



Appeal Decisions

Hearing held on 23 October 2025

Site visit made on 23 October 2025

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2025

Appeal A Ref: APP/A0665/C/24/3352965

Land at Fox and Hounds Inn, Holmes Chapel Road, Sproston, Cheshire CW4 7LW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by WPIII LLP against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 19 August 2024.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a marquee (the “unauthorised development”).
- The requirements of the notice are to Remove the marquee from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld (however attention is drawn to paragraphs 39 and 40 below).

Appeal B Ref: APP/A0665/W/24/3345293

Fox and Hounds Inn, Holmes Chapel Road, Sproston, Northwich CW4 7LW

- 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 Ms C Stubbs against the decision of Cheshire West and Chester Council.
- The application Ref is 21/01131/FUL.
- The development proposed is Marquee for outdoor dining.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out below in the Formal Decision.

Appeal B

Main Issues

1. The main issues are i) the effect of the development on the living conditions of nearby residents, having regard to noise disturbance; ii) the effect of the development on the character and appearance of the host building and wider area and iii) the financial viability of the business.

Reasons

Background

2. The appeal site is a public house, located in a small hamlet of properties along the A54 road, a short distance to the west of the M6 motorway. It is flanked by residential properties on either side. The marquee, the subject of this appeal, is situated within part of the beer garden, adjoining the rear of the pub.

3. The marquee, which is enclosed, acts as an extended dining area for the pub, and provides a space that can be hired for celebratory functions, other types of social gathering and as a meeting place for various local community groups. It also has a small stage and is used as a venue for performances by acoustic musicians and singers. Tribute acts have also performed there, though supported by pre-recorded backing tracks rather than live bands. It is common for amplified music to be played during social functions.
4. The appellant seeks a three-year temporary planning permission for the marquee, with a view to the structure eventually being replaced by a more permanent solution.

Living Conditions

5. The nearest residential property adjoins the western boundary of the public house, with the side elevation of that dwelling some eleven metres from the marquee. There have previously been complaints regarding excessive noise levels, and frequency of disturbances, resulting from music being played in the marquee. This resulted in the Council undertaking a noise survey and subsequently serving the appellant with a noise abatement notice in January 2024.
6. Since then, it is undisputed the appellant has taken steps with a view to controlling the outbreak of noise from the marquee. This included installing a 'noise limiter' to the in-house pa system in April 2024, which is designed to suppress volume to a pre-determined maximum level. In addition, the west elevation of the marquee has been fitted with some acoustic padding.
7. It is undisputed that since steps were taken to mitigate noise outbreak, the number of complaints has fallen. At the Hearing the Council referred to a single complaint being received so far during 2025, despite some twenty event functions having taken place. Notwithstanding this, it was reported that during this time only a single tribute act had performed.
8. In support of the planning application the appellant has provided a noise impact assessment¹. This sets out that with the noise limiter and a proposed scheme of additional sound insulation in place in the marquee, the predicted resulting noise level inside the nearest dwelling would be reduced to some 32 db(LAeq,T). The study concludes this to be acceptable when having regard to BS 8233:2014² as a reference point, but whilst also taking account of the character of amplified music, which is typically regarded as a source of low frequency sound.
9. However, there is no universally adopted method of assessing noise impact from entertainment premises. The Council, whilst not disputing the effectiveness of noise limitation equipment in principle, is not persuaded the methodology used by the appellant is appropriate for identifying a justifiable maximum noise threshold. In particular, they are concerned that the level of noise insulation provided by dwelling walls, with a partially open window, has been over-stated.
10. Accordingly, in the event planning permission is granted, the Council would advocate the imposition of a condition requiring a further noise assessment. This assessment, they say, should have regard to typical background levels in the

¹ Based on monitoring undertaken in May 2024.

² British Standard 8233:2014 - Guidance on sound insulation and noise reduction for buildings. Maximum desirable levels for indoor noise in the daytime (7:00 to 23:00 hours) are set out as between 35 - 40 dB LAeq,T.

absence of entertainment noise, and threshold levels being established based on such background levels not being exceeded, so that entertainment noise from the marquee is virtually inaudible inside the nearest dwelling.

11. I am mindful that since noise limiting equipment has been installed, the incidences of complaints regarding the operation of the venue have almost fallen away completely. In my judgment, a further noise assessment following a specified methodology would, together with additional planning conditions, allow a solution to be found that would overcome unacceptable disturbance to neighbouring occupiers. Furthermore, in the event the resulting mitigation strategy is in practice not implemented, including a requirement for verification, it would be possible to prohibit the playing of amplified music in the marquee until this has been resolved.
12. The Council also raised concern that the presence of the marquee meant that pub clients would be able to congregate socially at the rear of the pub for longer than would otherwise have been the case, as it would allow for use of this part of the beer garden during poorer weather conditions. This in turn, it says, would disturb neighbouring residents using their garden.
13. However, the existence of the beer garden, which covers a sizeable area and which, from the evidence before me, is free from planning restrictions, is to my mind an important consideration in this assessment. Had the marquee not existed, a degree of noise resulting from use of the beer garden would have been allowed to continue and experienced in any event. It seems to me that any potential additional disturbance over and above use of the beer garden, arising from the presence and social interaction of marquee users, would most likely be at times of day or during weather conditions that would not be conducive to neighbours enjoying relaxation in their garden, at least for any extended periods. Although I appreciate extended use of a private garden could potentially be facilitated by various forms of heating equipment, this is by no means inevitable. Therefore, I do not find the argument to be compelling, that social gathering within the marquee, within its own right, results in increased disturbance to neighbours using their garden.
14. The Council has referred me to various appeal decisions that were dismissed because of concerns about harm to residents' living conditions, arising from noise disturbance associated with marquees³. However, in each of those cases, from the evidence before me, the relationship between the noise source and receptors is lacking in clarity and no formal noise impact assessment, including potential mitigation measures, appears to have been submitted for consideration. The circumstances of those cases are therefore distinguishable from the present appeal, which I shall consider on its own merits, and do not weigh in favour of planning permission being refused in this case.
15. I conclude that, subject to appropriate conditions, the operation of the marquee would not harm the living conditions of residents having regard to noise disturbance. Accordingly, it would comply with Policy SOC 5 of the Cheshire West and Chester Council Local Plan Part One 2015 (LP1) and Policies DM 2 and DM 30 of the Cheshire West and Chester Council Local Plan Part 2 2019 (LP2) insofar as they are concerned with ensuring no significant adverse impacts on the health and quality of life of residents.

³ Appeal decision references APP/C4615/W/16/3153663; APP/G2625/A/12/2183900 & APP/V1505/A/12/2180344.

Character and Appearance

16. The appeal site is within a small hamlet in a rural location. The marquee, which covers an area of some 15 metres by 9 metres, with a height of 4 metres, adjoins the rear elevation of the public house. It was evident from my visit that the marquee is almost entirely screened from the road to the front, by the main building itself and boundary vegetation. Neither can the structure be seen from any public viewpoints further afield.
17. Accordingly, any direct visibility of the marquee is essentially limited to within the grounds of the public house. Because of its inherent white colouring, the marquee appears as a strident feature. However, I agree with the Council that its dimensions are subordinate and proportionate to that of the main building. Whilst, because of its 'soft' fabric covering material, that would be liable to deteriorate over time, the marquee would not lend itself to a permanent planning permission, when considering its limited scale and visibility I consider a temporary planning permission would be justified in this case.
18. Part 2, Class G of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) allows, subject to conditions and limitations, for the provision of marquees within pub grounds, albeit for smaller structures than the one proposed in this case. I have already found the proposed marquee to be acceptable, based on the above considerations. Nevertheless, the principle of a marquee being acceptable in this location, under the GPDO, is a fallback argument that serves to strengthen my view that planning permission ought to be granted.
19. I find that limiting the presence of the marquee to a three-year period would not result in harm to the character and appearance of the host building or wider area. It follows that there would not be conflict with Policies STRAT 9 and ENV 6 of the LP1 or with Policy DM 3 of the LP2 insofar as they seek to secure a high standard of design and protect character and visual amenity.

Financial Viability

20. The appellant has set out that the public house would be unviable without the marquee. Whilst this is unsupported by evidence, I acknowledge from the various representations that it appears to be a very popular venue, highly regarded as a place for family and special occasions and as a provider of employment opportunities for many young people.
21. It was apparent from my visit that the marquee provides dining space for many patrons. I am in no doubt that the removal of the marquee, without replacement provision, would reduce client capacity markedly, resulting in inevitable harm to the business and the probable loss of jobs as a result.
22. I am mindful that the National Planning Policy Framework (the Framework) supports a prosperous rural economy. I consider the marquee would allow for the expansion of the business, whilst potentially acting as a 'stepping stone' towards securing a well-designed permanent replacement structure in future.

Conditions

23. I have had regard to the suggested conditions discussed at the Hearing, including the re-wording of certain conditions, on which the parties were subsequently consulted.
24. A condition restricting the duration of the planning permission to three years is required, as the marquee is not suitable for approval as a permanent structure. A condition confirming the approved drawing is required in the interests of certainty.
25. Conditions are required limiting the operating hours of the marquee and to secure a noise impact assessment and mitigation measures, including noise limiting levels, an acoustic lobby and attenuation to any mechanical plant, in the interests of protecting the living conditions of residents.
26. In wording these conditions, I have had regard to guidance produced by the Institute of Acoustics⁴. Whilst the relevance of this guidance, in principle, is not disputed by the main parties, it is partly geared to the number of entertainment events taking place per week, and the parties do not agree as to the appropriate degree of noise control in this case. Although the appellant says that it would be exceptional for events to occur more than once a week, I am mindful, given past activity as described in the appellant's planning statement and statement of case, and the possibility of later finishing events being held on up to four days per week⁵, there is potential for growth in the use of the marquee for entertainment. I therefore consider a stricter application of the guidance to be appropriate in this case.
27. With regard to operating hours a short period of 'grace' to allow customers to disperse would naturally be expected without this needing to be specified in the wording.
28. With regard to noise mitigation measures there is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of any necessary measures before the development takes place. The conditions, which are considered to be proportionate to the temporary period of the permission, will ensure that the development can be enforced against if the requirements are not met.
29. A condition requiring the retention of the car park, including overflow parking area, is required in the interests of highway safety.

Appeal B conclusion

30. I conclude that, subject to suitable conditions including a time limited planning permission and noise mitigation measures, the proposed development would conform with the Council's development plan and with the Framework. Planning permission should therefore be granted.

Appeal A on ground (f)

31. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice

⁴ Annex to Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003.

⁵ Having regard to the agreed wording of the relevant condition.

are set out in s173 of the 1990 Act and include remedying the breach of planning control (s173(4)(a)). The 1990 Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.

32. With regard to the unauthorised development, the objectives of the notice are to remove the marquee from the land and thus to restore the land to its condition before the breach took place. It follows that the purpose of the notice is to remedy the breach of planning control.
33. The appellant's ground (f) appeal is that the requirement to remove the marquee is excessive, because alternative more reasonable steps could be taken. These include controlling the length of time the marquee is permitted to stay; not allowing amplified music to be played there or replacing it with a smaller structure in accordance with permitted development rights given in the GPDO.
34. However, in accordance with the above considerations, the breach can only be remedied by removing the marquee and restoring the land. To require this is not therefore excessive. The alternative measures, suggested by the appellant, include matters that may potentially be dealt with through the imposition of conditions related to the grant of planning permission. This has been addressed earlier in my decision. The ground (f) appeal therefore fails, however attention is drawn to paragraphs 39 and 40 below.

Appeal A on ground (g)

35. The appeal on ground (g) is that the time given to comply with the requirements is too short and that a period of eighteen months should be allowed. The appellant says they require this period of time to discuss a suitable alternative solution with the Council and to secure and implement any resulting planning permission.
36. Whether a development ought to be granted planning permission is a different question to how long is reasonable to comply with an enforcement notice. Without an appropriate noise mitigation strategy, governed by suitable planning conditions, the development has the potential to result in harm to the living conditions of neighbouring and nearby residents. Furthermore, whilst the loss of the marquee would be likely to harm the business, I am not persuaded this would be fatal to it, also that an acceptable alternative permanent solution could not be found.
37. Accordingly, I conclude there is not a compelling reason to extend the three-month period given in the notice for compliance, which would be proportionate and reasonable. The ground (g) appeal therefore fails, however attention is drawn to paragraphs 39 and 40 below.

Overall Conclusion

Appeal B

38. For the reasons given above I conclude that the appeal should be allowed.

Appeal A

39. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice. However, Section 180 of the 1990 Act states

that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Consequently, the notice will cease to have effect with regard to the erection of the marquee and its use in association with the public house, because this will benefit from planning permission, which overrides the enforcement notice, and will therefore be lawful for planning purposes.

40. For the avoidance of doubt this means that the enforcement notice ceases to have effect once the planning permission is granted. This applies even if the planning permission is temporary, as in this case.

Formal Decisions

Appeal A

41. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

42. The appeal is allowed and planning permission is granted for “Marquee for outdoor dining” at Fox and Hounds Inn, Holmes Chapel Road, Sproston, Northwich CW4 7LW in accordance with the terms of the application, Ref 21/01131/FUL, dated 14 March 2021, and the plans submitted with it, subject to the conditions in the schedule below.

R. Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The marquee hereby permitted shall be removed from the site and the land restored to its former condition on or before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with drawing no: 3696-01 'Marquee Plans'.
- 3) The marquee hereby permitted shall not be open to customers other than between the following times:

10:00 and 21:00 hours Monday to Wednesday and **10:00 and 22:30 hours** Thursday to Sunday.

- 4) Unless **within three months** of the date of this decision a noise impact assessment, in accordance with the methodology in the paragraph beginning * below, is submitted in writing to the local planning authority for approval, and unless the approved noise mitigation scheme (including a noise management plan) is implemented **within three months** of the local planning authority's approval, the use of the marquee for the playing of music shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed, until such time as a noise mitigation scheme is approved and implemented.

The implementation of the noise mitigation scheme shall include the requirement to gain the local planning authority's prior written approval of a verification report.

If no scheme in accordance with this condition is approved **within five months** of the date of this decision, the use of the marquee for the playing of music shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed, until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved noise mitigation scheme, specified in this condition, that scheme shall thereafter be retained, unless otherwise agreed in writing by the local planning authority.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

* L_{Aeq} of entertainment noise should not exceed L_{A90} without entertainment noise and, in relation to any 1/3rd octave band between 40 Hz and 160 Hz, L_{10} of entertainment noise should not exceed L_{90} without entertainment noise, when measured at a free-field position representative of the rear of the noise sensitive receptor at Mila House, Holmes Chapel Road.

The resulting noise mitigation scheme should, as a minimum, include music limiting levels and details of all sound insulation measures, having regard to windows, openings and means of ventilation in the marquee.

- 5) Unless **within three months** of the date of this decision details of a suitable acoustic lobby for the marquee are submitted to the local planning authority for approval, and unless the approved details are implemented **within three**

months of the local planning authority's approval, the use of the marquee for the playing of music shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed, until such time as details of a suitable acoustic lobby are approved and implemented.

If no scheme in accordance with this condition is approved **within five months** of the date of this decision, the use of the marquee for the playing of music shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed, until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the acoustic lobby, specified in this condition, that scheme shall thereafter be retained, unless otherwise agreed in writing by the local planning authority.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 6) Unless **within three months** of the date of this decision, a noise impact assessment of mechanical plant (including extraction, ventilation and heating) associated with the marquee, in accordance with the methodology in the paragraph beginning ** below, is submitted in writing to the local planning authority for approval, and unless the approved noise mitigation scheme is implemented **within three months** of the local planning authority's approval, the use of the mechanical plant shall cease until such time as a noise mitigation scheme is approved and implemented.

The implementation of the noise mitigation scheme shall include the requirement to gain the local planning authority's prior written approval of a verification report.

If no scheme in accordance with this condition is approved **within five months** of the date of this decision, the use of the mechanical plant shall cease until such time as a noise mitigation scheme is approved and implemented.

Upon implementation of the approved noise mitigation scheme, specified in this condition, that scheme shall thereafter be retained, unless otherwise agreed in writing by the local planning authority.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

** The scheme shall ensure that the rating level of noise emitted from any mechanical plant shall be 5 dB(A) below the background noise level (measured as an LA90) at any time as measured at the nearest noise sensitive receptor. The measurement and assessment shall be made in accordance with BS 4142:2014 (Methods for rating and assessing industrial and commercial sound).

- 7) The existing and overflow car parking area shall be retained on the site, unless otherwise agreed in writing by the local planning authority.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Clare Gascoigne	Appellant's Agent
David Thurstan	Acoustic Consultant
Christine Stubbs	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Robert Lester	Senior Planning Officer
Samantha Miles	Planning Enforcement Officer
Martin Doyle	Environmental Protection
Sam Williams	Acoustic Consultant

INTERESTED PARTIES:

James Townley	Sproston Parish Council
Patrick Drury	Local resident

Documents submitted at the Hearing:

1. Council's revised list of suggested conditions.

Documents submitted following the Hearing:

1. Comments from the appellant and Council regarding amendments to the revised list of suggested conditions.