
Appeal Decision

Site visit made on 26 April 2017

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

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

Decision date: 9 May 2017

Appeal Ref: APP/W4325/W/17/3167563

ASDA Arrowse Park, Woodchurch Road, Woodchurch CH49 5PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by ASDA Stores Ltd against the decision of Wirral Metropolitan Borough Council.
- The application Ref APP/16/00522, dated 7 April 2016, was refused by notice dated 21 July 2016.
- The development proposed is construction of a four pump (eight filling position) full automated Petrol Filling Station within the curtilage of the existing store; to include fuel storage tanks, associated pipework, overhead canopy, forecourt surfacing, Air and Water unit and reconfiguration of car parking bays.

Decision

1. The appeal is allowed and planning permission is granted for construction of a four pump (eight filling position) full automated Petrol Filling Station within the curtilage of the existing store; to include fuel storage tanks, associated pipework, overhead canopy, forecourt surfacing, Air and Water unit and reconfiguration of car parking bays at ASDA Arrowse Park, Woodchurch Road, Woodchurch CH49 5PD in accordance with the terms of the application, Ref APP/16/00522, dated 7 April 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15-123-A 15 Rev B, 15-123-A 12, 15-123-A 17 Rev A, 15-123-A 16, 15-123-A 11 Rev B and 15-123-A 14.
 - 3) The petrol station shall be closed and all floodlighting turned off between 2200 hours and 0600 hours Monday to Saturday and between 1800 hours and 1000 hours on Sundays and Bank Holidays.
 - 4) Servicing and deliveries shall not take place between 2200 hours and 0600 hours Monday to Saturday and 1800 hours and 1000 hours on Sundays and Bank Holidays. No vehicle shall arrive before the start time or leave after the finish time.
 - 5) The proposed floodlights shall be cowled and directed away from residential properties.
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Procedural Matter

2. The hours of operation of the proposed development are not specified on the planning application form. I requested clarification on this matter from the Appellant. I have taken the response received into account within my decision.

Application for costs

3. An application for costs was made by ASDA Stores Ltd against Wirral Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues in relation to the development are:
 - The effect on highway safety; and
 - The effect on the living conditions of occupiers of neighbouring properties.

Reasons

Highway safety

5. The petrol filling station (PFS) is proposed to be constructed in the south western corner of the existing car park for the ASDA store.
6. I note that the ASDA store has its own dedicated access off Woodchurch Road (A552), a busy dual carriageway that runs east to west along the southern boundary of the site. This is via a traffic light junction that controls access and egress into and out of the site.
7. The development would reduce the number of customer car parking spaces by 44 spaces. The Appellant's evidence suggests that at the time of peak maximum demand, this would result in an occupancy rate of 98% rather than the current 84%. Nevertheless there would still remain a surplus number of 6 spaces during peak periods, albeit that this would be less than the level currently available.
8. The Appellant's transport assessment indicates that the vast majority of trips to the PFS would be associated with existing shopping trips to the store together with pass-by trips where drivers would already be on the local road network. I consider that both of these assumptions seem reasonable, particularly as the store is already well established and is adjacent to a busy main road.
9. Nevertheless I accept that the PFS would result in an increase in traffic to a certain degree, as it would be likely that some new customers would be attracted to the combined PFS and store offer and consequently would generate new trips. This is not disputed by the Appellant. However the evidence indicates that the number of additional trips generated in any one hour would at most be 12 two-way vehicle movements during the weekday peak hour and 15 two-way vehicle movements during the weekend peak hour. When compared to existing vehicle movements within the site and on the local road network, the additional trips generated would be low.
10. Whilst users of the PFS would share the roads within the site with other customers using the car park there is no basis to consider that safety for vehicle users and pedestrians would be unacceptable.

11. In these regards I am mindful that the Council's Head of Environment and Regulation (Traffic & Transportation Division) is satisfied that the proposal is unlikely to create significant traffic generation or highway safety concerns and as such does not object to the proposal. Based on the available evidence I have no reason to disagree with this view.
12. Taking the above factors into account I therefore conclude that there would be no significant adverse impact from the proposal in relation to highway safety and the development would be in accordance with the Framework in this regard.
13. Whilst no development plan policies are referred to within the reason for refusal, the Council indicates in its appeal statement that the proposal would not accord with Policies SH9, SH10 and SH11 of the Wirral Unitary Development Plan 2000 (UDP). These policies include reference to out-of-centre retail development.
14. Policy SH11 states that relevant proposals will be subject to the criteria set out in policies SH9 and SH10. These latter two policies seek, amongst other things, development that does not generate traffic in excess of that which can be accommodated by the existing highway network or has an adverse effect on overall travel and car use. The proposal would comply with these policies.

Living conditions for neighbouring residents

15. The Council in its reason for refusal states that the proposal would result in '*detriment of the amenities of the locality*'. The Council has clarified in its appeal statement that this relates to noise and disturbance from traffic generation and congestion. Concern on this issue has also been highlighted by local residents.
16. Whilst I note that there are residential properties bounding the ASDA site to the west, north and east, there would be significant intervening distances between them and the PFS. I also recognise that there is already an existing level of noise from traffic using the adjacent road network and the car park.
17. I have already found that the additional trips generated by the proposal would not be significant. The Appellant's noise impact assessment concludes that the PFS related activities would be of low impact at adjacent residential properties and would not increase the existing noise levels within the properties. I have no substantive evidence that disputes these findings and consequently have no reason to disagree.
18. In relation to matters relating to smells, air quality, light pollution and blocking of light, I have no substantive evidence that the proposal would be materially adverse in these regards. I also have no basis to consider that the development would cause unacceptable fire and explosion risks.
19. I further note that the Council's Head of Environment & Regulation (Pollution Control Division) does not object to the proposal subject to the imposition of a suitable condition restricting the operational hours. The Merseyside Fire and Rescue Service also raise no objections to the proposal. Based on the available evidence I concur with these views.
20. Consequently, taking the above factors into account and having considered the evidence before me, I conclude that the development would not result in

material harm to the living conditions of neighbouring residents. The proposal would be in accordance with the Framework in this regard.

21. The Council refers specifically to Policy SH10 of the UDP in its appeal statement. This seeks, amongst other things, development that does not cause nuisance to neighbouring uses, especially in respect of noise and disturbance. The proposal would comply with this policy.

Other matters

22. Concerns raised about the effect of the proposal on house prices are not a planning matter and I therefore cannot take these into consideration.
23. My attention has been drawn by the Appellant to an appeal decision for a PFS at a different ASDA store at another location¹. Whilst I have noted the Inspector's findings for that scheme I must nevertheless consider the appeal that is before me on its own individual merits.

Conditions

24. I have considered the conditions suggested by the Council in light of the advice given in the Planning Practice Guidance (PPG). As such I impose all of them, though change the wording of some in the interests of precision and enforceability. I am satisfied that the conditions set out in my decision meet the tests within the PPG.
25. I agree that a condition is needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. To ensure that the living conditions of neighbouring residents will be acceptable, I impose conditions to restrict the operational hours of the PFS and the hours for servicing and delivery. In this regard I also attach a condition on floodlights.

Conclusion

26. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

Y. Wright

INSPECTOR

¹ Appeal ref: APP/K2420/W/16/3144204