
Appeal Decision

Site visit made on 10 November 2015

by Martin Joyce DipTP MRTPI

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

Decision date: 27 November 2015

Appeal Ref: APP/H0738/W/15/3133284

Land at Whitehouse Farm, Bishopton Road, West, Stockton-on-Tees TS19 0QB

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission under Section 73 of the Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sainsbury's Supermarkets Ltd against the decision of the Stockton-on-Tees Borough Council.
 - The application, Ref: 14/2901/VARY, dated 4 November 2014, was refused by notice dated 25 February 2015.
 - The application sought planning permission for a three-pump petrol station, associated kiosk and plant room, alterations to car park layout and landscaping without complying with conditions attached to planning permission Ref: 14/0985/FUL, dated 10 July 2014.
 - The conditions in dispute are Nos 8 and 9 which state that:
 - 8. The Petrol Filling Station and associated kiosk/shop shall not be open for use outside of the hours of 0800-2100 hours Monday to Friday, 0800-2000 Saturday and 1000 to 1600 on a Sunday.
 - 9. No deliveries shall be made to the hereby approved buildings and petrol filling station outside the hours of 0700-2200 Monday to Sunday.
 - The reasons given for the conditions are:
 - 8. In the interest of the amenity of the neighbouring occupiers.
 - 9. To prevent noise and disturbance in the interest of the amenity of the neighbouring occupiers.
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Decision

1. The appeal is allowed and planning permission is granted for a three-pump petrol station, associated kiosk and plant room, alterations to car park layout and landscaping, at Whitehouse Farm, Bishopton Road, West, Stockton-on-Tees TS19 0QB, in accordance with the application Ref: 14/2901/VARY dated 4 November 2014, without compliance with condition numbers 8 and 9 previously imposed on planning permission Ref: 14/0985/FUL dated 10 July 2014, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:
 - 8. The petrol filling station and associated kiosk/shop premises shall not be open for business outside the hours of 0700-2300 Monday to Saturday and 0800-2000 Sunday.
 - 9. No deliveries shall be made to the hereby approved buildings and petrol filling station outside the hours of 0700-2300 Monday to Sunday.

Procedural Matters

2. The application seeks to vary the hours set out in conditions Nos 8 and 9 of the above planning permission so that the petrol filling station (PFS) would be open from 0700-2300 hours Monday to Saturday and 0800-2000 hours on Sunday, with delivery hours between 0700 and 2300 hours Monday to Sunday.

Main Issue

3. The main issue in this appeal is the effect of the proposed extended hours of opening and for delivery purposes on the living conditions of nearby residential occupiers in relation to noise and general disturbance.

Reasoning

4. The appeal site is located within the overall site of a Sainsbury's Supermarket on the northern side of Bishopton Road West. The PFS lies on the southern edge, close to the south-eastern corner of the car parking that surrounds the main building on its eastern and southern sides. To the south east is the traffic light controlled junction of Bishopton Road/Oxbridge Avenue and Bishopton Road West/Bishopton Road. In the north-eastern and south-eastern quadrants of this junction are housing areas, comprising two-storey houses of varying styles, with extensive garden vegetation. To the south are the playing fields of Stockton Sixth Form College, whilst to the west of the PFS is an area containing recycling receptacles and, beyond, Barlborough Avenue, from which the sole access and egress to the overall site is obtained. A row of detached bungalows lines the western side of the latter road, opposite the car park entrance and exit. It is the occupiers of the latter houses, and those to the east in Bishopton Avenue, that are potentially most affected by the proposed increase in opening and delivery hours in connection with the PFS.
5. I saw that the supermarket itself is currently open to customers between the hours of 0800-2100 Monday to Friday, 0800-2000 on Saturday and 1000-1600 on Sundays, but I note that there are no restrictions on deliveries to the store itself. Such deliveries are made to an area to the west of the main building, close to the access/egress, in a yard screened by high coniferous vegetation.
6. The appellants submit that the additional hours proposed would not result in any material increase in noise for occupiers of the nearest residential properties and, in support of this, they have commissioned noise and traffic surveys. They also draw attention to the fact that neither highways nor environmental health officers raised any objection to the proposal. These views take account of existing background noise and traffic levels. Nevertheless, it is clear, from the various letters of objection from local residents and from the views of the Council's planning committee, that there is a great deal of concern about the extension of the hours of activity at the site, especially when the supermarket would otherwise be closed to the public.
7. There is clearly a balance to be achieved between the possible impact of any extended hours of operation of the PFS and the commercial needs of the appellants. I am mindful of the fact that the National Planning Policy Framework (The Framework) states that development proposals that accord with the Development Plan, or where the Plan is silent, should be approved without delay¹. In this case, the Council have not drawn my attention to any

¹ Paragraph 14 of the National Planning Policy Framework (The Framework).

policies which relate to the impact of development on living conditions but paragraph 123 of The Framework does state that planning decisions should aim to avoid noise having significant adverse impacts on health and quality of life, whilst also recognising that development will often create some noise, and that existing businesses wanting to develop should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. In this case, though, it would appear that the latter element is not applicable, as neighbouring residential uses are well-established and likely to pre-date the appellants' use of the appeal site.

8. Having considered all of the representations put before me, I am satisfied that noise would not unduly increase above existing levels as a consequence of the proposed increased hours of operation of the PFS. The PFS has only three pumps and a small kiosk, and this would limit usage to those patrons simply wishing to fill up with fuel – an activity which is very small scale in relation to larger outlets of this nature. I also do not consider that the additional traffic associated with such usage would cause the range of problems set out in the numerous objections to both the original application and the appeal. Light pollution has been referred to but well-lit main roads, including an A-road, bound the site, and any additional traffic entering or leaving the PFS would not, in my opinion be noticeable to the extent that it would constitute measurable disturbance. I am also conscious of the fact that there is a recycling facility between the PFS and the houses in Barlborough Road, which is likely to attract traffic and may well be the source of noise at certain times, including when the store is closed.
9. My conclusion on the main issue is that the proposed extension of hours would not unduly or materially harm the living conditions of nearby occupiers through either noise or general disturbance. The proposal thereby complies with the relevant provisions of The Framework.

Other Matters

10. I have taken account of all other matters raised in the written representations but they do not outweigh the conclusions I have reached in respect of the main issue of this appeal.

Martin Joyce

INSPECTOR