



## Appeal Decision

Site visit made on 5 October 2010

by Mrs K.A. Ellison BA, MPhil, MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pins.gsi.gov.uk

Decision date:  
15 October 2010

**Appeal Ref: APP/H0738/A/10/2130712**  
**BP Service Station, 340 Norton Road, Stockton on Tees, Cleveland**  
**TS20 2PN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Murco Petroleum Limited against the decision of Stockton-on-Tees Borough Council.
- The application Ref 10/0330/VARY dated 17 February 2010 was refused by notice dated 14 April 2010.
- The application sought planning permission for *the redevelopment of garage site to erect self service petrol filling station with car wash facility to rear* without complying with a condition attached to planning permission Ref S551/89 dated 16 February 1990.
- The condition in dispute is No.7 which states that: *The petrol/diesel sales and associated sales building shall not be open for business outside the hours of 7.00am - 11.00pm Monday to Sunday. The car wash shall not operate outside the hours 8am-9pm Monday to Sunday.*
- The reason given for the condition is: *In the interests of the amenity of nearby residents.*

### Decision

1. I dismiss the appeal.

### Reasons

2. The Appellant proposes that the condition should read: *The petrol/diesel sales and associated sales building shall not be open for business outside the hours of 06.00-23.00 Monday to Sunday. The car wash shall not operate outside the hours 8.00am-9.00pm Monday to Sunday.* The main issue in the appeal therefore, is whether the original condition is reasonable and necessary to protect the living conditions of nearby residents.
3. Norton Road is a main route into Stockton town centre and, along this stretch, contains several commercial uses. Although the Appellant describes this as a mixed use area in a town fringe location, the Council points out that the appeal site lies about 450m from the nearest local centre. Whilst there are some commercial uses, they are interspersed by residential development and, even though Norton Road itself is busy, the streets leading off from it are noticeably quieter. On balance therefore, I agree with the Council that the character of the immediate area is predominantly residential.

4. The entrance to the garage forecourt from Norton Road is directly opposite residential properties. There are also houses in Imperial Avenue and Granville Grove set close to the rear boundary of the site. Operation of the petrol filling station would be likely to generate noises such as the revving of engines and car doors slamming. Although such brief events may not materially affect measurable ambient noise levels, they would nevertheless be likely to cause disturbance because of their sudden and irregular character. In this respect, representations from nearby residents have identified adverse effects in relation to noise.
5. Given that Norton Road is quite busy, it is likely to be well used at most hours of the day and night. There are also other sources of potential disturbance in the immediate area such as the adjacent taxi office. However, even though there may be some build up of activity between 06.00 and 07.00, ambient noise levels at this hour still tend to be lower than at later times of the day. This is acknowledged in the distinction between day and night time noise levels set out in Planning Policy Guidance note 24: *Planning and Noise* (PPG 24). Moreover, the particular characteristics of the noise associated with the petrol filling station mean that it is likely to be especially intrusive, this at a time when residents could reasonably expect to enjoy peace and quiet. Since the noise would be associated with vehicles arriving and leaving the site as well as using the fuel pumps, the adverse effects would not be overcome through a condition which restricted use of the site to that part closest to Norton Road.
6. The proposed hours of operation would be likely to cause appreciable disturbance to residents. As a result, I conclude that the condition as it stands is reasonable and necessary to protect the living conditions of residents. Although the Council has not identified any conflict with the development plan, it is also worth recording that the proposal would not appear to satisfy criterion (ii) of Local Plan policy GP1, which is concerned with the effect of development on the amenities of nearby properties.

#### **Conclusions**

7. National advice in Planning Policy Statement 1: *Delivering Sustainable Development* (PPS 1) encourages the efficient use of resources, including higher density development in urban areas. However, this should be balanced with the creation of liveable communities. Thus, even though the extended opening hours might allow more efficient use of the site, this is not sufficient to outweigh the harm to the local community.
8. For the reasons given above I conclude that the appeal should be dismissed.

*K.A. Ellison*

Inspector