
Appeal Decision

Site visit made on 6 January 2026

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2026

Appeal Ref: APP/D0840/W/25/3366380

Fire Engine Inn, Higher Fore Street, Marazion, Cornwall TR17 0BB

- 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 St Austell Brewery against the decision of Cornwall Council.
 - The application Ref is PA24/01048.
 - The development proposed is an external terrace at first floor level to the rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupants of neighbouring properties with regard to noise and privacy.

Reasons

3. The Fire Engine Inn fronts Higher Fore Street and sits in a row of primarily residential properties. The land slopes steeply down to the car park at the rear, and a beer garden beyond. A public bar and external patio are accessed from the car park, whilst the restaurant above is served by an entrance door at road level. Due to the difference in levels, the windows in the restaurant are at first floor level at the rear, and look out over the car park to the coast. The appeal scheme involves the addition of an external terrace at this level, accessed from the restaurant, and the additional space would increase dining capacity.
4. Apart from traffic passing on the road, the appeal site is in an essentially residential environment, where background noise levels will generally be low. Consequently, any noise-generating proposals in the area have the potential to impact on the living conditions of residents. The proposed terrace would be elevated above ground level, within a few metres of the boundary with the dwelling to the west, and would be large enough to accommodate 26 diners. There is, therefore, the prospect for noise generated by the use of the terrace to disturb the occupants of this dwelling, and other nearby properties.
5. The application was accompanied by a Noise Assessment¹ prepared by a suitably qualified expert. The Assessment measured background noise levels in the area; modelled noise levels from the existing external patio area; and predicted noise levels from the proposed terrace. The predicted noise level from the terrace assumed 26 diners speaking normally and simultaneously, as a reasonable worst-

¹ Inacoustic - Proposed Terrace at Fire Engine Inn, Marazion, Cornwall - Noise Assessment for Planning Application dated 26th April 2024

case scenario. The Assessment concluded that, post-development, similar noise levels would reach the balcony at the dwelling to the east (Penrose Cottage), and there would be a small reduction in noise levels at Tidewater, the adjoining property to the west.

6. The Assessment took two mitigating factors into account, firstly, the removal of the existing external patio, and, secondly, the provision of glazed screens to either side of the terrace. On the first of these, I note that the word “patio” has been removed from the plans, but there do not appear to be any proposed physical changes to remove it, or to prevent dining/drinking in this area. Nevertheless, both elements of the mitigation could have been secured through suitably worded planning conditions if I had been minded to allow the appeal. With the mitigation in place, the Assessment concludes that the proposal would result in noise impacts that would be within the No Observed Adverse Effect category as defined in the Planning Practice Guidance. Within this category, noise can slightly affect the acoustic character of the area but not such that there is a change in the quality of life.
7. The conclusions of the Noise Assessment have been reviewed² by another suitably qualified expert. The Review identifies that the Assessment was not undertaken in accordance with BS4142; understated the predicted noise levels from the terrace; and relied on ground level modelling. The Review concludes that, taking account of these perceived failings, there would be a Significant Adverse Impact on the noise levels reaching the second-floor windows in the adjoining terrace. However, the Review was based only on a desk-top analysis, and, furthermore, BS4142 is intended to apply to the sound from industrial and manufacturing processes rather than recreational activities, entertainment, or people. Consequently, I have given greater weight to the appellant’s Noise Assessment in my decision.
8. I am mindful that the Noise Assessment based its conclusions on the terrace being used for seated dining only, and with a time limit of 21:30. I see no reason why these limitations could not be enforced through a management scheme secured by a suitably worded planning condition. Even in these circumstances, I understand that noise levels would vary depending on the number and nature of customers at any time, and because the human voice is not a constant. However, the Noise Assessment was based on all 26 diners talking at the same time, so represents a reasonable worst-case scenario that would seldom be surpassed.
9. The terrace would be larger than the existing patio, and it would be elevated. However, it would also be further from the boundary, and the glazed screens to either side would reduce the sideways propagation of noise. Nevertheless, I saw that there are second floor windows in Tidewater that would be above the level of the screens, so would not fully benefit from their protection. Noise from the diners nearest to the boundary would still be contained by the screens, but there would be a direct line of sight between the windows and the centre of the terrace. Noise from this part would not be mitigated. However, it would be a reasonable distance away, and further than is currently the case with the external patio, even taking account of its lower level. Consequently, the level of noise reaching the window from the existing and proposed sources would likely be similar.

² S B Consulting (Engineering & Acoustics) Ltd - Review of Inacoustic’s Report: Noise Assessment for Planning Application PA24/01048 - Date of Issue: 09/07/2025

10. Overall, there is no cogent evidence to cast doubt on the Noise Assessment's conclusion that the proposal would not have an observable adverse effect, subject to the controlled use of the terrace for seated dining until 21:30, combined with the provision of glazed screens and the removal of the external patio. I therefore conclude that, subject to suitable planning conditions, the development would not be harmful to the living conditions of occupants of neighbouring properties with regard to noise. The proposal would, therefore, accord with Policies 13 and 16 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan) and Policy C1 of the Climate Emergency Development Plan Document (February 2023) in this regard.
11. The rear elevations of Penrose Cottage and Tidewater are on a similar alignment with that of the Inn. Consequently, the privacy of occupants within the two dwellings is not currently affected by people looking out of the windows in the rear of the Inn. The extent of the rearward projection of the proposed terrace, and its elevation, would allow for views back towards the windows in the rear walls of the adjacent dwellings. However, the 1.8m high glazed screens on the sides would largely prevent any resultant loss of privacy. From a small part of the terrace there would be a view over the screen on the west side to the second-floor windows in Tidewater. Any views from here would be at an acute angle, and from a lower level, so that views into the room would be extremely limited, and occupants would retain privacy within the building.
12. The proposed screen along the front of the terrace would, however, be considerably lower, and the plans show that, even when seated, diners would be able to look over it. Due to the topography, this would allow views towards the rear gardens of the neighbouring dwellings. Due to the distance from the boundary with Penrose Cottage, and the presence of a high stone boundary wall, occupants of this garden would retain a satisfactory level of privacy.
13. The terrace would, however, be within a few metres of the boundary with Tidewater, allowing for commanding views over the boundary fence and down into the adjacent rear garden, even from a seated position. It is contended that the side panels would channel views over the carpark towards the coast, but it would be readily possible, from most of the terrace, to have a much wider view. St Michael's Mount, to the southwest, would be a particular focal point for diners, and this would involve looking across the garden of Tidewater. Furthermore, it is likely that customers would be drawn, from time to time, to stand on the terrace edge to survey the view. This would exacerbate the already intrusive level of overlooking for occupants of the garden from an elevated position in such close proximity.
14. I acknowledge that there is already some ability to see the garden from the first and second floor windows of the Inn. However, these windows are not so close to the private areas of the garden, and allow for much more limited views. Furthermore, the presence of people within the building would not give rise to the same perception of being observed as would be the case with those on an open terrace, at a raised level, looking over a boundary fence in such proximity. There would, therefore, be an increase in actual and perceived overlooking, which would have a harmful impact on the living conditions of the occupants.
15. Overall, therefore, I conclude that the proposal would not result in harm to adjoining residents as a result of noise. However, there would be a harmful loss of privacy to the occupants of Tidewater through close overlooking of the private rear

garden. The proposal would, therefore, be contrary to Policy 12 of the Local Plan, which seeks to protect individuals and property from overlooking and unreasonable loss of privacy.

Planning Balance

16. Paragraph 85 of the National Planning Policy Framework (the Framework) advises that planning decisions should help create the conditions in which businesses can invest, expand, and adapt. It says significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
17. The proposal would provide 26 additional covers, and would help to safeguard the future of the Inn, which has struggled to maintain viability due to wider pressures affecting the hospitality sector. In accordance with the Framework's advice, this benefit carries significant weight. However, the Framework also says that planning decisions should create places with a high standard of amenity for existing and future users. The harm to the privacy of the occupants of Tidewater would not comply with this advice.
18. Overall, therefore, whilst the benefits to the viability of the business carry significant weight, they do not outweigh the harm to the amenity of the occupants of Tidewater, and the resultant conflict with development plan policy in that regard.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR