



Appeal Decision

Site visit made on 9 December 2025

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2026

Appeal Ref: APP/P4605/W/25/3372050

McDonalds, Belchers Lane, Birmingham B9 5RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Matthew Tunstall on behalf of InstaVolt Ltd against the decision of Birmingham City Council.
 - The application Ref 2025/00119/PA was approved on 23 May 2025 and planning permission was granted subject to conditions.
 - The development permitted is “installation of five electric vehicle charging stations and ancillary equipment within the car park”.
 - The condition in dispute is No 3 which states that: “The electric vehicle charging stations shall not be available for use by the public between the hours of midnight (00.00) and 07.00am.”
 - The reasons given for the condition is: “To ensure that the amenity of neighbouring residents is not disturbed by noise generated by vehicles visiting the site during night time, when the restaurant is closed and that the charging stations are only used by the public when staff are present to supervise and monitor their use.”
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission has been granted at the appeal site for the installation of five electric vehicle (‘EV’) charging stations and ancillary equipment. Condition 3 of this permission restricts the use of the charging stations outside of the hours of 0700 and 0000.
3. The main issue is whether Condition 3 is necessary in order to protect the living conditions of existing occupiers of nearby properties with particular reference to noise and disturbance.

Reasons

4. The appeal site is located within the car park of a McDonald’s restaurant, which I understand, operates between 0700 and 0000. The location of the proposed EV charging stations would be close to the boundary of the existing car park. The boundary treatment of the edge of the car park is substantial, however beyond this are the rear gardens of a number of residential properties, as well as a small area of public hardstanding.
5. There is no dispute that the restaurant closes at midnight. Although I saw no physical barriers to entering the car park after this time, it is reasonable to conclude that it is likely to be quiet. I cannot be certain that it would not be used for parking or

congregation, however there is no substantive evidence before me that demonstrates that this is currently the case.

6. Therefore, the introduction of five EV charging stations, accessible on a 24-hour basis into the car park would likely lead to activity within it, where currently there is no, or very little, activity when the restaurant is closed.
7. I acknowledge that EVs do not have idling engines. However, using the charging points would involve doors opening and closing as drivers leave vehicles to access charging cables and interact with control panels. It would also involve a degree of time being spent at the charging station, even in the case of rapid chargers such as those proposed here. Therefore, it might also be expected that drivers will listen to car radios during charge periods or have telephone conversations either by handset or via in-car connectivity. Customers may also take the opportunity to spend some time outside of the vehicle, particularly in warmer weather, and if the vehicle is carrying passengers, this may also result in congregation close to the vehicle. These are all activities that would have the potential to generate noise, and if all five charging stations were in use, this would be multiplied accordingly.
8. There is no substantive evidence before me in terms of overnight background noise levels at the appeal site, nor in terms of the levels of noise likely to be generated by customers using the equipment. Although I saw the area is busy during the day, it is unclear whether this would be the case in the early hours of the morning. Given the car park would otherwise be expected to be unoccupied during these hours and having regard to the relatively close proximity of nearby residential properties to the charging stations, in the absence of evidence to the contrary, I cannot be certain that noise associated drivers making use of the EV charging stations, would not be intrusive, and potentially persistent.
9. I acknowledge that the Council considered within its Officer Report that the equipment itself would be unlikely to cause harm with regard to noise and disturbance. However, it clearly differentiated noise generated by the equipment from noise generated by customers, as is evident from the reason stated for the condition. Accordingly, the Council has not acted in a contradictory manner in attaching the condition.
10. Therefore, I cannot be certain that the unrestricted use of the proposed charging stations would not have an unacceptable effect on the living conditions of the occupiers of nearby neighbouring properties with particular regard to noise and disturbance. Condition 3 is therefore necessary, having regard to Policy DM2 of the Birmingham Local Plan Development in Birmingham Development Plan Document 2021 which states that all development will need to be appropriate to its location and not result in unacceptable impacts on the amenity of occupiers and neighbours, including in relation to noise.

Other Matters

11. My attention has been drawn to permitted development rights relating to EV chargers and ancillary equipment set out at Schedule 2, Part 2, Class E of the Town and Country Planning (General Permitted Development) Order 2015.
12. At the time of the original application, Class E made provision, within an area lawfully used for off-street parking, for the installation of an upstand with an electrical outlet for the recharging of electrical vehicles, subject to a number of

conditions. The appellant has acknowledged that the inclusion of ancillary equipment means that the proposal did not fall within the scope of Class E at the time of application. It is, however, contended that upstands alone would have been permitted development.

13. The wording of Class E was amended in May 2025. This brought ancillary equipment within the scope of permitted development, but also included a condition requiring such ancillary equipment to be located more than 10 metres from a residential curtilage. It is again contended that charging upstands alone would amount to permitted development under the revised wording of Class E.
14. In terms of fallback position, whether or not charging upstands alone would have comprised permitted development at the time of the original application, this wording of Class E has now been replaced, with no transitional period. For the purposes of this appeal, it is now largely irrelevant.
15. The question of whether or not charging upstands alone, at the appeal site, would constitute permitted development in accordance with the current wording of Class E, falls outside of the scope of this appeal. I am aware that the appellant has made an application to the Council in order to confirm the lawfulness of such a proposal, however I understand that this has yet to be determined.
16. However, even if the installation of charging upstands in the locations proposed, or elsewhere within the car park would be lawful, and I were to accept that this formed a viable fallback position, the appellant has acknowledged that the ancillary equipment would not be permitted development. It would not, therefore, form part of the fallback position.
17. I understand that the ancillary equipment is required in order to facilitate high-power rapid charging. It is stated that a charging upstand without the ancillary equipment would be slower and less powerful. The two are therefore not wholly comparable or interchangeable, as a rapid charger would have the potential to deliver a higher turnover of vehicles, increasing potential noise disturbance through, for example, doors opening and closing as new customers arrive.
18. Overall, a greater level of activity at the charging points as proposed would be more likely to result in noise and disturbance, than at the slower charging points claimed to form the fallback position. Although the differences could be minor, there is no evidence before me to indicate that fallback position would be materially worse than the appeal scheme. As a result, the fallback position would not be a factor which weighs in favour of the proposal, such that it would outweigh the harm that I have found.
19. Erecting signs in relation to customer behaviour would not prevent unreasonable noise occurring. Although the display of such signs could be enforced, the actions requested on them could not be. Such advice would be particularly difficult to control given that the restaurant would be closed and therefore unstaffed, between midnight and 0700, and in any event would be a separate operation.
20. It is suggested that a planning condition could be used to restrict cumulative noise from plant and machinery, however such a condition would not extend to noise generated by those using the EV charging station. Consequently, this would not adequately mitigate the harm that I have identified.

21. I understand that the EV charging stations could not be switched off. However, this technical limitation does not render the disputed condition unenforceable. Rather, the condition limits the hours of use, and it would be readily apparent to the Council on a visit to the site whether this was the case. Moreover, there are other measures that could conceivably be used to prevent the use of the charging stations during the relevant hours other than disabling them, which means that the condition is not unreasonable.
22. I have been directed to a number of examples where operating hours restrictions for EV charging equipment have been relaxed. These decisions are all from areas outside of the Council's control and will have been reached on the basis of individual circumstances and planning policy context, none of which is before me. Although I have had regard to these decisions, they are not determinative in my considerations.

Conclusion

23. I acknowledge that the proposal would represent a means of mitigating climate change and would support the transition to net zero by improving access to EV charging infrastructure. Being mindful of Paragraph 168 of the National Planning Policy Framework, these are important considerations that weigh heavily in favour of the proposal.
24. However, this would not outweigh the unacceptable harm the removal of Condition 3 would have on living conditions of occupiers of nearby residential properties. The proposal therefore conflicts with the development plan as a whole and there are no material considerations of sufficient weight that would lead me to make a decision other than in accordance with this. Consequently, I conclude that the appeal is dismissed.

C Harding

INSPECTOR