



---

## Appeal Decision

Site visit made on 21 October 2019

**by H Porter BA(Hons) MScDip IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 October 2019**

---

**Appeal Ref: APP/P1615/W/19/3230628**

**Churcham Garage, Main Road, Churcham, Gloucester GL2 8AA**

- 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 Euro Garages Limited against the decision of Forest of Dean District Council.
  - The application Ref P1648/18/FUL, dated 5 October 2018, was refused by notice dated 1 November 2018.
  - The development proposed is hours of opening of Petrol Filling Station to be 24 hrs, 7 days a week including Bank Holidays.
- 

### Decision

1. The appeal is dismissed.

### Procedural matter

2. The appellant raises the point that the extant filling station does not have any restriction in its hours of operation. Be that as it may, planning permission for the site to be used 24 hrs a day for 7 days is what has been applied for and I will determine the appeal on that basis.

### Main Issue

3. The main issue is the effect of the proposed hours of opening on the living conditions of the occupiers of Beauchamp Cottage, with particular regard to noise and disturbance.

### Reasons

4. The appeal site, a petrol filling station and shop, is situated on the south side of a busy stretch of the A40 as it runs between Highnam and Churcham. The petrol filling station and associated retail unit have been operating 24 hrs a day, 7 days a week, and the appeal seeks to regularise those hours of opening.
5. Situated relatively close to the appeal site, on the opposite side, is Beauchamp Cottage, a two-storey residential dwelling. Beauchamp Cottage is set back from the roadside edge behind a close-board timber fence and line of high evergreen trees. I observed at least three casement windows on the respective ground and first floor. Beyond the dwelling is dense woodland, the Higham Nature Reserve.
6. At the time of my site visit, on a Monday lunchtime, I observed there to be an almost constant flow of traffic, including cars, vans and HGVs, running in both

directions along the A40. What noise emanated from the comings and goings at the appeal site, and the effect on the residents of the dwelling opposite would, I accept, be masked to a large degree by the noise of passing traffic. However, given the relative proximity of Beauchamp Cottage to the appeal site, and the relative tranquil to be expected of a nature reserve, there would be significant potential for noise to transmit across to the first-floor bedrooms on the road-facing elevation when the local acoustic climate is quiet.

7. In support of the proposals, the appellant has submitted two Noise Impact Assessments (NIAs), one conducted in September 2018 and one in June 2019. Both of the NIAs include short-term sound level surveys that indicate typical background noise levels varied greatly across a 24-hour period. Indeed, the lowest recorded background noise was during the late evening and early hours of the morning; that is, noise-sensitive times when nearby residents are likely to be asleep.
8. The NIAs both show that the acoustic environment at night and in the early hours is significantly quieter than during the daytime and into the early evening. However, the NIAs both make assumptions regarding the sound attenuation through a masonry façade, which influences an overall conclusion that the difference in noise would be under 5db, and of no adverse impact.
9. Furthermore, the NIAs are limited in their scope. While traffic entering and leaving the station forecourt would be one source of noise, as would car doors slamming, there has been no assessment of the impact of other potentially intrusive sources of sound. These include engines idling, customers' voices, music from vehicles parked on the site, delivery cages rattling, reversing beeps, all of which could reasonably be considered to affect ambient noise levels in the area.
10. Indeed, against the conclusions drawn in the NIA, is evidence submitted by the resident of Beauchamp Cottage who has direct real-life experience of the impact of the 24 hour a day opening hours. Before me is a body of evidence, including surveys and photographs that show a variety of users of the appeal site, other than customers using the pumps. This includes small groups using the shop and a number of large delivery vehicles, with associated trollies. This casts serious doubt over whether the calculations and conclusions within the NIA can be usefully relied upon.
11. The appellant's case attests that at times when passing traffic reduces, so too would the use of the appeal site. I do not know the location of alternative petrol filling stations or local convenience stores that would be open at similar times in the wider vicinity. However, I observed the retail unit, though small, stocks a wide range of products, and it is reasonable to consider that by opening at all hours, it would attract customers.
12. On the basis of the evidence before me, the retail unit, not just the petrol pumps, could contribute to prolonged and sustained activity at the site. With this in mind, I do not see how limiting the use of particular petrol pumps would satisfactorily mitigate the variety of noise and disturbance experienced by the occupiers of Beauchamp Cottage and that would continue to arise from allowing 24-hour opening, 7 days a week.
13. The case is put that allowing the appeal would support the sustainable expansion and growth of the business operating at the site, in accordance with

economic objectives of the National Planning Policy Framework, revised February 2019 and Policy CSP.7 of the Forest of Dean District Council Core Strategy, 2012. However, the Framework must be read as a whole, and it establishes that planning policies and decisions should create places that, amongst other things, promote health and well-being, with a high standard of amenity for existing and future users. Fundamentally, a balance must be struck between supporting business and convenience of road users, and safeguarding the living conditions of nearby residents. What very small economic benefits there would be would not be outweighed by the serious adverse impact on health, well-being and living conditions that the appeal proposals would cause.

14. In light of the foregoing, I have not been persuaded that impact of the proposed hours of opening on occupiers of Beauchamp Cottage would not be of a significant adverse effect level. It follows that the hours of operation, specifically those that extend from late night through to the early morning, would cause material harm to the living conditions of the occupiers of Beauchamp Cottage, through unacceptable noise and disturbance. Conflict therefore arises with the quality environment objectives of Policy CSP.1 of the CS and Policy AP.1 of the Allocations Plan 2006 – 2026, 2018.

### **Conclusion**

15. For the reasons given, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*H Porter*

INSPECTOR