
Appeal Decision

Site visit made on 7 October 2020

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/Y3615/W/20/3249779

120-124 Ash Street, Aldershot, Guildford, GU12 6LL

- 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 Co-operative Group Food Limited against the decision of Guildford Borough Council.
 - The application Ref 19/P/00851, dated 8 May 2019, was allowed on 12 February 2020 subject to conditions.
 - The development permitted is the proposed erection of a two storey building comprising a convenience store (Class A1) and three residential apartments (Class C3) with associated plant, parking, landscaping and access works following demolition of the existing building.
 - The condition in dispute is No 12 which states that: The use hereby permitted shall not operate other than between the hours of 07:00 to 23:00 Mondays to Sundays (inclusive) including Bank or National Holidays for the first 12 months. After 12 months of operation the hours of use shall revert to between 07:00 to 22:00 Mondays to Sundays (inclusive) including Bank and National Holidays, unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: To safeguard the residential amenities of neighbouring properties. To allow the LPA to monitor the situation.
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Decision

1. The appeal is allowed and the planning permission Ref 19/P/00851, for the proposed erection of a two storey building comprising a convenience store (Class A1) and three residential apartments (Class C3) with associated plant, parking, landscaping and access works following demolition of the existing building at 120-124 Ash Street, Aldershot, Guildford, GU12 6LL granted on 12 February 2020 by Guildford Borough Council, varied by amending condition No 12 to read:

The use hereby permitted shall not operate other than between the hours of 07:00 to 23:00 Mondays to Sundays (inclusive) including Bank or National Holidays.

Main Issue

2. The main issue is the effect of the proposal on living conditions for local residents.

Reasons

3. Having regard to the content of the condition and its reason and development plan policies which seek to protect residential amenity cited by the Council I
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shall assess the condition in the context of the National Planning Policy Framework (the Framework). This sets out that conditions should only be imposed when necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.

4. The appeal site includes a vacant two-storey building, formerly a local police station and a section house along with a detached garage and outbuilding and car parking to the rear of the building, with a landscaped garden area and a larger area of open soft landscape to the road frontage. The area is primarily residential in character with a mix of property types; a semi-detached house lies to the immediate west whilst flats are to the east. There are some business premises further to the west on Ash Street and this road has bus routing and is classed as the A323.
5. The planning permission as issued has an inherent range of amenity safeguards and this is important. Planning conditions deal with matters such as construction management, delivery hours and regime, Servicing Management, noise emissions and operation of plant and machinery. The plans do not allow for shop related customer parking or access down the side of the premises abutting the most private and quieter rear parts of the adjoining residential premises. Whilst the area is predominantly residential in nature the previous use of the site was not wholly domestic. Furthermore the A323 is a relatively busy main road, in places with commercial use, and the immediate ambient environment is not one of total peace. There is some separation of parking spaces from immediate neighbours and the layout is effectively set up which should minimise manoeuvring. The shop is intended to meet convenience needs and these do run through the evening.
6. I am acutely aware of the need to safeguard residential amenity. However given the factors in the above paragraph I just do not fathom or support the idea of a trial period and an automatic reduction of one hours trading. This only to be set aside through an unspecified performance target with the Appellant convincing the Council via some form of written process at a point towards the end of the initial 12 months that the reduction should not stand. I am satisfied that in all the circumstances opening until 23.00 hours will not unreasonably impinge upon local living conditions.
7. I conclude that there would not be conflict with development plan policies cited by the Council and seeking to protect residential amenity if the development was allowed to operate as requested by the Appellant. I conclude that the condition the subject of this appeal is not necessary to protect amenity and it was also unreasonably restrictive towards, and added uncertainty for, the Appellant's operating regime in the future.

Overall conclusion

8. For the reasons given above, and having regard to all matters raised, I conclude that the proposal to vary the condition in question should be allowed as this course of action would be in accord with the Framework and the development plan; it would not have an unduly harmful effect on living conditions for local residents.

D Cramond

INSPECTOR