



Appeal Decision

Site visits made on 6 and 7 December 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2021

Appeal Ref: APP/R0660/W/20/3257633

Kings Arms Service Station, Alderley Road, Wilmslow, Cheshire SK9 1PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Isa Dajci against the decision of Cheshire East Council.
 - The application Ref 19/4940M, dated 21 October 2019, was refused by notice dated 17 April 2020.
 - The application sought planning permission for change in use of land from former petrol station to a hand car wash and valet business with associated single-storey building and canopy (amendment to 16/5610M) (retrospective) without complying with a condition attached to planning permission Ref 18/5937M, dated 24 September 2019.
 - The condition in dispute is Nos 8 which states that: The premises shall not be open for business and no washing or valeting equipment shall be operated at the site outside the hours of 09.00 to 18.00 Mondays to Saturdays or at any time on Sundays or Bank Holidays.
 - The reason given for the condition is: In the interests of residential amenity.
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Decision

1. The appeal is allowed and planning permission is granted for change in use of land from former petrol station to a hand car wash and valet business with associated single-storey building and canopy (amendment to 16/5610M) (retrospective) at Kings Arms Service Station, Alderley Road, Wilmslow, Cheshire SK9 1PZ in accordance with the application Ref 19/4940M dated 21 October 2019, without compliance with condition number 8 previously imposed on planning permission Ref 18/5937M dated 24 September 2019 and subject to the following conditions:

- 1) The development hereby approved shall be carried out in total accordance with the approved plans numbered:
 - Location Plan;
 - Existing Site Plan (PC/2016/001);
 - Proposed Layout Plan (PC/2016/002);
 - Proposed Site Plan (PC/2016/005);
 - Proposed Elevations (PC/2016/003); and
 - Front and Right Flank Elevations and Glass Panels (SCP/16425/ATR04).

Received by the Local Planning Authority on 27 November 2018, 30 November 2018 and 23 October 2019, except where varied by other conditions of this permission.

- 2) Within three months of this permission, a 'noise management plan' shall be submitted to and approved in writing by the Local Planning Authority, addressing noise breakout from the car-wash compressor enclosures located on the forecourt and shall be completed under the direction of the Environmental Protection Unit. The applicant is required to investigate and employ further noise mitigation measures that are necessary to ensure that noise break-out from the 'car-wash compressor enclosures' is not discernible at any noise sensitive dwelling in proximity to the site. The 'start/stop' of the car-wash compressor operations, shall not be audibly identifiable at any noise sensitive property.
- 3) Within three months from the date of this permission, verification is required to be submitted in writing to and approved in writing by the Local Planning Authority that the surface density of the clear overspray screen meets the surface density requirements detailed in the November 2016 Noise Impact Assessment.
- 4) The development hereby approved shall be carried out in accordance with the airborne noise reduction measures as outlined in the Quietstone Treatment Letter received by the Local Planning Authority on the 6 February 2020, unless otherwise agreed in writing by the Local Planning Authority. The approved details shall be retained for the lifetime of the development.
- 5) The car valeting and vacuuming operations shall take place behind a 2.3 metre high screen with a surface density of at least 12kgm².
- 6) No external lighting shall be installed on the site until full details and specifications of such lighting have been submitted to and approved in writing by the Local Planning Authority. Development shall subsequently be carried out in accordance with the approved details.
- 7) The premises are to be used for washing and valeting cars and light goods vehicles only and for no other purpose.
- 8) The premises shall not be open for business and no washing or valeting equipment shall be operated at the site outside the hours of 08:00 to 18.30 Mondays to Fridays, 09:00 to 18:00 on Saturdays and 10:00 to 17:00 on Sundays or Bank Holidays.

Preliminary Matters

2. The spelling of the appellant's name varies between the planning application and appeal forms. I have taken the appellant's name as given on the planning application form as this reflects that given in other appeal documents.
3. The Council requested that I visit the property on a Sunday to gauge the noise environment in the area, and I was able to do so.
4. The Council also requested that I visit the gardens of 9 Knutsford Road and 19/20 Paxford Place whilst the business that is the subject of this appeal was in operation. I was able to visit the property of 9 Knutsford Road, but was unable to gain access to the properties on Paxford Place. However, I was able to observe the operation of the business from the boundary of the properties on Paxford Place closest to the appeal site, and I consider that this has given me sufficient evidence on which to reach a decision. The Council has confirmed that it is satisfied with this approach.

Main Issue

5. The main issue is whether the condition is reasonable and necessary in the interests of the living conditions of nearby residents regarding noise and disturbance.

Reasons

6. The appeal site is located within a primarily residential area, although it is located in close proximity to other businesses including a builders' merchants and public house/restaurant. The site is in the vicinity of a roundabout serving a number of roads, and the two through-roads of Knutsford Road and Alderley Road pass in close proximity to the site.
7. The extant planning permission for the site limits the operating hours of the business during the week and on Saturdays, and prevents operation on Sundays and Bank Holidays. The appellant seeks to operate the business on a Sundays and Bank Holidays as well as extend the operating hours during the week. The Council's reason for refusal refers to the effect of noise and disturbance on nearby sensitive properties on a Sunday, and it is therefore this issue that I will concentrate on.
8. In respect of the existing background noise environment, on the Sunday that I visited the area I observed that Alderley Road had moderate traffic levels which elevated the noise environment level. The flow of traffic was relatively constant, albeit with a limited number of short gaps. Knutsford Road was less well-trafficked, although the number of vehicles was greater than for a typical residential area on a Sunday, which reflected the through-route nature of the road.
9. At my visit on Monday, I was unable to gain access to the gardens to the rear of Paxton Place which are opposite the site across Alderley Road. However, I was able to observe the business in operation from the boundary of the gardens with Alderley Road. The operations included the use of pressure sprays and the vacuuming of vehicles. An intermittent hissing noise from the pressure sprays was apparent, and to a much lesser degree so was noise from use of vacuums which included a tonal element. However, noise from compressor units was not audible on the boundary with the rear gardens.
10. However, the noise levels were not intrusive at the boundary with Paxton Place, in part due to the screening effect of the background noise level of passing traffic. Whilst the stop-start nature of the pressure washers and vacuum was apparent, this was not intrusive and to a degree reflected the nature of noise from passing traffic which also had a distinct variation in noise levels arising from individual passing vehicles. I acknowledge that traffic levels on a Monday would be higher than on a Sunday, but based on my observations on the previous Sunday the noise arising from traffic would also provide a degree of masking for noise from the business.
11. From the garden to the rear of 9 Knutsford Road, the intermittent hiss of the power spray was audible in the distance. However, I was not aware of other noise-generating elements of the operation such as vacuuming or compressor units. Therefore, whilst noise from the appeal site was present, it was not intrusive. I was mindful of the likely background noise arising from traffic on a Sunday based on my previous observations, but this did not lead me to a

different conclusion in respect of the noise levels affecting this residential property.

12. I note the Council's concern that significant loss of amenity can occur at lower levels of noise emissions. However, based on what I have observed and read, even allowing for the particular characteristics of the noise generated by the business this is not of a degree that would warrant the prevention of operations on a Sunday. My observations reflect the conclusions of the noise assessments submitted by the appellant, which were undertaken in accordance with BS4142 and concluded that the proposed Sunday trading hours would not give rise to unacceptable noise impacts at the nearest dwellings. The Council has provided no substantive evidence which contradicts the appellant's noise assessments or my own observations.
13. The Council's reason for refusal specifically refers to the effect of business operations on a Sunday. However, based on the evidence before me the proposed change in operating hours would also not lead to unacceptable harm in relation to noise and disturbance on Bank Holidays.
14. The application originally proposed an extension of the operating hours on weekdays, by an extra 30 minutes in the morning (from 08:30) and the evening (to 18:30). The evidence indicates that the Council agreed to extend this to 08:00 in the morning, and this is reflected in the Council's decision notice and suggested conditions. I note that the Council does not object to an extension to the hours of operation on weekdays. I have also had regard to the potential effect of noise from the revised weekday operating hours, including the likely background noise levels from traffic. Based on the evidence before me, I see no reason to disagree with the weekday operating hours suggested by the Council.

Conclusion

15. For the reasons set out above, I conclude that the proposed hours of operation would not lead to unacceptable harm to the living conditions of nearby residents in respect of noise and disturbance. The extant condition is therefore not reasonable or necessary in the interests of the living conditions of nearby residents regarding noise and disturbance. The proposal would therefore not conflict with the amenity and noise pollution requirements of policy SE12 of the Cheshire East Local Plan Strategy 2017 and saved policy DC3 of the Macclesfield Borough Local Plan 2004. The proposal would also comply with the National Planning Policy Framework in respect of the effect of noise on the local environment as well as health and quality of life.
16. The appeal should therefore be allowed. I will grant a new planning permission without the disputed condition, albeit with a new condition to reflect the proposed hours of operation in the interests of the living conditions of nearby residents. A condition in respect of the approved plans is required in the interests of certainty.
17. In respect of noise management measures, the Council has indicated that the original conditions should be reworded, but has only suggested a condition regarding the Quietstone Treatment Letter. I also note that the Council states that no formal submissions were made to discharge the original conditions. Whilst I have had regard to the Quietstone details submitted with the appeal, it may be that measures required by the original conditions regarding noise

would go beyond that submitted in the Quietstone letter. I have therefore reimposed the original conditions regarding noise measures as well as a condition regarding the Quietstone letter, so that the matter of noise management can be fully considered by the Council in the interests of the living conditions of nearby residents. Conditions in respect of screens and external lighting at the site are also required in the interests of the living conditions of nearby residents.

18. The Council submits that the condition controlling the use of the site for cars and light goods vehicles is not required due to the sui generis nature of the business and controls arising from the approved layout plan. However, I consider that this condition is required as it controls the nature of vehicles serviced at the site in the interests of highway safety and living conditions. I have therefore reimposed it on the planning permission.
19. As referred to by the Council, conditions regarding materials and unexpected contamination are not required as the development has been undertaken.

David Cross

INSPECTOR