



Appeal Decision

Site visits made on 9 April and 19 May 2026

by **David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th June 2026

Appeal Ref: 6004414

76 High Street, Yarm, TS15 9AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Fatih Omer of La Piazza Richmond North Yorks Limited against the decision of Stockton-on-Tees Borough Council.
- The application Ref 25/0106/VARY, dated 21 January 2025, was refused by notice dated 30 July 2025.
- The application sought planning permission for "Installation of a new shop front and flue to rear. Creation of hardstanding to existing car park to the rear." without complying with conditions attached to planning permission Ref 24/1172/FUL, dated 29 November 2024.
- The conditions in dispute are Nos 2 and 3 which states that:

2. **Approved Plans**

The development hereby approved shall be in accordance with the following approved plan(s);

Plan Reference Number	Date Received
SN/24/001/001	21 June 2024
SN/24/001/002	21 June 2024
SN/24/001/005	21 June 2024
SN/24/001/004/A	4 November 2024

3. **Materials**

The proposed external finishing materials of the new shop front shall be in accordance with the information in the accompanying Planning, Heritage, Design and Access Statement (timber) and details of the colour and finish shall be agreed in writing with the local planning authority prior to installation.

- The reasons given for the conditions are:
 - To define the consent.*
 - To ensure a satisfactory form of development in the interests of the conservation area.*
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Decision

- The appeal is dismissed insofar as it relates to flues to rear.
- The appeal is allowed insofar as it relates to installation of a new shop front and creation of hardstanding to existing car park to the rear and planning permission is granted for installation of a new shop front and creation of hardstanding to existing car park to the rear at 76 High Street, Yarm, TS15 9AH in accordance with the terms of the application, Ref 25/0106/VARY, so far as relevant to that part of the development hereby permitted and subject to the conditions in the attached schedule.

Preliminary Matters

3. I have taken the date of the application in the heading above from the date given in the Declaration on the planning application form.
4. At the time of my visit, the shop front included a menu display extending over an area described as existing brickwork on the submitted plans. This menu display is not specified on the submitted plans, and for the avoidance of doubt I have determined this appeal on the basis of the submitted plans.
5. A Noise Impact Assessment (NIA) was submitted with the appeal. Following my initial site visit, I had a number of queries in respect of evidence within the NIA, including the relationship with noise sensitive receptors. The appellant as submitted an amended NIA (NIA2) which has provided further evidence on these issues. The Council has had the opportunity to comment on this but no further comments have been received. I revisited the site to assess the evidence in NIA2.

Background and Main Issues

6. The appeal site is in use as a restaurant. Planning permission has previously been granted for development including the installation of a new shop front and flue to rear. This permission was subject to conditions requiring the development to be carried out in accordance with the approved plans and controlling the use of materials for the shop front. However, the works have been undertaken and do not reflect the approved details regarding the flue and shop front. The appellant is therefore seeking to vary the relevant conditions retrospectively to reflect the development as built.
7. The Council has not raised any concerns in relation to the new shop front, and no objections have been received on this element of the proposal.
8. On that basis, the main issues are:
 - Whether sufficient evidence has been submitted regarding the amenity of the area and the living conditions of nearby residents in respect of noise and odour; and
 - The effect of the proposal on the character and appearance of the Yarm Conservation Area (CA).

Reasons

Noise and Odour

9. The original planning permission related to a single flue located on the rear of the building. The proposal which is the subject of this appeal relates to 2 flues in approximately the same position.
10. In respect of **noise**, the appellant has submitted an amended Noise Impact Assessment (NIA2) with the appeal which concludes that the system which includes silencers and an acoustic jacket would have a low impact on Noise Sensitive Receptors (NSRs). NIA2 has identified extents of residential development closest to the rear of the site which reflect those I observed on my visits, including Carleton Terrace from which a number of objections have been submitted by residents. However, the identified NSR1 identified in the NIA2 is

located towards one end of Carleton Terrace and would not be the closest NSR to the flues. This calls into question the robustness of NIA2.

11. Moreover, as NIA2 recognises, the calculation method used is subject to uncertainties, but is an accepted method when the noise sources are yet to be introduced to the site. However, the flues are in place and have been for some time. It would therefore be appropriate to base an NIA on measurements undertaken on site when the flues are in operation, and the appellant's evidence does not do this.
12. Both of my visits took place at a time when the restaurant was open and the flues were in use. At the time of my visits the weather was calm and there was some intermittent noise from vehicle and pedestrian movements within the car park, as well as people talking and birdsong. Despite activity associated with the car park, the sound environment was of a relatively secluded area. This was particularly the case to the front of Carleton Terrace where at ground level a significant degree of screening is provided by a high wall and buildings.
13. I observed that the noise from the flues, in particular the larger of the 2 units, was readily apparent as a constant low frequency hum with a slight warbling element. This was apparent from a significant distance from the site across the car park to the rear. The noise from the flues was also apparent when standing to the front of nearby properties on Carleton Terrace, and in that instance I am mindful that I was standing behind a high wall which will have provided significant noise screening.
14. Even allowing for the potential reflection from the hard surfacing of the car park and nearby buildings, the volume and characteristics of the noise I observed is representative of the intrusive noise referred to by nearby residents. I am particularly mindful that the photos provided by nearby residents show a clear line of sight of much of the extent of both flues from upper floor windows, so that there will be minimal screening provided by intervening features.
15. I have had regard to the evidence and conclusions of NIA2. However, although NIA2 does allow for the tonality of the noise source, the calculated noise rating level simply does not reflect the noise levels I observed from the flues on my visits.
16. Reference has been made to noise from other features associated with the restaurant, such as refrigeration equipment. However, these are not part of the proposal before me. Nevertheless, in the interests of clarity, at the time of my visits I did not observe any noise from refrigeration units and the noise from the site was clearly dominated by the noise from the flues.
17. In conclusion on the matter of noise, the appellant's noise evidence, in particular NIA2, is based on a method for when the noise sources are yet to be introduced to the site. However, the noise sources have been introduced onto the site, and the noise environment I observed does not reflect the conclusions of NIA2. On that basis, I consider that the appellant's noise evidence is not accurate and robust.
18. In respect of **odour**, the appellants have submitted an Odour Impact Assessment (OIA) with the appeal which concludes that subject to proper maintenance of the proposed extraction system then it is highly unlikely that odour would become an issue in the future.

19. At the time of my visits odour from the appeal site was not apparent. However, comments from residents of properties in close proximity to the site refer to odour associated with the business and that this does not dissipate.
20. The original approved plans included a specification that the extraction flue would be 1m above the ridge height of the adjacent building. In the appeal before me, 1 of the flues would not project above the parapet of the adjacent flat roofed building, and a larger flue would project above the parapet to only a limited degree. Although there is a large open car park to the rear, the location of the flues has an enclosed character on 3 sides due to the proximity of higher buildings. Even allowing for the separation distance to some of the buildings, the relatively enclosed context would reduce the ability for odours from the flues to be dispersed.
21. The OIA is based on a dispersion criteria of 'moderate' which relates to discharging 1m above eaves at 10-15m/s. However, 1 of the flues does not project above the parapet of the flat roof, and although the larger flue projects above the parapet I am not persuaded that this is by at least 1m. In any event, the flues do not project above the eaves of the closest pitched roof building or the eaves of the main building fronting onto High Street. On the basis of what I have observed and read, I am not persuaded that the OIA represents the circumstances of the proposal and the context of the site, particularly with regard to dispersion and the relatively enclosed nature of the site. On that basis, I consider that the concerns of the Council regarding the evidence in respect of odour and the observations of nearby residents are well-founded.
22. The appellant contends that the Council does not provide detailed reasoning in respect of residential amenity in its Statement of Case, implying that the Council considers that the submitted assessments on noise and odour show compliance with the appropriate regulations. However, to my mind the Council's Statement does not represent a tacit acceptance that the submitted evidence addresses its concerns, and in any event this does not outweigh my conclusions based on my own observations and the submitted evidence.
23. The appellant sets out that the previous use as a bank and more recently as a vacant building would have produced very little noise or odour, and the nearby residents would have got used to that. However the appellants also states that there will be other residential properties around the Yarm high street near restaurants, public houses, and hot food takeaways where residents have become accustomed to some noise and odour and expect it. However, it has not been demonstrated that extraction systems associated with other businesses in the area lead to the same issues that are raised by the appeal proposal. In any event, it is the appeal proposal that is the 'agent of change' in this area and it should be required to provide suitable mitigation.
24. I therefore conclude that the appellant's evidence in respect of noise and odour is not robust, in that insufficient evidence has been submitted to demonstrate that the proposed flues do not adversely affect the amenity of the area and the living conditions of nearby residents with regard to noise and odour. The flues which are the subject of this appeal are therefore contrary to the requirements of Policies SD1 and SD8 of the Stockton-on-Tees Local Plan 2019 (the Local Plan) regarding the amenity of existing and future occupants of land and buildings. The proposal is also contrary to the National Planning Policy Framework (the Framework) which

seeks to achieve a high standard of amenity for existing and future users of places.

Character and Appearance of the CA

25. A focus of the CA is the High Street and market place, and as set out in the CA Appraisal the buildings along High Street are of the highest quality, although many become less grand and imposing on rear elevations. The character of the High Street is derived from its mix of town centre uses and there is some variety in the design, age and scale of buildings. Another feature of the CA are the Wynds which project from the High Street at right angles and are composed of smaller dwellings and other buildings of lesser importance and quality. The Wynds generally maintain a strong courtyard feel with a straight continuous building line and are of an enclosed nature that greatly adds to their character. The CA Appraisal sets out that the Wynds have become popular as Yarm's profile has been raised. It is the historic importance, architectural quality and intricate physical form within a meander of the River Tees that contribute to the importance of the CA as a designated heritage asset.
26. The flues are located on the rear elevation of a relatively modern flat-roofed building projecting to the rear of the main building. It is the main building that fronts onto High Street, and the rear part of the appeal site is of an understated and utilitarian character. However, it is bounded on either side by the Wynds of Carleton Terrace and Blenavon Court, which are representative of the courtyard character of Wynds referred to previously. There is also a public car park extending to the rear towards a highway leading along the bank of the Tees. Despite the extent of hard surfacing and the functional nature of the car park, this area is of a pleasant and open character due to extents of planting, decorative surfacing and the setting provided by the adjacent Wynds.
27. Within this context, the proposed flues are of a bulky, obtrusive and industrial appearance that detract from the pleasant character of this area within the CA. The open aspect to the rear means that the flues are readily visible from the public realm of the car park and detract from the setting of the nearby Wynds. Based on photos provided by third parties, the flues are also prominent in views from the upper floors of dwellings on Carleton Terrace.
28. The rear of a commercial property such as the appeal site will be likely to contain features of a utilitarian appearance, and the CA Appraisal emphasises that the area to the rear of High Street is of lesser importance and quality. Indeed, there is a flue located to the rear of a building in the vicinity of the appeal site. However, the nearby flue is of a much slimmer design, and although it is taller it represents an acceptable compromise between visual appearance and the functional requirements of features such as this.
29. The appellant refers to other flues, plant and storage cages to the rear of properties, but it has not been demonstrated that these are a direct parallel to the appeal proposal with regards to design, setting and the history of the site. Even allowing for the functional nature of ventilation and extraction systems and the understated and utilitarian nature of the rear of the site, the proposed flues are unduly clumsy and overdominant features that detract significantly from the character and appearance of the CA.

30. The Council refers to views from a public footway to the rear of the site, and I saw that there was a right of way close to the river bank which was well-used by pedestrians. This right of way is bounded by a high wall adjacent to the car park which shields views of the appeal site from the footway. However, views of the flues would be enabled via the entrance to the car park, and in any event the shielding provided by the wall does not negate the harm I have identified to other views of the appeal site.
31. The appellant has proposed the use of a louvred screen to block views of the extraction system from public vantage points. However, the screen as proposed would be a contrived and awkward feature projecting over part of the rear elevation. It has also not been demonstrated how the screen would address views from Carleton Terrace, and indeed the screen itself may be an overbearing feature due to the proximity to the windows of the dwellings. The colour of the flues could also be addressed by condition, but this would do little to mitigate for their bulk and jarring design. The provision of the proposed screen or the external treatment of the flues would not address my concerns regarding character and appearance, and indeed the screen itself would be an incongruous feature leading to significant harm to the character and appearance of the CA.
32. The appellant also emphasises that the only alternative location for the extraction system would be on the roof of the building which would increase its visibility. However, it may be possible to implement a flue of a slimline design such as exists on premises elsewhere in the CA. Although a taller flue on the roof may be more prominent, a suitable design may mitigate that prominence. The appellant also contends that the extraction system cannot be made smaller without there being an effect on the amenity of nearby residents, but has not provided substantive evidence to demonstrate this.
33. The Council has raised no concerns regarding other elements of the proposal, including the new shop front. Based on what I have seen and read I agree that the other elements of the scheme will not harm the character or appearance of the CA. However, this does not negate the harm I have identified regarding the flues.
34. I therefore conclude that the proposed flues lead to significant harm to the character and appearance of the CA, and that this would not be mitigated by measures such as the erection of a screen or the painting of the flues. That said, given the scale and location of this element of the proposal, the harm arising to the CA would be less than substantial.
35. The Framework requires that less than substantial harm is balanced against any public benefits. I am mindful that an extraction system is required to protect the living conditions of nearby residents.
36. However, I have previously concluded that the extraction system as built does not protect the living conditions of residents in respect of noise, and the evidence provided by the appellants regarding both noise and odour is not robust. There is also no substantive evidence before me to demonstrate that an extraction system of a suitable design cannot provide suitable protection for living conditions. Similarly, although the restaurant provides economic benefits through investment and employment and provides a recognised facility in the town centre, it may be that these benefits could still be provided with an extraction system of a more appropriate design. On that basis, the public benefits arising from the appeal

proposal and the business it serves carry no more than limited weight in favour of the appeal.

37. The limited public benefits arising from the flues would not outweigh the great weight I give to the harm to the CA, particularly as it has not been demonstrated that more suitable designs of extraction system are unviable. The implementation of the flues on the basis of the appeal proposal will therefore conflict with the heritage requirements of Policies SD5, SD8 and HE2 of the Local Plan. The proposal will also conflict with the Framework with regards to conserving and enhancing the historic environment.

Other Matters

38. Comments from third parties have raised concerns regarding the use of the car parking area associated with the business. However, this can be addressed by a condition stating that the hardstanding area to the rear will remain as a car park, and I am mindful that there will be activity associated with the existing public car park to the rear. The Council has not objected to the use of the hardstanding for car parking, and I see no reason to disagree.
39. The Council's Officer Report refers to the comments of the Historic Buildings Officer and the setting of a listed building. However, the setting of a listed building is not referred to in the Council's reasons for refusal, and I have not been provided with the Listing Details of any relevant heritage asset. On the basis of the evidence before me, the proposal would not harm the setting of a listed building.
40. The appellant submits that the property is being operated within its conditioned hours. However, they have confirmed that the planning permission does not condition the opening hours and that they are included in the premises licence. The licensing document provided to me relates to the supply of alcohol rather than wider operating hours.

Conditions

41. In its Statement of Case, the Council has referred to a number of recommended conditions but has not provided a list of suggested conditions. Nevertheless, I have had regard to the comments of consultees and the conditions placed on the original permission.
42. I have not specified a condition relating to the commencement of development as the development has already commenced. I have reimposed the plans condition insofar as it relates to the flue to rear and the creation of hardstanding to existing car park to the rear as originally proposed in the interests of certainty.
43. I have added a condition in respect of the shop front being implemented in accordance with the amended details, also in the interests of certainty. This replaces Condition 3 of the previous permission.
44. A condition in respect of the painting of the flue is required in the interests of character and appearance.
45. The Council's Environmental Health Unit (EHU) has suggested conditions in respect of noise and odour and I note the appellant's response to these in their final comments. The noise condition is more detailed than that imposed on the previous consent, and the condition in respect of odour is an additional requirement

compared to the previous permission. Although the appellant has submitted reports regarding noise and odour, I have concluded that they do not represent the environment and context I observed on site, and that they are not sufficiently robust. On that basis, I consider that the conditions suggested by the EHU regarding the submission of further details are reasonable and necessary in the interests of the living conditions of nearby residents. I have amended the conditions to reflect the fact that development has commenced, and to ensure that the approved measures are implemented and maintained.

46. Condition 5 on the original permission relating to noise disturbance from the new flue is not required as this is superseded by the new noise condition suggested by the EHU. A condition in relation to the position of the flue is not required as this is specified on the approved plans and will be addressed further by the details submitted in respect of the noise and odour conditions.

Conclusion

47. For the reasons given above the appeal should be allowed in part and dismissed in part.

David Cross

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos:
 - SN/24/001/001, dated June 2024
 - SN/24/001/002, dated June 2024
 - SN/24/001/005, dated June 2024
 - SN/24/001/004/A, dated June 2024 (revised 16.8.24)
- 2) Notwithstanding Condition 1, the new shop front shall be carried out in accordance with drawing refs:
 - SN/24/001/004/C, dated January 2025 (revised 5.2.25)
 - Proposed Shop Front, Front Elevation, Rev 0, dated 3/2/25
 - Internal Swing Doors Horizontal Section, Rev 0, dated 3/2/25
 - Proposed Shop Front, Vertical Section Through, Rev 0, dated 3/1/25
- 3) The flue hereby approved shall be factory painted matt black and shall remain as such hereafter.
- 4) The hardstanding area to the rear will remain as a carpark and should not be used for any other purpose (including temporary events) without the prior written approval of the local planning authority.
- 5) Within 3 months of the date of this permission (or in accordance with a timescale agreed in writing by the local planning authority), a scheme shall be submitted to and approved in writing by the local planning authority demonstrating that the rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 1-hour

LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

The approved scheme shall be implemented in full within 3 months of the date of this permission or in accordance with a timescale agreed in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained.

- 6) Within 3 months of the date of this permission (or in accordance with a timescale agreed in writing by the local planning authority), a detailed report in accordance with 'IAQM: Guidance on the Assessment of Odour for Planning' shall be submitted to and approved in writing by the local planning authority in respect of the ventilation and fume extraction system.

This report shall include a full technical specification of the position of the flue outlet points and the type of filtration or other odour treatment such as grease traps, pre-filters, Electrostatic Precipitator, Carbon filters and odour neutralizer or other odour treatment which shall be installed and used at the premises which shall be suitable for the planning permission use class of the premises. The report shall also cover air flow velocity, dispersion, size of kitchen, cooking type (odour and grease content) as detailed in EMAQ Guidance, a maintenance programme for items such as replacement filters and cleaning schedules, the impact of odour upon nearby sensitive receptors and appropriate mitigation measures should be recommended, installed, and maintained for the lifetime of the development.

The approved scheme shall be implemented in full within 3 months of the date of this permission or in accordance with a timescale agreed in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained.

End of Schedule