



Appeal Decision

Site visit made on 15 December 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2021

Appeal Ref: APP/W5780/W/20/3255341

Lidl, 250-260 Fencepiece Road, Ilford IG6 2SU

- 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 Lidl Great Britain Limited against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0837/20, dated 11 March 2020, was refused by notice dated 11 June 2020.
 - The application sought planning permission to demolish existing building and erection of new Class A1 food store with associated parking and landscaping without complying with a condition attached to planning permission Ref 1091/12, dated 31 January 2013.
 - The condition in dispute is No. 6 which states that: No goods shall be delivered to, nor despatched from the site outside the following times:- 08.00-20.00 hours Mondays to Fridays 08.00 – 13.00 hours Saturdays nor at any time on Sundays, Bank or Public Holidays.
 - The reason given for the condition is: In order to prevent the use causing an undue disturbance to occupants of neighbouring property at unreasonable hours of the day, and to accord with Policy SP3 of the Council's Core Strategy Development Plan Document and Policy BD1 of the Council's Borough Wide Primary Policies Development Plan Document.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The condition over which there is disagreement relates to delivery and despatch hours at an existing Lidl Supermarket which is located on Fencepiece Road in close proximity to residential property. The appellant seeks to vary the condition to allow for delivery and despatch hours of 07:00 – 20:00 hours Mondays to Fridays, 08:00 – 16:00 hours Saturdays, 12:00 – 18:00 hours Sundays and 08:00 – 13:00 hours Bank Holidays.

Reasons

3. Additional delivery and despatch hours are sought within the early morning on a Monday to Friday, on Saturday afternoons and on Sundays and Bank Holidays. These are times when nearby residential occupiers could expect to be protected from noise and disturbance and benefit from quiet enjoyment of their homes.

4. Properties on Bernards Close are in particularly close proximity to the store's delivery bay which is situated on the north eastern side of the premises in close proximity to the gardens and windows of flats closely to the north east.
5. The submitted noise impact assessment¹ specifically relates to the proposal before me and recognises these properties as one of the most sensitive locations in terms of delivery noise associated with the operation of the store. The survey has taken measurement of baseline noise levels at the site. However, I cannot be certain that the location at which these measurements have been taken is representative of the situation of the properties backing onto the delivery bay on Bernards Close.
6. The measurement location is indicated to be some distance to the south, within the Lidl Car Park. Bernards Close is separated from the appeal site by substantial fencing and is set at a lower level. I observed on my site visit that the car park was subject to noise generated by vehicles both within the car park and on the reasonably busy Fencepiece Road to the west as well as general customer activity within the car park.
7. However, Bernards Close benefits from a more residential and therefore quieter environment. The baseline noise levels would have held more weight had they been undertaken at or within very close proximity to the Flats on Bernards Close. This would have provided more certainty as to the impact on the living conditions of occupiers, as would have monitoring the noise levels of the deliveries themselves from this location.
8. Notwithstanding the appellants concerns over local noise complaints about the site and while I acknowledge that the Council have not objected to the findings of the noise assessment, I am duty bound to afford it careful consideration. I can only therefore conclude that the evidence fails to demonstrate that the proposal would not cause harm to the living conditions of nearby occupiers, particularly those within the closely adjacent properties on Bernards Close.
9. The delivery and despatch hours which are sought would therefore fail to accord with Policy LP26 of the Redbridge Local Plan (2018). This policy requires amongst other things that development should not result in an adverse impact upon the amenity of neighbouring occupiers in relation to noise.

Other Matters

10. I am aware that the application has come forward on the basis of the suggestion that the store suffers from critical shortages in supply. However, there is limited evidence that there is no other solution to this problem other than the extension of delivery hours. I am also aware that the COVID-19 pandemic will have increased pressure on stock levels within the store. Although the situation remains ongoing, these impacts are likely to remain temporary. I therefore afford these matters limited weight.
11. Although conditions relating to a delivery management plan and maximum noise levels are suggested, it is likely that these would be complex and would potentially involve significant levels of monitoring. I therefore consider that such conditions would fail to satisfy the conditions test of being enforceable.

¹ Noise Impact Assessment, Lidl Food Store Fencepiece Road, Ilford 8092/FD November 2019 by Acoustic Consultants Ltd.

12. Alternative delivery hours have also been suggested by the appellant which are lesser than those sought in the application. However, these would still involve deliveries early in the morning and later in the evening and on weekends at times when nearby residents could expect to benefit from quiet enjoyment of their homes.
13. The appellant raises concerns over the Council's handling of the application. However, this is not a matter for my consideration and instead should be referred for resolution via the Council's complaints procedure, if the appellant so wishes.

Conclusion

14. The appeal should therefore be dismissed.

T J Burnham

INSPECTOR