



Appeal Decision

Hearing held on 13 December 2022

Site visit made on 14 December 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Appeal Ref: APP/F2360/W/22/3306243

The Windmill Hotel, Preston New Road, Mellor Brook, Blackburn BB2 7NS

- 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 James Hall & Co Ltd against the decision of South Ribble Borough Council.
 - The application Ref 07/2020/00768/FUL, dated 10 August 2020, was refused by notice dated 4 March 2022.
 - The development proposed is the demolition of existing public house and related infrastructure; erection of convenience store and petrol filling station including associated canopy; 6 fuel pumps; underground storage tanks; EV charging points; car parking and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the determination of this appeal is the effect of the development on the living conditions of nearby residents by means of loss of amenity from additional disturbance.

Reasons

3. The appeal site is on the corner of Preston New Road and Branch Road, and at present is occupied by the Windmill Hotel, a two-storey building which I understand has been closed since 2014. The remainder of the site is taken up by a large car park that served the public house. The immediate locality is residential in nature, with a couple of commercial properties.
4. In a previous appeal which was dismissed, the Inspector, amongst other matters, found harm in respect of the design and appearance of the convenience store. The appellant has sought to address this in their new proposals and the Council have not raised any concerns regarding the design and appearance of the new building. Having regard to the evidence before me, I concur with the Council's assessment.
5. The appellant has produced a considerable amount of information in support of their case, including a Transport Statement. Included in that document is the estimated level of trip generation that the public house would be expected to generate, as a fallback position, as well as the estimated level of trip generation from the appeal proposal.

6. According to the supporting evidence provided by the appellant, the public house, with traditional opening hours, is estimated to generate around 303 vehicle movements daily, whilst the appeal proposals (the combination of the convenience store and the petrol filling station) are expected to generate in the region of 1966 vehicle movements on a daily basis. This equates to an overall increase of 1663 vehicle movements per day, a total of 832 additional vehicles using the site.
7. In terms of noise generation from the scheme, the revisions to the layout, including a reduction in the number of pumps, provision of an acoustic fence and additional landscaping, and the layout changes are all positives that are seeking to address issues raised with the various iterations of the overall scheme.
8. In my mind, whilst the appellant's approach is comprehensive in terms of overall noise levels, taking into consideration the high levels of traffic on Preston New Road, I am not convinced that it fully takes account of other noises that would result from customers on the site, such as voices and car audio systems as well as the opening and closing of car doors. These would be more sudden noises than traffic noise, which gradually builds up and falls away as vehicles go past.
9. It is also important to consider the effect of the characteristics of the noise. The Planning Practice Guidance: Noise sets out that a contributory factor includes non-continuous sources of noise. This is of relevance because the primary source of the noise would relate to vehicle movements, and this would include engine and car radio noise, and doors opening and closing. There may also be a degree of customer conversations. Consequently, noise could occur at times when levels would be expected to be quieter, especially given the proposed opening hours.
10. Noise and disturbance are subjective issues to assess, as each neighbour would have different thresholds over what might harm their living conditions. In this particular scenario, the additional noise generated would not be constant and include car doors slamming, vehicle engines revving and the comings and goings of vehicles and pedestrians, given this location.
11. In addition, I am unconvinced by the evidence submitted by the appellants with regard to three other service stations which had been referenced to. I have limited information about the characteristics and context of each of these premises and therefore, it is not known whether they are a realistic comparison.
12. While the Council's Environmental Health Officer has raised no objection to the proposal, numerous comments have been made about disturbance to amenities by interested parties. The interested parties have had day-to-day experience of living close to the public house before it closed, including times that could be considered to be anti-social.
13. The proposed hours of operation of the petrol filling station and convenience store would include the sensitive evening period when neighbouring residential occupiers would expect levels of background noise to be lower.

14. Potential noise impacts associated with the delivery process include short duration irregular sound events, such as lorry movements, revving engines, air brakes, refrigeration units, reversing beepers, shutting of lorry doors, and the movement of pallet trucks, cages and dollies. Such short-term intermittent incidences of noise would be set apart from the general background noise associated with traffic within the site vicinity, and arguably have a greater potential to disrupt living conditions more than regular, constant sources of background noise from well trafficked routes.
15. The possibility for deliveries to the shop outside of daytime hours has the potential to be very intrusive, particularly given the unexpected impulsive nature of loudness of noise from the delivery vehicles. The intensity of noises associated with delivery activities would, to my mind, be capable of causing disturbance to the living conditions of neighbouring residential occupiers. On the basis of the evidence provided, I am not convinced that the effect on neighbouring residential occupiers would not be of a significant observed adverse effect level.
16. While occupiers of the established residential properties became accustomed to the public house and would be aware of the possibility of the use restarting, they also have a reasonable expectation that they will not be unreasonably disturbed by the petrol filling station and the convenience store's operations. As such, I am not convinced that the assessment appropriately represents the context of the noise environment in terms of the closest residential properties at quieter times of the day. Consequently, I have limited evidence that the effect of the proposal on the living conditions of adjoining residential occupiers would be acceptable, with particular regard to noise and disturbance.
17. It is suggested that the matter of deliveries could be addressed by a Delivery and Servicing Management Plan secured by way of a planning condition. However, given the uncertainties regarding the nature of the site usage and servicing, the location of obstacles and manoeuvring, it is difficult to establish how effective a person guiding vehicles in and out with regard to deliveries would be in mitigation against any loss of amenity to residents.
18. In addition, this relies on a person always being available and having the relevant expertise, which would not be readily enforceable. Therefore, I am not persuaded that this suggestion would overcome my concerns, in particular as it has not been demonstrated that, even with a banksman, safe access and egress could be achieved.
19. The successful implementation of the Delivery and Servicing Management Plan would be reliant upon the individual actions of a number of employees, and I am not convinced that it is capable of being effectively enforced in practice. Therefore, I find that such a scheme cannot be relied upon to justify the suitability of servicing the convenience store.
20. The appellants state that the Delivery and Servicing Management Plan has been successfully implemented at other sites. I have not been provided with specific details of these sites, their context or their relevant planning histories. In any case, I must determine the appeal on the merits of the appeal proposal, having regard to the specific circumstances of the appeal site.

21. In terms of a specific additional issue, the exit from the site onto Branch Road would, in hours of darkness, see the headlights of every vehicle shining into the front windows of Nos 6 and 8 Branch Road in a manner that would be harmful to the living conditions of those properties. I realise that the scheme has undergone amendments, including a revised layout in an attempt to overcome this issue, but I find this harm cannot be mitigated against.
22. Overall, I find that the appeal proposals would result in a significant amount of noise and disturbance coming from the site and from vehicles arriving and departing. I find that the potential therefore exists for an increase in noise and disturbance to adversely affect the living conditions of the occupiers of nearby residential properties.
23. In summary, I find that the proposed activities on site, as stated above, would lead to material harm to the amenities and living conditions of the nearby residential dwellings. This would be contrary to Policy 17 of the Central Lancashire Adopted Core Strategy Local Development Framework (2012) and Policies G17 and B1 of the South Ribble Local Plan 2012-2026 (2015), which, amongst other matters, seek to ensure new developments do not have a detrimental or adverse impact upon neighbouring properties.

Other Matters

24. I have noted the representations made by interested parties at both application and appeal stage and find that these representations contained a considerable number of issues, including some that are not planning matters, and many that were addressed by the Council or dealt with as agreed common ground matters.
25. I have considered the planning merits of the scheme, and I have identified harm accordingly, therefore I do not need to address any further issues with regard to this appeal.

Conclusion

26. The proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate I should take a different decision other than in accordance with this.
27. For the reasons outline above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Deborah Smith	Planning Policy
David Wallbank	Highways
Lee Faulkner	Noise
John Barrett	Counsel

FOR THE LOCAL PLANNING AUTHORITY

Daniel Power	Planning Officer
Gareth Watson	Councillor
Barrie Yates	Councillor

INTERESTED PARTIES

Sheila Wright	Consultant
Michael Kitching	Consultant
Kate Roberts	Local Resident
Anne Wainwright	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Photographic Evidence of Vehicle Accident on A59 affecting Windmill junction 17 November 2022.