

APPLICATION FOR THE DISCHARGE OF A PLANNING CONDITION

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/02645
APPLICATION TYPE:	DISCHARGE OF CONDITION
SITE ADDRESS:	Divine Cafe, Main Road, Cherhill, Calne, SN11 8UU
PROPOSAL:	Discharge of conditions 7 (Noise impact assessment) and 8 (Scheme of works - odour and noise) of PL/2022/07611.

PROPOSAL

This report has been prepared to support the application for the discharge of conditions attached to the planning permission granted for the development at THE CAFE SITE, MAIN ROAD, CHERHILL, CALNE, SN11 8UU. The planning permission was granted on 03 March 2023 under reference number PL/2022/07611. This application seeks to discharge the following condition(s):

Condition 7

No new ventilation, extraction or air conditioning plant/machinery shall be installed anywhere at the site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from the kitchen extraction system. The approved scheme shall be implemented in full before the use commences and maintained at all times thereafter. In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a thorough background noise survey and noise assessment in accordance with BS4142:1997 (or any subsequent version) and demonstrate that the rating noise level at the nearest residential property is not above the background noise level.

REASON: In order to safeguard the amenities of the area in which the development is located.

Condition 8

No new extraction or ventilation plant/machinery shall be installed anywhere at the site until a scheme of works for the control and dispersal of atmospheric emissions, and in particular odour from any kitchen extraction has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented in full before use commences and shall be maintained in effective working condition at all times thereafter. In discharging this condition we recommend the applicant consults the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (EMAQ, 2018)

REASON: In order to safeguard the amenities of the area in which the development is located

CONSULTATION

Public Protection were consulted on the details submitted in support of the discharge of Conditions 7 (noise control) and 8 (odour control).

Following review of the submitted information, Public Protection confirmed that the details provided are sufficient to discharge the relevant conditions. No objections were raised, and no further information was requested.

No additional comments were received from other consultees in relation to these conditions.

Details Submitted for Approval:

- Noise Impact Assessment Revised prepared by NOVA Acoustics Ltd; Ref: NP-013957, dated 28/04/2026. Received 11 May 2026
- Odour Risk Assessment by BWF; Ref E23435; Received 23 April 2026
- Fan Specification by Systemair; Received 23 April 2026
- Kitchen Extraction System Plan; DWG No. 23543; Received 23 April 2026
- Prediction Noise Levels; Received 23 April 2026
- Specific Extract Flow Rate Calculation; Received 23 April 2026

Decision: The details submitted in relation to these conditions are approved and discharged.

ASSESSMENT

Condition 7:

Case Officer Response:

Details submitted in support of this condition include a Noise Impact Assessment prepared by NOVA Acoustics Ltd (Ref: NP-013957, dated 28/04/2026). The report includes a background noise survey and an assessment undertaken in accordance with BS4142:2014+A1:2019, which is a subsequent version of the standard specified within the condition.

The assessment establishes the existing acoustic environment and considers predicted noise emissions from the proposed plant equipment. It demonstrates, based on the submitted specifications and calculations, that the rating noise level at the nearest noise-sensitive receptors would not exceed the adopted assessment criterion. The development is therefore classified as having a 'low impact', corresponding to a No Observed Adverse Effect Level (NOAEL) in accordance with national policy.

The report also sets out an action plan to ensure the assessed plant specifications and mitigation measures are implemented as part of the development.

The Council's Public Protection team has been consulted and has confirmed that the submitted information is sufficient to discharge the condition.

On this basis, it is considered that the proposal demonstrates appropriate acoustic insulation and noise control measures, and the requirements of Condition 7 have been satisfactorily met.

Condition 8:

Case Officer Response:

The Odour Risk Assessment has been undertaken in accordance with the DEFRA 2005 Annex C methodology, as referenced within the EMAQ (2018) guidance on the control of odour and noise from commercial kitchen exhaust systems.

The assessment considers dispersion, proximity to receptors, kitchen size, and cooking type, resulting in a total score of 28. This places the development within the category requiring “High Level Odour Control.”

The submitted extraction system details, including layout drawings and flow rate calculations, demonstrate that the system has been designed to provide appropriate mitigation and dispersal of emissions in line with this requirement. This includes suitable discharge arrangements and filtration measures to minimise odour impacts.

The Council's Public Protection team has reviewed the submitted details and has confirmed that the information provided is sufficient to discharge the condition, with no objections raised.

It is therefore considered that an acceptable scheme for the control and dispersal of atmospheric emissions, including odour, has been secured. Subject to implementation and ongoing maintenance of the approved system, the requirements of Condition 8 are considered to have been satisfactorily met.

Please note that in accordance with national planning guidance, discharge of condition applications are procedural in nature and do not require public consultation. While third-party representations may occasionally be received, they are not formally invited and do not form part of the statutory decision-making process. The assessment of this application has been based solely on whether the submitted details satisfy the requirements of the relevant planning condition.

This letter acts as official confirmation and therefore I suggest that you attach it to the decision notice as evidence that you have complied with the requirements of the relevant condition(s).

Yours faithfully

Head of Development Management

NOTES:

1. **Approved Conditions:**

If the condition(s) have been discharged, you may proceed with the development in accordance with the approved details. Please ensure that the approved documents or plans are implemented on-site and adhered to as part of the development. It is important to comply with all conditions of the planning permission to ensure the development remains lawful.

2. **Refused Conditions:**

If the discharge of the condition(s) has been refused, you may submit revised details or further information to address the issues raised as part of a further discharge of the condition's application. Please ensure that any resubmission adequately addresses the reasons for refusal. Alternatively, you can appeal the Council's decision (see below for details).

3. **Partially Discharged Conditions:**

If the condition(s) have been partially discharged, the remaining details that are required must be submitted for further consideration. You should provide the necessary documents in accordance with any timeframe or trigger specified in the condition to allow for the full discharge of the condition(s).

Right of Appeal:

If you are aggrieved by the decision to refuse to discharge a condition or if the condition has only been partially discharged, you have the right to **appeal** the decision to the **Planning Inspectorate**.

The appeal must be made within **6 months** from the date of this decision notice. If the appeal is submitted after this 6 month period, the Planning Inspectorate will only consider it if there are exceptional circumstances.

The procedure for making an appeal is set out under **Section 78 of the Town and Country Planning Act 1990** (as amended), along with the relevant provisions in the **Planning and Compulsory Purchase Act 2004**. For detailed guidance on how to submit your appeal, please visit the Planning Inspectorate's website:

<https://www.gov.uk/appeal-planning-decision>

Please be aware that the appeal process will focus on whether the submitted details meet the requirements set out in the original planning condition(s) and relevant planning policies.