
Appeal Decision

Site visit made on 14 February 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/N4720/W/16/3163578

Lawnswood Service Station, 375 Otley Road, Adel, West Yorkshire, LS16 6AL

- 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 Euro Garages Ltd against the decision of Leeds City Council.
 - The application Ref 16/04636/FU, dated 22 July 2016, was refused by notice dated 15 September 2016.
 - The application sought planning permission for "demolition of existing petrol filling station and carwash and erect replacement 24/7 petrol filling station and convenience store with ATM, associated parking and access alterations" without complying with a condition attached to planning permission Ref 15/01297/FU, dated 14 May 2015.
 - The condition in dispute is No 13 which states that: "The opening times of the retail store element of the business shall be limited to 6:30am to 11pm".
 - The reason given for the condition is: "In the interest of residential amenity locally".
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing petrol filling station and carwash and erection of replacement 24/7 petrol filling station and convenience store with ATM, associated parking and access alterations at Lawnswood Service Station, 375 Otley Road, Adel, West Yorkshire, LS16 6AL in accordance with application Ref 16/04636/FU made on the 22 July 2016 without compliance with condition number 13 previously imposed on planning permission Ref 15/01297/FU dated 14 May 2015 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Background and Main Issue

2. Planning permission was granted for a 24 hour petrol filling station with a shop in 2015. A condition attached to the permission prohibits the opening of the shop between 11pm and 6:30am. Customers buying petrol during these times pay via a hatch.
 3. The main issue, therefore, is whether the condition is reasonable and necessary to protect the living conditions of the occupiers of nearby dwellings with regard to noise and disturbance.
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Reasons

4. I observed at my visit that the site is situated on a busy road and there are residential properties nearby. The petrol filling station has a large convenience store associated with it which also contains a Greggs (bakery/sandwich shop) and a Subway (sandwich shop). There is a seating area inside the shop associated with these food outlets.
5. I appreciate that the previous shop on the site was significantly smaller than the existing shop. As such, particularly with the sandwich shop outlets, it is possible that the larger shop attracts more customers than previously.
6. The evidence presented within the appellant's acoustic report shows that some customers use the shop without getting petrol. Therefore, I do not doubt that extending the opening hours of the shop would attract more customers.
7. The appellant's acoustic survey was based on noise from customers buying petrol only and those using the shop. The sound measurements of the activity at the site were taken from the nearest residential property and were taken in the evening up to midnight when background traffic noise would be at a lower level than in the daytime. The noise measurements showed no observable correlation with the amount of activity at the petrol station. This was due to the background noise from the road. The acoustic survey therefore indicates that activity at the garage does not present a noise nuisance to neighbours and I therefore have no good reason to conclude that extending the opening hours would lead to disturbance to neighbours. The Council has not provided similarly detailed evidence to dispute these findings.
8. I note the comments from neighbours in respect of revving and beeping, etc. but I have little detail of the frequency of these incidents. Furthermore, I have no substantive evidence that the extended hours would result in anti-social behaviour around the site or additional noise from pedestrians. Whilst I appreciate that the shop would be illuminated at night, as it is within an urban area, I do not consider that it would cause any material light pollution.
9. I therefore conclude that the effect of removing the condition would not have a harmful effect upon the living conditions of neighbours and therefore the condition is not reasonable or necessary. Consequently, I find that the proposal would not conflict with Policy GP5 of the Leeds Unitary Development Plan Review – 2006, which seeks to avoid loss of amenity.
10. I have considered all other matters raised and none outweigh the conclusions I have reached. I therefore allow the appeal.

Siobhan Watson

INSPECTOR