



Appeal Decision

Site visit made on 19 December 2025

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th December 2025

Appeal Ref: APP/K5030/W/25/3373952

90 Liverpool Street, London EC2M 2AT

- 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 Poolhouse against the decision of the City of London Council.
 - The application Ref is 25/00044/FULL.
 - The application sought planning permission for the change of use of part ground floor and part first floor from gymnasium use (Class E(d) to a mixed (sui generis) use including restaurant, drinking establishment and competitive socialising use [1,974 sqm GIA] without complying with a condition attached to planning permission Ref 24/01065/FULL, dated 29 November 2024.
 - The condition in dispute is No 8 which states that: *Unless otherwise approved by the Local Planning Authority, the doors on the south-east corner of the site shall only be used for access and egress between the hours of 07:00 and 23:59 each day. At all other times when the premises is open to the public, the north door shall be used for such purposes.*
 - The reason given for the condition is: *To safeguard the amenity of the adjoining premises and the area generally in accordance with the following policies of the Local Plan: DM15.7, DM21.3.*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part ground floor and part first floor from gymnasium use (Class E(d) to a mixed (sui generis) use including restaurant, drinking establishment and competitive socialising use [1,974 sqm GIA] at 90 Liverpool Street, London EC2M 2AT in accordance with the application Ref 25/00044/FULL, without compliance with condition number 8 previously imposed on planning permission Ref 24/01065/FULL dated 29 November 2024 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government is currently in the process of consulting on proposed amendments to the National Planning Policy Framework (the 'Framework'). The draft revised Framework could be subject to significant amendments following the conclusion of the consultation and therefore it has little weight in my assessment of the current appeal. Instead, the extant version of the Framework has been considered.

Background and Main Issue

3. Planning permission was granted in November 2024 for the change of use of the appeal premises from a gym to a restaurant, drinking establishment and competitive socialising venue. The permission was subject to various conditions aimed at protecting the amenity of the area and the living conditions of the occupants of nearby properties, especially those living in the flats opposite the appeal site above The Railway Tavern Public House.

4. Condition 8 limits the use of the doors on the south-east corner of the appeal site to between 07:00 and 23.59. The north door is to be used at all other times when the premises is open, which I understand will be between midnight and 03:00.
5. In the first instance, the appellant is seeking approval of the appeal scheme without Condition 8 imposed. As an alternative, the appellant would be satisfied with the appeal scheme being approved with Condition 8 amended to align with the condition placed on the premises licence, this being that *there shall be no new admissions or readmission of customers to the premises after 01:00 hours save for customers who have temporarily left the premises to smoke*. At present, the tougher planning condition takes precedent over the licensing condition.
6. Consequently, the main issue in this appeal is whether Condition 8 is necessary when considering the effect of the proposed development on the living conditions of the occupants of the flats above The Railway Tavern Public House (PH).

Reasons

7. The appeal premises is a large facility with the potential to accommodate up to 520 customers at any one time. The Council are concerned that use of the doors in the south-east corner of the premises after midnight would result in harmful noise and disturbance to the occupants of the residential flats above the PH, which are around 35m to the south. Although arrivals and departures would be staggered, patrons could queue outside the doors because attendance does not need to be pre booked. Doing so could generate noise because customers may have been consuming alcohol and are probably likely to be attending with friends. Their behaviour could be lively and boisterous. I therefore share the view of the Council, informed by its Pollution Team, that there is some potential for an adverse noise impact from the operation of the south-eastern doors, especially from queuing. The appellant previously accepted the imposition of the disputed condition to address this matter, but that does not prevent them making this appeal.
8. In considering the impact of queuing at the relevant doors, the noise assessment submitted by the appellant suggests that a group of 20 people talking at the upper end of the normal speaking range would result in a sound pressure level of 70db. This could fall to 40db at the flats above the PH given the intervening distance. The noise could fall further when considering the attenuation provided by a window. Such a level would be below the average background noise level (57db) measured between 23:00 and 06:59 in a recent noise assessment. The Council has not disputed this technical finding. The appellant therefore suggests that noise at the entrance doors would not be noticeable or detectable from within the residential properties. Furthermore, the occupants of the flats are likely to be willing to trade some disturbance for the convenience of the location.
9. However, it is unclear if the upper end of the normal speaking range referred to in the noise assessment includes shouting and other high-spirited activity from those waiting in a queue. No specific noise measurements were taken either. Instead, the assessment is based on generalities and background noise levels ascertained from another assessment, the methodology of which is not before me. Accordingly, I am not entirely satisfied, when taking a precautionary approach, that the noise assessment adequately demonstrates that an unrestricted use of the south-eastern doors would not be harmful.

10. Moreover, customers may not stay by the entrance doors. Instead, they could mill about in the public realm closer to the flats, especially if they are waiting for members of their party to join them or for a taxi to arrive when they depart. This would be less likely to have an effect if they were using the northern entrance. This is because the northern entrance provides a direct route to the train station, buses and somewhere under cover to wait for taxis.
11. That said, most people leaving the appeal premises via the south-eastern doors would cross directly over to the Station or move north to the bus stop. As such, there would be little need to mill about close to the flats over the PH. In addition, as part of the premises licence the appellant has agreed to provide CCTV coverage and a dispersal policy to minimise disturbance in the public realm.
12. In any event, the Council has not really made a robust case for preventing use of the doors after midnight. This is because the doors open onto a busy location next to London Liverpool Street Station, near a McDonalds restaurant that is open 24hrs a day and an entrance to the Elizabeth Line. The site is also part of a large leisure complex that includes restaurants such as Los Mochis, which is open late. It is likely that the area is very busy up until the point that the Station closes at 01:03 for cleaning¹. Indeed, the evidence before me does not demonstrate that the noise character of the area changes at midnight.
13. Instead, the premises licence permits use of the doors up until 03:00 but imposes some notable control from 01:00, as no new admissions or readmissions are permitted other than smokers. Therefore, the licensing condition aligns better with the evidence that the area is generally noisy and lively, but activity may tail off as the Station closes. This was a conclusion reached after a rigorous process that included a licensing hearing. Licensing is a separate regime to planning with four objectives - the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm. Consequently, there is some cross over with planning, which has the wide remit of considering amenity.
14. Paragraph 201 of the Framework states that the focus of planning decisions should be whether the proposed development is an acceptable use of land and that it should be assumed that other separate pollution control regimes will operate effectively. Nevertheless, noise is clearly a matter that is relevant to land use and thus planning. It is better to prevent noise than respond to it under the Environmental Protection Act 1990. There is also logic in aligning and coordinating conditions placed on a licensing application with those of a planning application where circumstances suggest that would be appropriate.
15. In this case, there is the potential for some harmful impacts, although the distance and site context provide some mitigation. That said, the noise character may change at around 01:00 making activity at the south-eastern doors, especially queuing, more pronounced. The licensing condition would prevent queuing from this period onwards, as admissions would not be possible. Therefore, if the planning permission aligned with this then the only noise impacts would be from smokers and those leaving the site, but disturbance from this would be minimised by other measures. On balance, this level of control would safeguard the living conditions of the occupants of the flats. Thus, it is necessary to impose Condition 8 in an amended form to make the proposal acceptable in planning terms.

¹ The Station stays closed until 03:40

16. In conclusion, the appeal scheme would not harm the living conditions of the occupants of nearby flats, or the amenity of the area more generally, if Condition 8 is imposed in an amended form. The proposal would therefore adhere to Policies DM3.5, DM15.7 and DM21.3 of the City of London Local Plan, which seek to protect amenity and the living conditions of neighbours.

Conditions

17. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have limited information before me about the status of the other conditions imposed on the original planning permission, I shall add all those that I consider remain relevant.
18. I understand that the details required by Condition 9 have been approved, but it is unclear if the development has been implemented in accordance with them. I have therefore reimposed the condition. Suggested Condition 3 is different to that originally imposed. The appellant has not objected to this and therefore I have imposed the amended version.

Conclusion

19. Subject to the conditions listed below, the proposed development would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Graham Chamberlain
INSPECTOR

Schedule of Planning Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the 29 November 2024.
2. Works shall not begin until a scheme for protecting nearby residents and commercial occupiers from noise, dust and other environmental effects has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the Department of Markets and Consumer Protection's Code of Practice for Deconstruction and Construction Sites and arrangements for liaison and monitoring (including any agreed monitoring contribution) set out therein. A staged scheme of protective works may be submitted in respect of individual stages of the development process but no works in any individual stage shall be commenced until the related scheme of protective works has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved scheme (including payment of any agreed monitoring contribution).
3. Any live or recorded music played within the premises shall be lower than the existing background noise level by at least 10 dBA as determined at one metre from the window of the nearest noise sensitive premises. The background noise level shall be expressed as the lowest LA90 (10 minutes) during which the live or recorded music is or may be played.
4. No audio speakers are permitted at any external location on the building.
5. The Sui Generis use hereby permitted shall not be open to customers between the hours of 03:00 and 07:00 each day, Monday to Sunday.
6. There shall be no promoted events on the premises. A promoted event for this purpose, is an event involving music and dancing where the musical entertainment is provided at any time between 23:00 and 07:00 by a disc jockey or disc jockeys one or some of whom are not employees of the premises licence holder and the event is promoted to the general public.
7. Unless otherwise approved by the Local Planning Authority, the doors on the south-east corner of the site shall be kept in the closed position and only used for access and egress. They may only be kept in the open position in the event of an emergency or for maintenance purposes.
8. There shall be no new admissions or readmission of customers to the premises after 01:00 hours save for customers who have temporarily left the premises to smoke.
9. No cooking shall take place within the mixed use (Sui Generis) unit hereby approved until fume extract arrangements and ventilation have been installed to serve that unit in accordance with a scheme approved by the Local Planning Authority. Flues must terminate at roof level or an agreed high-level location which will not give rise to nuisance to other occupiers of the building or adjacent buildings. Any works that would materially affect the external appearance of the building will require a separate planning permission.

10. (a) The level of noise emitted from any new plant shall be lower than the existing background level by at least 10 dBA. Noise levels shall be determined at one metre from the window of the nearest noise sensitive premises. The background noise level shall be expressed as the lowest LA90 (10 minutes) during which plant is or may be in operation. (b) Following installation but before any new plant comes into operation, measurements of noise from the new plant must be taken and a report demonstrating that the plant as installed meets the design requirements shall be submitted to and approved in writing by the Local Planning Authority. (c) All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels approved by the Local Planning Authority.
11. Before any mechanical plant is used on the premises it shall be mounted in a way which will minimise transmission of structure borne sound or vibration to any other part of the building in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
12. All parts of the existing and any future ventilation and extraction equipment including the odour control systems installed shall be cleaned, serviced and maintained in accordance with Section 5 of 'Control of Odour & Noise from Commercial Kitchen Extract Systems' dated September 2018 by EMAQ+ (or any subsequent updated version). A record of all such cleaning, servicing and maintenance shall be maintained and kept on site and upon request provided to the Local Planning Authority to demonstrate compliance.
13. The existing refuse collection and storage facilities within the building shall be used by the operators of the mixed (Sui Generis) use hereby approved and no waste shall be placed outside the building or on the public highway.
14. Unless otherwise agreed in writing by the local planning authority, no servicing of the Sui Generis premises hereby approved, shall be carried out other than within the building's curtilage through the existing offstreet loading bays. Servicing includes the loading and unloading of goods from vehicles and the collection of waste.
15. The development shall not be carried out other than in accordance with the following approved drawings and particulars or as approved under conditions of this planning permission: Drawing nos. 2270/PO-009, 2270/PO-1000 Rev. B, 2270/PO-1001 Rev. A,

End of Schedule