



Appeal Decision

Site visit made on 9 November 2020

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Appeal Ref: APP/V2255/W/20/3253697

Rhode House Service Station, London Road, Sittingbourne ME10 1QB

- 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 Motor Fuel Limited against the decision of Swale Borough Council.
 - The application Ref 19/503247/FULL, dated 25 June 2019, was refused by notice dated 10 December 2019.
 - The development proposed is installation of two jet wash bays.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of two jet wash bays at Rhode House Service Station, London Road, Sittingbourne ME10 1QB in accordance with the terms of the application, Ref 19/503247/FULL, dated 25 June 2019, 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: PA01a; PA04b; PA05a; PA06a; and PA08A.
 - 3) The jet wash bays hereby permitted shall only be used between the hours of 07:30 to 21:00 on Mondays to Saturdays inclusive and between the hours of 10:00 and 16:00 on Sundays.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of 164 Staplehurst Road (No 164), with particular regard to noise.

Reasons

3. The development would involve the installation of two jet wash bays that would be enclosed to the rear and each side by a three metre high glazed enclosure at the Rhode House petrol filling station (the PFS). It is proposed that within each bay one jet wash unit (jet washer) would be installed. The PFS comprises three pump islands with six pumps and a forecourt shop and fuel sales take place twenty-four hours a day. The PFS is located at the junction of the A2/London Road and Staplehurst Road. At this point London Road is mixed use in character, while Staplehurst Road within the immediate vicinity of the PFS is residential in character.

4. It is proposed that the jet wash bays would be installed towards the north eastern corner of the PFS's forecourt around two metres from the boundary that the PFS shares with No 164, in close proximity to the PFS's Staplehurst Road vehicular access. No 164 is a detached bungalow with some roof level accommodation and this dwelling has a quite short garden. The boundary that No 164 shares with the PFS is marked by a 2.4 metre high timber fence; the flank wall of No 164's garage; and a 0.8 metre high brick wall, between No 164's front elevation and its boundary with the public highway¹.
5. The results of a forty eight hour noise survey undertaken on the appellant's behalf have been included in the noise impact assessment report (acoustic report) that was submitted prior to the appealed application's determination by the Council. The acoustic report having been prepared with regard to the guidance contained in British Standard 4142:2014 'Methods for rating and assessing industrial and commercial sound' (BS 4142:2014). The acoustic report indicates that the PFS is located in an area of quite high background noise levels, particularly during the daytime period (07:00 hours to 19:00 hours), with the modal noise level being measured at 56 LA_{90,15mins}. That background noise level being dominated by road traffic noise, given the PFS's proximity to the A2 as it passes through a built-up area.
6. For the purposes of the appellant's noise assessment, a wash cycle has been taken as lasting between three and five minutes, with each jet washer being used two or three times per hour. Within the acoustic report it has been further assumed that each jet washer would be likely to operate for fifteen minutes per hour during the daytime and for five minutes per fifteen minutes at night (23:00 to 07:00).
7. The sound power level for a single jet washer has been assumed to be 89 dB(A), based on similar equipment that is used at another PFS operated by the appellant. That sound power level increasing to 92 dB(A) when two jet washers are operated concurrently.
8. In line with the guidance contained in BS4142:2014 in order to assess the development's acoustic effect various 'corrections' (allowances) have been applied by the appellant's acoustician to take account of the expected frequency of the jet washers use, the character of the noise associated with the use of this equipment and the installation of screening. When the various corrections are applied the appellant has predicted that the sound rating level for the jet washers would be 48 dB LA_{r,1hr} compared with the modal background noise level of 49 dB LA_{90,1hr (evening)}², with the proposed development generating a noise level of 1 dB below the prevailing evening time background level. For the night time period the use of the proposed jet washers has been predicted as generating a sound rating level that would exceed the prevailing background noise level by 7 dB(A).
9. As the night time noise level is predicted to be more than 5 dB above the background level, BS4142:2014 indicates that the new level of noise would be likely to give rise to an adverse impact. Given that the appellant's acoustician has advised that the proposed jet washers should not be used between 23:00 and 07:00.

¹ Dimensions taken from the application drawings

² The evening period being defined as 19:00 to 23:00 and being the quietest period between 07:00 and 23:00

10. The use of the jet washers would have the potential to be heard by the occupiers of No 164, most particularly when use was being made of this dwelling's garden. However, the use of the jet washers would be likely to be ancillary to the use of the PFS for the purchase of fuel and/or the making of other purchases at the forecourt shop. Having regard firstly to the daytime and evening background noise levels in the area and secondly to the findings contained in the appellant's acoustic report, which has followed a recognised methodology, I consider that the noise arising from the use of the proposed jet washers would be at a level that would not be intrusive or cause harm to the living conditions of the occupiers of No 164. I consider it of note that the Council has not objected to the way in which the acoustic effect of this development has been assessed by the appellant, with the Council's concern relating to how the findings set out in the acoustic report should be interpreted.
11. I therefore conclude that the development would not be harmful to the living conditions of the occupiers of No 164. I therefore consider that the development would accord with Policy DM14 of the Swale Borough Local Plan – Bearing Fruits 2031 of 2017 of 2017. That is because the development would not cause significant harm to the amenity (living conditions) of the occupiers of No 164.

Conditions

12. I have considered the need for the imposition of conditions, having regard to the Council's list of suggested conditions and the provisions of the national policy and guidance for the use of conditions.
13. Apart from the standard time limit condition, it is necessary that the development be built to accord with the submitted plans for certainty. To ensure that the use of the jet washers would not be disturbing for the occupiers of No 164 it is necessary that a condition be imposed stating the times when the jet washers could be used. I therefore consider that the use of the jet washers should be limited to 07:30 to 21:00 on Mondays to Saturdays and between the hours of 10:00 and 16:00 on Sundays. Those hours of use being consistent with those recommended by the Council's environmental health officer, being those that would avoid the times that would be the most sensitive in noise terms for nearby residents.
14. A condition covering the hours during which construction works for the development should be undertaken has been suggested. However, as the development would be of a limited scale and the construction works would likely to be of a short duration, I consider a construction hours condition to be unnecessary. The proposed drainage layout drawing (PA08A), indicates that the surface and foul water drainage for the development would tie into the existing drainage for the PFS. I therefore consider that there is no need to impose either of the suggested drainage conditions. Given the nature and scale of the development I also consider the imposition of a demolition watching brief condition, in the interests of safeguarding ground water resources in the area, to be unnecessary.
15. A parking retention condition has been suggested. However, the extent of the land subject to the appealed application (the red line area) extends no further than the forecourt area that would be needed to accommodate the proposed jet wash bays. I therefore consider that the suggested condition would be

unnecessary because the development when implemented in accordance with the details shown on the approved drawings and would not encroach upon the retained forecourt parking spaces.

Conclusion

16. For the reasons given above the appeal is allowed and planning permission is granted with the imposition of planning conditions for the proposed development.

Grahame Gould

INSPECTOR