area to allow extended opening hours at 2-3 The Broadway, Addington Street, Ramsgate, Kent CT11 9JN in accordance with the terms of the application, Ref F/TH/24/1326, without compliance with condition 4 previously imposed on planning permission Ref F/TH/16/0213 dated 6 April 2016 and subject to the attached Schedule of Conditions.

### Application for costs

2. An application for costs was made by Mr Stuart Langley against Thanet District Council. This application is the subject of a separate decision.

### Background and Reasons

3. Planning permission<sup>1</sup> was granted for the change of use from retail (A1) to retail and cafe (A1 and A3), installation of a new shopfront, insertion of a door at the rear and use of the rear yard as a seating area on 10 October 2013. The Council

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<sup>1</sup> Planning application ref: F/TH/13/0691 'the first permission'

subsequently approved<sup>2</sup> the variation of condition 4 of the first planning permission to allow extended opening hours as set out in the banner above on 6 April 2016. Amendments to The Town and Country Planning (Use Classes) Order in 2021 brought use classes A1 and A3 within a new use class E which includes shops, cafes and restaurants but not public houses or bars. At my site visit, I did not observe any retail use taking place.

4. From the information before me, the premises can operate as a cafe, restaurant or any other use within use class E from 0900-2100 hours on Sundays to Thursdays and from 0900-2200 hours on Fridays, Saturdays and Bank Holidays. It cannot be used as a bar and restaurant as bars are not within use class E.
5. The use is subject to the approved plans outlined in condition 2 of the first and second permissions which show a rear outdoor seating area but no structures or kitchen area in the rear yard. Further, conditions 3 and 5 of the second permission require no music or amplified sound to be audible at the perimeter and restrict the use of the rear yard by patrons to 0900-1800 hours Sunday to Thursday and 0900-2100 hours Fridays, Saturdays and Bank Holidays, with the rear doors to be kept closed at all other times.
6. The appellant then sought permission<sup>3</sup> to vary condition 4 of the second permission to allow the premises to open from 0900-2230 hours on Sundays to Thursdays and from 0900-2330 hours on Fridays, Saturdays and Bank Holidays. Following discussions with the Council, this was subsequently amended during the application to 0900-2230 hours on Sundays to Thursdays and 0900-2300 hours on Fridays, Saturdays and Bank Holidays. Thus, the proposal before me is for the opening of the premises for an additional hour and a half from Sundays to Thursdays and an additional hour on Fridays, Saturdays and Bank Holidays.
7. The appellant submitted his planning application on 18 November 2024, and this was validated by the Council on 20 November 2024. A period of consultation with interested parties subsequently followed. The Council failed to determine the application in the prescribed time. The appellant therefore lodged an appeal on 12 August 2025 against the Council's failure to determine his application.
8. The Council has submitted an appeal statement which confirms that it does not object to the proposal, subject to several planning conditions. As such, both the Council and the appellant are of the view that the appeal should be allowed subject to an additional condition relating to the hours of playing music or other amplified sound and operating the premises in accordance with the Noise Management Plan (NMA).
9. In light of all that I have seen and read, I concur with the appellant and the Council that the impacts of the appeal scheme would be acceptable and that there would be no conflict with the relevant policy of the development plan for the reasons set out in their statements. I have no reason to dispute the conclusions they have reached. Therefore, I have allowed the appeal and granted a new planning permission.

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<sup>2</sup> Planning application ref: F/TH/16/0213 'the second permission'

<sup>3</sup> Planning application ref: F/TH/24/1326

## Other Matters

10. Several occupants of nearby dwellings object to the proposal as they consider that longer opening hours would exacerbate issues of noise, disturbance, anti-social behaviour and odour that they are experiencing from the current operation of the premises. These arise from use of a rear outdoor kitchen, customers leaving the premises, music being played, and outside smoking, amongst other things. They raise concerns that the establishment is not operating in accordance with the second permission.
11. The Council's Environmental Health Officer (EHO) considers that there is a high risk of odour impacts to neighbouring residents from the operation of the kitchen in the rear yard. Further, the EHO states that the provision of an external cooking area impacts the ability to comply with conditions 3 and 5 of the second permission. This is because the rear doors need to be regularly opened and closed and the consequent potential noise emanation from the building.
12. However, the external cooking facility is not shown on the approved plans and is not included in the application. It is only proposed to amend the opening hours and not to vary any other conditions under the second permission. The Council states that it is investigating compliance with the other conditions on this permission.
13. Smokers can congregate in front of the building during the current hours of operation, and the proposal would result in this occurring further into the evening. However, as the establishment already exists and there are other licensed premises in the area which could result in people passing by talking loudly and smoking, the EHO does not raise concerns in this regard.
14. The appellant's NMP contains mitigation measures to control noise, disturbance and behaviour. This includes isolating the speakers and sound system, not playing music outside, displaying signs to remind staff and guests about noise from the premises, limiting smoking to 6 people at the front of the building, and staff training. This would apply at all times, not just the additional hours of operation, so a condition requiring the implementation of the NMP would improve the living environment for neighbouring residents during existing operating hours.
15. As the proposal only relates to condition 4 and given the measures in the NMP, the EHO raises no objections to the proposed increase in opening hours to 2230 hours on Sundays to Thursdays and to 2300 hours on Fridays, Saturdays and Bank Holidays. Thus, with additional safeguards, the proposal would not harm the living conditions of neighbouring occupiers and would accord with national and local policies relating to health, well-being and the living environment.

## Conditions

16. The Planning Practice Guidance states that new conditions may be imposed if they do not materially alter the development that was subject to the original permission and could have been imposed on the earlier permission. It also outlines that decision notices for the grant of planning permission under section 73 should also restate conditions imposed on earlier permissions that continue to have effect.
17. The second permission has been implemented, so I have removed the timescale condition. An additional condition requiring no music or other amplified sound to be played after 2230 hours and the implementation of the NMP is necessary to

safeguard neighbouring living conditions. I have also imposed all those other conditions included on the second permission that I consider remain relevant.

**Conclusion**

18. For the reasons given above, I conclude that the appeal should be allowed and grant a new planning permission.

*A Wright*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby approved shall be carried out in accordance with the submitted plans numbered 2840/PL/01, 2840/PL/02, 2840/PL/03 and 2840/PL/04 received by the Council on 19 August 2013.
- 2) No amplified or non-amplified music or any other amplified sound shall be played within the premises after 2230 hours, and the premises shall be operated in accordance with the details contained within the Noise Management Plan, received by the local planning authority on 7 February 2025, with the doors leading from the premises into the rear yard to remain closed after 2100 hours (other than for emergency access and egress) unless otherwise agreed in writing by the local planning authority.
- 3) No amplified music, recorded music or any other amplified sound (from loudspeakers/PA systems) shall be audible at the perimeter of the premises.
- 4) The use of the premises hereby approved shall not be used other than between the hours of 0900-2230 Sunday-Thursday and 0900-2300 Friday, Saturday and Bank Holidays.
- 5) The use of the rear yard shall not be used by patrons of the use hereby approved other than between the hours of 0900-1800 Sunday to Thursday and 0900-2100 Fridays, Saturdays and Bank Holidays. The rear doors shall be kept closed at all other times.