



Appeal Decision

Site visit made on 5 January 2026

by **D Marley BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2026

Appeal Ref: APP/P4605/W/25/3373907

1042 Tyburn Road, Birmingham B24 0TL

- 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 Ewa Pus - Zaborowska against the decision of Birmingham City Council.
 - The application Ref is 2024/08018/PA.
 - The development proposed is change of use from a garage to hairdresser salon (Class E).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's officer report refers to the Kingsbury Neighbourhood Centre whilst Policy TP21 of the Birmingham Development Plan 2017 refers to the Kingsbury Road local centre. On querying this matter with the Council I was provided with a policy map extract identifying the local centre with the reference 'Kingsbury'. On the evidence before me I am satisfied that all parties have had the opportunity to comment on the effect of the proposals on the nearby local centre and have used the Council's policy map terminology in my decision.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the vitality and viability of the Kingsbury local centre; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

Kingsbury local centre

4. The property at 1042 Tyburn Road is a residential dwelling and associated garage located in a residential area outside, albeit a short distance from, the Kingsbury local centre. The proposed development would convert the existing garage into a hairdresser salon. At my visit, whilst only representing a snapshot in time, the Kingsbury local centre appeared to be an established commercial and retail area that included a number of existing hairdresser salons, and included a number of units that did not appear to be occupied.

5. Policy TP21 of the Birmingham Development Plan 2017 (the 'Local Plan') sets out that identified local centres will be the preferred locations for retail uses, and that main town centre uses outside identified centres should meet the requirements set out in the National Planning Policy Framework ('the Framework'). The Framework identifies that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered (the 'sequential test').
6. Whilst the proposed development would be located a short distance away from the boundary of the local centre, there is nevertheless no substantive evidence before me that suitable sites are not available or likely to become available within the nearby centre. There is additionally no evidence before me to suggest the proposed development does not constitute a main town centre use defined in the Framework and, whilst the proposal would be located next to the associated residential dwelling and would offer the opportunity for the appellant to work adjacent to their home, the appeal scheme would nevertheless result in a professional service being offered to visiting members of the public.
7. Given the above, and my observation that a number of units within the centre did not appear to be occupied, I cannot therefore be certain that there would be no suitable sequentially preferable locations for the development proposed. Equally, whilst I note that the appellant intends to service an existing client base from their own garage, robust justification has not been provided that the development can only be accommodated in the specific location proposed. Whilst the appellant identifies that planning policies should be flexible enough to accommodate needs not anticipated in the plan, and considers the application of the sequential test to be disproportionate, it is nevertheless the case that the Framework requires consideration of all main town centre uses as part of the sequential test, regardless of scale. Furthermore, the Framework further identifies that where an application fails to satisfy the sequential test, it should be refused.
8. I accept that the proposal would be limited in scale and may not require the prominence or servicing required by other commercial activities. However, in the absence of evidence to the contrary, given its location outside the local centre the proposed development would nevertheless be likely to compete with other similar facilities located within the centre, with a consequential adverse impact on footfall to the local centre and other linked trips. This would divert economic activity away from the local centre and, as a result, the proposed development would be likely to cause harm to the vitality and viability of the nearby local centre.
9. Whilst I acknowledge that the cost of the appellant's existing premises has become unsustainable, that the proposed development would facilitate the continued operation of a small and personal business with an existing client base, and would support flexible working and community based provision, this does not outweigh the wider harm I have identified. In addition, whilst I note the appellant's comments that relocation to another commercial premises would be unviable, in line with my conclusions above I do not have substantive evidence before me as to the availability of alternative premises in sequentially preferable locations.
10. As a result of the above matters, the proposed development would harm the vitality and viability of the Kingsbury local centre. The proposed development would therefore be contrary to Policy TP21 of the Birmingham Development Plan

2017 which, amongst other matters, seeks to maintain the vitality and viability of local centres by making them the preferred locations for retail and other uses.

Living conditions

11. The appeal site forms part of a set of residential properties located in a residential close and sharing a singular access from Tyburn Road. At my site visit, whilst only representing a snapshot in time, there was regular traffic of a variety of forms along Tyburn Road, and there was sufficient available space within the residential close to park a number of vehicles.
12. Whilst the proposed development would be likely to result in some additional vehicular movements to and from the site, given the scale of development these are likely to be limited in nature, and would be unlikely to cause a disturbance to neighbouring occupiers given the well-used nature of Tyburn Road itself and the proposals to limit operating hours of the site via condition. Potential noise impacts from the use of the garage as a salon could equally have been adequately managed by condition, in line with the comments from the Council's Environmental Pollution Control consultee. In addition, given the scale of development and the space available on site, the limited pattern of movement to the site generated by the proposal would not be likely to cause inconvenience to existing occupiers resulting from disturbance arising from vehicles seeking to park within the close.
13. Given the above, the proposed development would not result in an adverse impact to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. The proposed development would therefore comply with Policy PG3 of the Birmingham Development Plan 2017, and Policies DM2 and DM6 of the Development Management in Birmingham Development Plan Document 2021. Amongst other matters, these policies require development proposals to not result in an unacceptable impact on the amenity of neighbours due to noise, and to respond to site conditions.

Other Matters

14. The Council has also raised concerns with regards matters of waste arising from the proposed development, and the potential impact of the use of the garage as a hair salon on the character of the area. However, these matters are not identified as a reason for refusal in the Decision Notice, nor have I been directed to a specific policy conflict that would arise, nor has substantive harm been identified. Therefore, whilst I have had regard to the statements made on these matters by the Council, I have afforded them limited weight in my decision.
15. I acknowledge the appellant's statement that the proposed development would not result in an adverse impact on highway safety. Nevertheless, this matter is effectively neutral in my determination of this appeal.

Planning Balance

16. The proposed development would result in some economic benefits during both construction and operation. However, given the scale of development these would be limited in nature.
17. I have not found harm arising to the living conditions of neighbouring occupiers, nor have I been directed to substantive harm arising with regards matters of

character and appearance, waste or highways matters, however these matters weigh neutrally in the overall balance.

18. The proposed development would conflict with policies related to the location of the proposed use, and would have a harmful effect upon the vitality and viability of the Kingswood local centre. Overall, the benefits of the scheme would not be sufficient to outweigh the harm I have identified.

Conclusion

19. The proposal would conflict with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, the appeal should be dismissed.

D Marley

INSPECTOR