



Appeal Decision

Site visit made on 13 October 2008

by **J S Deakin FRICS**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
15 October 2008

Appeal Ref: APP/H0738/A/08/2078086 87-91 Oxbridge Lane, Stockton-on-Tees

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr John Stevenson against the decision of Stockton-on-Tees Borough Council.
- The application Ref 08/0371/FUL, dated 14 February 2008, was approved on 10 April 2008 and planning permission was granted subject to conditions.
- The development permitted is the demolition of petrol station, car sales building, workshop and canopy. Erection of new convenience store, new canopy, tanks, pump islands, relocation of existing jet wash and additional jet wash.
- The condition in dispute is No18 which states that: "the premises shall not be open for business or goods for sale, nor shall stock or supplies of fuel be delivered thereto, outside the hours of 6.00 and 21.30 Monday to Sunday".
- The reason given for the condition is: "To ensure that the amenity of the occupiers of the adjoining residential properties are (*sic*) not adversely affected by the development".

Decision

1. I allow the appeal and vary the approval Ref 08/0371/FUL given on 10 April 2008 deleting condition 18 and substituting for it the following condition:
"(18) The premises shall not be open for business or goods for sale, nor shall stock or supplies of fuel be delivered thereto, outside the hours of 0600 and 2300 Monday to Sunday".

Main issue

2. I consider that the main issue is the impact that later opening hours of the proposed convenience store would have upon the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

3. The improvements to the pump islands would make the petrol station more efficient but there is no clear evidence to show that there would be any significant increase in traffic. The existing petrol station has been operating 24 hours per day for several years and I consider that, compared with existing usage and open hours, this element of the scheme would not cause any significant additional harm to nearby residents. The repositioned jet washes are subject to Condition 19, which is not appealed against, and I consider that the reduced operating hours of this equipment would benefit nearby residents.
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4. At present, the small existing shop sells a very limited range of sweets, drinks and hot food but the much larger convenience store would be able to stock a wider variety of goods. Whereas the existing shop is ancillary to the petrol station, the proposed store would attract substantially more people who would be visiting solely to buy convenience goods. This would generate more vehicle and pedestrian traffic, with customers coming and going, and congregating on the forecourt. Some of the nearby shops indicate that they close between 2045 and 2145 and the proposed extended opening until 2300 would be at a time when other noise levels had dropped. In the latter part of the evening, disturbance would be more noticeable because of lower general noise levels.
5. There is a large commercial building on the opposite side of Oxbridge Lane and shops and other non-residential buildings to the east along the main road. Nevertheless, Oxbridge Lane is a busy road; there are no dwellings opposite or immediately adjoining along the main road frontage, and I consider that the increase in traffic to the store would cause no significant harm to residents on Oxbridge Lane or the streets to the south.
6. The rear part of the appeal site is surrounded on three sides by the backs of private dwellings and I have noted the concerns of the residents. There would be parking spaces along the north boundary backing on to Malvern Road, but the height of the existing wall would be increased and landscaping would be provided, thus reducing noise transmission.
7. I appreciate that there is potential for anti-social activity in the late evening but consider that most noise and disturbance would occur on the front part of the site. The separation distance from the north boundary and the improved acoustic barriers would, in my opinion, reduce the noise impact on the residents in Malvern Road to an acceptable level.
8. Other parking spaces would be laid out on the west side adjoining the gable of the appellant's own property at 93 Oxbridge Lane and any noise from this area would be well screened by buildings. Parking in this area would have no significant impact on the Malvern Road residents.
9. I conclude that opening until 2300 would not cause unacceptable harm to the living conditions of nearby residents and that Condition 18 should be varied.

J S Deakin

INSPECTOR