
Appeal Decision

Site visit made on 21 November 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/G5180/W/21/3286379

Eden Park Filling Station, Links Way, Beckenham BR3 3DG

- 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 Group Ltd against the decision of London Borough of Bromley.
 - The application Ref DC/20/02238/FULL1, dated 22 June 2020, was refused by notice dated 30 June 2021.
 - The development proposed the development was originally described as the 'Installation of 1No. Jet Wash Machine'.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 1no. jet wash bay involving installation of silt trap and associated drainage, erection of 2.6m high glass screens and installation of 1no. new 5m high pole mounted floodlight at Eden Park Filling Station, Beckenham BR3 3DG in accordance with the terms of the application, Ref DC/20/02238/FULL1, dated 22 June 2020, and the plans submitted with it, 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: 13689-LP; 13689-BP; 13689-202; and 13689-203 Rev.A.
 - 3) Before the first use of the floodlight hereby approved it shall be orientated and screened to prevent light spillage and shall be permanently retained as such thereafter.
 - 4) The surface water drainage system indicated on the approved drawings shall be completed before any part of the development hereby permitted is first used, and permanently retained thereafter.
 - 5) The use hereby permitted shall only take place between the following hours: 0700 – 2200 Monday – Saturdays and 1000 – 1600 on Sundays and Bank Holidays.

Preliminary Matters

2. I have used the description of the development on the Council's decision notice as this more accurately and comprehensively describes the proposal and the development as shown on the submitted plans. The planning application was

advertised on this basis therefore, no injustice would arise to any party if the Council's description is used.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of 7 Links Way, having particular regard to noise and disturbance.

Reasons

4. The appeal site comprises a petrol filling station, which includes a covered forecourt and a single storey shop, incorporating an off license, as well as an air/water and vacuum station and an ATM. It occupies a triangular plot which lies at the junction of Upper Elmers End Road and Links Way, with two of the site boundaries being coterminous with the adjacent highways. The third boundary is shared with 7 Links Way (No 7), a two-storey semi-detached dwelling. The surrounding area is made up of a mix of residential and commercial development, including a local parade of shops on the opposite side of the road.
5. The proposed jet wash bay would be located to the side of the shop on part of the site currently used for the parking of vehicles. The plans show the retention of the existing fenced storage compound between the proposed jet wash and the side boundary of No 7. The existing filling station is open 24 hours a day. The proposed jet wash would operate between 0700 and 2200 daily.
6. At the time of my site visit, which I acknowledge is only a snapshot in time, there was a steady flow of traffic along Links Way. There is also an over ground elevated section of railway a short distance from the rear of the appeal site. The combination of these elements gave rise to a noticeable level of ambient noise in the area. Due to the nature of the locality, including the main road and surrounding development, a similar level of noise and activity is likely to prevail throughout the day and into the early evening.
7. A Noise Impact Assessment (the NIA) was undertaken to establish the existing noise levels and the predicted noise impacts of the proposed jet wash on the most sensitive noise receptors in the immediate locality. The predicted noise modelling, which is based on published and noise emissions from the development, takes account of the surrounding buildings and topography, as well as the design of the jet wash bay. The assessment concluded that the operation of the jet wash bay between the hours of 0700-2200 would have a very low impact on the noise levels experienced by occupiers of the residential properties most affected. This is largely due to the noise generated by the proposal and the ambient noise levels, which include traffic from the road.
8. I note the Council's concern that the NIA was carried out during Covid restrictions and as such is not a true reflection of the existing noise levels at the site. However, given that the restrictions would have been likely to reduce activity in the area, including vehicular traffic, this would consequently reduce the ambient noise levels. As a result, the predicted noise impact from the jet wash would therefore be greater when assessed against the baseline ambient noise levels. The timing of the NIA would therefore mean that it has more likely overestimated the predicted increase in noise levels given that the background noise levels were artificially low.

9. The Council has also raised concern that the NIA assessment does not take account of the potential impact of vehicular movements within the site and approaching the site, including car doors, upon noise levels. However, given the current levels of activity on the site associated with the existing petrol filling station which operates 24 hours, including parking provision in the area of the proposed jet wash, it is unlikely that any additional traffic associated with the development would give rise to an increase in the existing noise levels. The NIA also takes account of the intermittent nature of the noise from the jet wash, as well as the cumulative noise in addition to existing noise generating uses in the area.
10. I therefore conclude that the proposed development would not harm the living conditions of the occupiers of 7 Links Way, with regards to noise and disturbance. The proposal would therefore accord with the design aims of Policy 37 of the Bromley Local Plan, including that development will be expected to respect the amenity of occupiers of neighbouring buildings, ensuring they are not harmed by, among other things, noise and disturbance.

Other Matters

11. I note concerns expressed by third parties in relation to light spillage from the proposed development. The Council has raised no objection on these grounds based on the submitted Light Design Assessment which confirms that light spillage is below 1 lux which is considered acceptable. I have no reason to disagree.
12. Whilst I note concerns regarding highway safety, neither the Highway Authority nor the Council have indicated that the proposal would result in an uplift in vehicular movements such that it would harm highway safety.
13. Despite the difference in ground levels, as a consequence of the scale, design, layout and siting of the proposed jet wash it would not harm the living conditions of the neighbouring properties through loss of outlook, overlooking or overshadowing. The scale, design and appearance would also be sympathetic to the site context and would not result in a cramped form of development. Moreover, it would not be an unduly visually dominant feature in the street scene and as such would not harm the character and appearance of the area.
14. I have not been presented with any substantive evidence that the proposal would give rise to an increase in vermin or pollution or that it would lead to criminal activity. With regards to need, whilst I note there are other similar facilities in the vicinity, there is no policy requirement to demonstrate a need for the proposed development.

Conditions

15. The conditions are based on those suggested by the Council in their appeal statement should the appeal be allowed. The appellant was given the opportunity to comment on them. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
16. In addition to the standard condition relating to the commencement of development, it is necessary to specify the approved plans to provide certainty. A condition to ensure appropriate orientation and screening of the floodlight, in

order to prevent light spillage is deemed necessary and reasonable, in order to safeguard the living conditions of the occupiers of the neighbouring properties. A condition to require compliance with the submitted drainage strategy is also necessary given the nature of the proposal and to prevent any surface water run-off from the site.

17. It is necessary to impose a condition to restrict the operating hours of the jet wash, in the interest of protecting the living conditions of occupiers of the nearby residential properties by way of noise and disturbance. The Council has suggested hours of operation of 0800 – 1800 Monday-Saturday and 1000-1600 Sunday and Bank Holidays. I note the appellant's willingness to operate on this basis. However, given that the NIA deems the predicted noise levels to be acceptable based on the operation of the jet wash up to 2200, a condition to restrict the use further would not be necessary. Given that the ambient noise levels are likely to be lower on Sundays and Bank Holidays, the suggested operating times on these days are deemed to be reasonable and necessary.
18. The Council has suggested a suitable noise condition is imposed, in the absence of details of such or justification, I have determined that this would not be necessary.

Conclusion

19. For the reasons set out above the appeal succeeds.

Emma Worley

INSPECTOR