



Appeal Decision

Site visit made on 19 November 2025

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

an Inspector appointed by the Secretary of State

Decision date: 19 December 2025

Appeal Ref: APP/X5210/W/25/3373275

75 Southampton Row, London WC1B 4ET

- 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 Karali QSR Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2025/2209/P.
 - The application sought planning permission for change of use of ground floor premises from a restaurant (Class A3) to a hot food takeaway (Class A5) and installation of plant equipment to the rear (amended description) without complying with a condition attached to planning permission Ref 2018/2176/P, dated 5 September 2018.
 - The condition in dispute is No 5 which states that: *"The use hereby permitted shall not be carried out outside the following times 07:00-00:00 Mondays to Saturdays and 09:00-00:00 on Sundays and Bank Holidays"*.
 - The reason given for the condition is: *"To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, D1, A1, A4 and TC4 of the London Borough of Camden Local Plan 2017"*.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Karali QSR Ltd against the Council of the London Borough of Camden, and this is the subject of a separate decision.

Background and Main Issue

3. The planning permission for the change of use of the appeal property to a hot food takeaway (Use Class A5) includes condition 5, which limits the hours of operation of the use. The reason for this is to safeguard the amenities of the adjoining premises and the area generally. The application subject to this appeal sought to extend the hours of use beyond 00:00 and up to 01:00 Sundays to Wednesdays (01:00 refers to the following calendar day) and up to 04:00 Thursdays to Saturdays (04:00 refers to the following calendar day). This would enable the premises to open and operate as a 'dark kitchen' serving online orders only during the extended hours. It would also reflect the hours of operation of the site's existing premises licence permitting the sale of late night refreshments.
4. The main issue is the effect of the use operating in the extended hours on the living conditions of neighbouring residents, with particular reference to noise and disturbance from deliveries and collections.

Reasons

5. The appeal site occupies part of the ground floor of a larger six-storey terraced building with commercial premises to the lower level and residential use directly above. This reflects the immediate area of Southampton Row, which is predominantly characterised by a mix of commercial and residential uses, contributing to a busy environment. The appeal site also adjoins 73 Southampton Row to one side, which appears to be solely in residential use.
6. The planning permission currently restricts any use of the premises after midnight, with several conditions, in addition to condition 5, imposed to mitigate the effects of the development on surrounding premises, including conditions 6, 7 and 8. Respectively, these restrict any sound emanating from the use being audible within any adjoining premises between 00:00 hrs and 07:00 hrs, set the cumulative sound level from fixed plant, and limit the operation of heating, ventilation and air conditioning plant to the same times as condition 5. The proposal to vary condition 5 would see a relatively modest extension of the use by one hour on some days, but a considerable extension into the early hours of the following morning on Thursdays to Saturdays.
7. The application was supported by a Noise Impact Assessment¹ (NIA) and a Noise Appeal Statement² (NAS) has been submitted with the appeal. The evidence indicates that the occupiers of residential properties would not be adversely impacted by noise from internal kitchen activity or kitchen extract plant during the extended opening hours. Whilst interested parties highlight some issues in this respect, the Council does not dispute this, and their concerns focus on the effects from deliveries and collections. Condition 7 of the planning permission would continue to apply to the cumulative sound level from external building services and fixed plant. The application is silent on the restriction for operating heating, ventilation and air conditioning plant items in condition 8.
8. From the evidence within the NIA and NAS, road traffic and pedestrian activity within the local area contributes to the ambient noise levels, which extends into the evening and early hours. The existing activity and background noise is a level that the residents of nearby properties will likely have become accustomed to during the permitted hours of the existing use. However, the proposal would introduce additional activity extending much further into the early hours that would likely have some different effects comparable to the existing ambient noise. This would include noise and disturbance from delivery couriers entering and exiting the premises. The NAS provides observations of courier activity during a limited time in the evening on one day. Whilst it provides some indication of the use, it relates to an earlier period when busier activity on the street would also be expected in comparison to the extended hours, and it is not clear if this would represent the expected typical activity. The evidence before me also indicates that the additional use would be at times when other commercial premises in the area are closed, which would accentuate the effects of the further activity at the appeal site.
9. The conclusions of the NIA and NAS rely on measures to mitigate the impact on noise from delivery pick-ups. These are set out within the appellant's proposed Operational Management Plan (OMP) submitted with the appeal, reflecting conditions on the site's premises licence. Amongst other things, these include no

¹ Sharps Redmore, Report – Project No 2523049, dated 15 May 2025

² Sharps Redmore, Noise Appeal Statement – Project No 2523049, dated 18 September 2025

deliveries by motorised vehicles (other than electric vehicles) after 11pm, all couriers not engaged in the delivery of customer orders shall wait inside the premises for the customer order, and public access shall cease by midnight with any later sales being carried out by contracted courier only.

10. Despite the intentions of the OMP, the reliance on staff, training, delivery courier behaviour and management practices, would likely be difficult to monitor and enforce. This includes how the couriers would operate and the vehicles they would use given that the appellant uses third party delivery personnel. The OMP indicates a commitment within any contractual agreement with third party delivery services that delivery personnel can receive disciplinary action for behaviour that risks public nuisance. However, it is not clear how this would be adequately managed and enforced in such circumstances.
11. Whilst it is envisaged that the proposal would involve increasing deliveries, rather than being open for customers, the additional deliveries would still increase comings and goings at the appeal premises at unsociable hours. Noise and disturbance, such as people talking and shouting, can have a disturbing effect on residents when they may reasonably expect the area to be quieter in the early hours of the morning, irrespective of existing noise. In addition, if couriers would be expected to enter the premises during the extended hours to comply with the OMP, it is not clear from the evidence before me how potential walk-in customers would be restricted or prevented during this time. Therefore, notwithstanding the appellant's intentions, customers seeking to enter the premises could also cause additional harmful noise and disturbance to nearby residents during the extended hours due to their activity at the site. Prompt action by staff may reduce the impact on nearby residents, although by the time such measures are taken, disturbance would have already been experienced.
12. Notwithstanding the conditions of the premises licence, given the reliance on third party delivery personnel, the use of a planning condition requiring compliance with the OMP would not be enforceable in this respect. Furthermore, different operators who may trade from the site at a future date may operate differently without the same mechanisms set out within the operator specific OMP. The effect of allowing the appeal would be to enable the permanent extension of the opening hours without suitable mitigation measures to avoid adverse effects on residents.
13. Consequently, despite the suggestion of lower numbers of deliveries during the extended hours, from the information before me, I am not satisfied that the proposal would result in an acceptable form of development in this location, or that the OMP would be a suitable mechanism to fully mitigate any unacceptable effects of noise and disturbance on nearby residents. The adverse effects of the development would also be exacerbated given the close proximity to residential properties directly above and adjoining, and there is an absence of similar activity, with the extended use operating when other commercial premises in the area are closed.
14. For the above reasons, I conclude that the proposal to vary condition 5 to allow extended opening hours would harm the living conditions of the occupants of neighbouring residents, with particular reference to noise and disturbance from collections and deliveries. It therefore conflicts with Policies A1 and A4 of the Camden Local Plan (2017) (the CLP). Amongst other things, these policies seek to ensure the amenity of neighbours is protected and that noise is controlled and managed.

15. The decision notice also refers to Policy T4 of the CLP, which encourages the movement of goods by bicycle. As established above, I am not satisfied that the proposed measures set out in the OMP, including a restriction on motorised vehicles, would adequately mitigate the adverse effects on the living conditions of residents from increased activity at the site. However, I do not find that the proposal would conflict with Policy T4 and its aims.
16. The appellant references Policy TC4 of the CLP as being relevant to the appeal. However, as the proposal would cause harm to the amenity of neighbours, it would not accord with Policy TC4.

Other Matters

17. The appeal site benefits from a premises license that includes the requested extended opening hours and followed consultation with the Council's Environmental Health Authority. This relates to the requirements of separate legislation, and whilst considering similar matters of public disturbance, is distinct from planning and has differing considerations. Although the license is a material consideration in the determination of the appeal, it does not mean that planning objections to the proposal on noise and disturbance grounds cannot be raised. Having exercised my own planning judgement based on the appeal submissions and my observations on site, I consider that the opening hours of the premises should not be extended as proposed for the reasons set out above.
18. I have had regard to the site's location within a busy, mixed use area and Central Activities Zone, as well as the contribution the additional hours would make to social and economic objectives of the CLP and the National Planning Policy Framework. However, these nor any other benefits weigh sufficiently in favour of the appeal to justify the harm that I have identified.
19. Whilst no objections have been received from neighbouring residents of Hamilton House, the lack of objection from these properties does not equate to a lack of harm.
20. The site is within the Bloomsbury Conservation Area (the CA). The significance of the CA derives from its urban character and its formally planned arrangement of streets and contrasting leafy squares, contributing to its architectural and historic interest. Parts of the CA are particularly busy, while other parts are relatively quiet and more residential in character. The appeal site is situated within a more modern building in comparison to the historic form elsewhere in the CA, but contributes to its significance forming part of a group of buildings in a busier, mixed use area, contrasting with the quieter squares and streets. The proposed additional use at the appeal site would result in additional comings and goings beyond the permitted opening hours. However, in the context of the CA as a whole, which involves a mix of commercial uses and busy highways, the proposal would have a neutral effect on the CA, thereby preserving its character and appearance.
21. The adjoining 73 Southampton Row with attached railings is a Grade II listed building. Its significance as a heritage asset is derived in part from its architectural and historic interest, being the only early 19th century survival to the frontage of the western side of Southampton Row, resembling townhouses elsewhere. The setting of the listed building is primarily experienced from the street frontage on Southampton Row. Despite its proximity, due to its limited scale in relation to the larger and later period of building in which it sits, the appeal site contributes little to

the setting and significance of the heritage asset. Given the development relates to extended opening hours, and despite the additional activity, the proposal would preserve the setting of the listed building, and its significance would not be harmed.

Conclusion

22. The proposal conflicts with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

N Armstrong

INSPECTOR