



Appeal Decision

Site visit made on 21 September 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2020

Appeal Ref: APP/Q3630/W/20/3255230

Service Station, 169-171 Thorpe Lea Road, Egham TW20 8HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Motor Fuel Group against the decision of Runnymede Borough Council.
 - The application Ref RU.19/1091, dated 31 July 2019, was approved on 1 May 2020 and planning permission was granted subject to conditions.
 - The development permitted is described as 'Retrospective application for the change of use of the site to a mixed use including a petrol filling station and hand car wash facility'.
 - The condition in dispute is No 6 which states that: No jet wash machine shall be used or operated at the site in association with the car washing business hereby approved.
 - The reasons given for the condition are: In the interests of the residential amenities of the neighbouring residential occupiers and to comply with saved Policy LE1 of the Runnymede Borough Local Plan Second Alteration 2001 and guidance in the NPPF.
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Decision

1. The appeal is allowed and the planning permission Ref RU.19/1091 for 'retrospective application for the change of use of the site to a mixed use including a petrol filling station and hand car wash facility' at Service Station, 169-171 Thorpe Lea Road, Egham TW20 8HP granted on 1 May 2020 by Runnymede Borough Council, is varied by deleting condition No 6.

Background and Main Issue

2. In addition to the petrol filling station a hand car wash facility has been operating at the appeal site since November 2018, although it was not in operation when I visited the site. Planning permission was granted subject to a number of conditions including a restriction on the use of any jet wash machine in connection with the business. The appellant appears to have agreed to the condition at application stage, but states that this was a misunderstanding and that the provision of a jet wash is fundamental to the operating model and viability of the proposed use. As such, the appellant wishes to have the condition removed. In any event, I am mindful of the Planning Practice Guidance that states that even if an applicant agrees to a condition it should not be used unless it meets the relevant tests, including being necessary¹.
3. Therefore, the main issue is whether the condition is necessary in the interests of the living conditions of neighbouring residential occupiers.

¹ Planning Practice Guidance: Paragraph: 005 Reference ID: 21a-005-20190723

Procedural matter

4. Since the Council issued its Decision Notice, the Runnymede Borough Local Plan Second Alteration 2001 has been superseded by the Runnymede 2030 Local Plan, adopted July 2020 (LP). The Council have updated their position and the appellant has had opportunity to comment in light of this material change in circumstances. I have proceeded to determine the appeal on the basis of the recently adopted LP.

Reasons

5. The appeal site is occupied by the Thorpe Lea Road Service Station which includes a petrol filling station, convenience store and a sandwich bar. Adjacent to the site is a separate convenience store. These are all located in a residential area with housing surrounding them. The area is in part characterised by the noise and activity from these commercial operations, with additional background noise from the vehicular traffic along Thorpe Lea Road and air traffic noise.
6. The appellant's submitted Hand Car Wash Noise Impact Assessment by Hepworth acoustics, dated December 2019 (NIA) considers the proposed use, including the provision of a jet wash as part of the operation. It makes an assessment of the likely impact from the proposal and concludes that the use, including operation of a jet wash, would generate noise below background levels at the nearest residential receptors, 65 and 66 Ayebridges Avenue. As such, it concludes that the proposal would likely have a low impact and no specific noise mitigation measures are required at the site to make the proposal acceptable.
7. The NIA is not based on the actual operation of the jet wash at the site, rather a prediction has been made based on a similar jet wash facility. Furthermore, I note that there are other nearby residential receptors in close proximity, including the private rear gardens on Park Avenue. However, the background levels were recorded on a Sunday when noise is likely to be less. Furthermore, the NIA assumes both jet washing and vacuum cleaning occurring at the same time in order to represent a worst-case scenario. Whilst the NIA is not determinative of the planning merits of the proposal, I place significant weight on these findings without any technical evidence to the contrary and noting that the Council's environmental health officer does not dispute the findings.
8. Furthermore, the petrol filling station has historically operated with an ancillary car wash facility. Historic plans indicate that this included an automated car wash within the area now used as a sandwich bar, and a jet wash in the location of the proposed hand car wash. Whilst not identical to the proposal before me, and having ceased some time ago, this provides some context for similar noise generating activity. Such facilities are common at petrol filling stations often located within residential areas. Based on the evidence provided I am unaware of any history of complaints associated with this activity. As such, I afford this some weight in favour of the proposal as it provides some context for jet washing at the site.
9. Moreover, I am mindful of the context of the appeal site. The service station and adjacent convenience store generate activity and noise. The majority of this area is open. However, the proposed car wash area is largely surrounded by fencing or the service station building. This provides attenuation from noise.

To the south-east additional mitigation is provided by the open land between the site and 1 Ayebridges Avenue. Furthermore, I noted a number of air conditioning units on the north-east elevation of the service station building and to the rear of the adjacent convenience store. These likely result in additional background noise for residents enjoying their rear gardens to the north-east.

10. I have considered the various public objections to the proposal, including concern over noise. A number of objectors allege constant noise and specifically refer to the jet wash activity. Whilst I place some weight on this anecdotal evidence the NIA refers to each jet wash cycle lasting typically three and five minutes, with two to three uses taking place each hour. As such, the jet wash use, and associated noise would likely be intermittent depending on customer demand. Furthermore, the Council have found that the noise generated by the activity, vacuum cleaning and staff conversations are acceptable. I have no evidence to reach a contrary conclusion on these judgements or the wider planning merits of the scheme.
11. The condition to restrict the operation of any jet wash at the site was one of a number imposed by the Council in order to try and protect the living conditions of local residents. For example, the hours of operation have been restricted and this provides protection from potential noise at more sensitive times when background noise may be lower. The Council have suggested adding another layer of control to restrict the jet wash for the first and last hour of operation. However, this would effectively reduce the hours of operation as the jet wash is an essential part of the business model. Furthermore, I have no evidence to demonstrate that this is necessary.
12. Therefore, in conclusion on the main issue I find that the condition is not necessary in the interests of the living conditions of neighbouring residential occupiers. As such, deletion of the condition would not conflict with Policies EE1 or EE2 of the LP or the National Planning Policy Framework. These local and national policies seek to ensure good design so that development does not result in unacceptable adverse impacts and promotes health and well-being with a high standard of living conditions for neighbouring residents.
13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

James Taylor

INSPECTOR