



Appeal Decision

Site visit made on 10 April 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 5th June 2024

Appeal Ref: APP/Z4310/W/23/3331925

Anfield Service Station, Oakfield Road, Liverpool L4 0UE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Rontec Watford Ltd against the decision of Liverpool City Council.
 - The application Ref is 22F/3487.
 - The application sought planning permission to partially redevelop petrol filling station to provide new shop with external ATM, canopy, car park and associated works without complying with a condition attached to planning permission Ref 19F/2570, dated 20 January 2020.
 - The condition in dispute is No 4 which state that: "The premises shall not be in use outside the following hours:- 06:00 and 24:00 Monday to Friday 06:00 and 24:00 Saturdays 06:00 and 24:00 Sundays and Bank Holidays"
 - The reason given for the condition is: "To ensure that nearby occupiers are not adversely affected by the development."
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Decision

1. The appeal is allowed and planning permission is granted to partially redevelop petrol filling station to provide new shop with external ATM, canopy, car park and associated works at Anfield Service Station, Oakfield Road, Liverpool L4 0UE in accordance with the application Ref 22F/3487, without compliance with condition numbers 1, 2, 3, 4, 5 and 6 previously imposed on planning permission Ref 19F/2570 dated 20 January 2020 and, subject to the plans numbered 120129-PLNG-01, 120129-PLNG-04-A, 120129-PLNG-05-A, and 120129-PLNG-06-A and the conditions set out in schedule to this decision.

Preliminary Matters and Main Issue

2. Planning permission¹ was granted for the erection of a petrol filling station at the appeal site in October 1988. Further to this planning permission² was granted in December 2015 to vary condition 7 attached to the original permission to allow the premises to be open between 06:00-24:00 daily.
3. As above, planning permission³ was granted in January 2020 to partially redevelop the petrol filling station to provide a new shop with external ATM, canopy, car park and associated works. This permission included a condition to restrict opening hours to between 06:00-24:00 daily, as per the previous permission. Subsequently a planning application to vary condition 4 attached to

¹ Planning permission Ref. 88P/1518

² Planning permission Ref. 15F/2320

³ Planning permission Ref. 19F/2570

that permission to allow 24-hour opening was refused. This application was submitted prior to the implementation of planning permission Ref. 19F/2570.

4. During my site visit I observed a development which matched the design shown on the plans specified on planning permission Ref. 19F/2570. I will therefore refer to the proposal as an existing development throughout my decision.
5. Taking the above background into account, the main issue is whether Condition No 4 is reasonable and necessary in the interest of protecting the living conditions of residents of properties on Walton Breck Road and Oakfield Road, with particular regard to noise and disturbance, the perception of crime and anti-social behaviour.

Reasons

Noise and disturbance

6. The service station forecourt is only a short distance from the front windows of properties on Walton Breck Road and Oakfield Road. The forecourt is bound by a short brick wall.
7. The 24-hour use of the site would lead to an increase in activity and consequently an increase in noise and disturbance. Potential noise sources include the shutting of vehicle doors, manoeuvring of vehicles, starting of vehicles, the use of fuel pumps, the use of a tannoy, and people talking on the forecourt.
8. The Noise Assessment⁴ concludes that the forecasted ambient noise levels experienced within nearby bedrooms would be within the acceptable range for nighttime hours, factoring in windows being partially open to allow ventilation.
9. Whilst the Noise Assessment is generally robust it has only modelled sound generated by the shutting of vehicle doors, manoeuvring of vehicles, starting of vehicles and the use of fuel pumps and not from the use of a tannoy or from people talking on the forecourt. Moreover, the assessment period was only a short period of time between 0030 hours and 0230 hours on a weekday. As the assessment period is short, I cannot be certain that the results are representative of the time period where the service station is currently shut, 0000 hours and 0600 hours.
10. Although the Noise Assessment is a technical report that relies upon averaged noise levels, it assesses the worst-case scenario based upon the activity of other service stations operating in the early morning hours. Therefore, I am satisfied that the Noise Assessment provides an appropriate forecast of the potential noise levels generated by the extended operation. Notwithstanding this, given the uncertainties and assumptions within its analysis a year trial period would be appropriate. This would enable the effect of the development on nearby residents to be properly assessed.
11. Given the additional noise generated by the delivery of fuel and other goods to the site, it is reasonable and necessary to attach a condition restricting the hours that a delivery can be received. A condition requiring certain pumps to

⁴ Noise Assessment, Proposed Extension to Operational Hours, Anfield Service Station, Oakfield Road, Liverpool, Report Ref. SHF.418.046.NO.R.001, November 2022

be coned off during set periods of time is not necessary as the Noise Assessment considers the use of the pumps closest to nearby properties.

12. I conclude that condition No 4 is not necessary to protect the living conditions of residents of properties on Walton Breck Road and Oakfield Road, with particular regard to noise and disturbance, given the findings of the Noise Assessment. However, it would be reasonable and necessary to restrict operating hours following a trial period, to allow the actual noise levels to be recorded. I have varied the wording of condition No 4 accordingly. The proposal would comply with Policies H7 and R1 of the Liverpool Local Plan 2013-2033 (LP), January 2022. These policies indicate that development proposals should demonstrate that the impact of noise will not be significant, and business development will be granted where there will be no detrimental effect on the amenities of the residential area.

Perception of crime and anti-social behaviour

13. The service station is in a “high crime, high harm” location, as identified by Merseyside Police. The data suggests most of the crimes recorded at the service station are thefts. A few measures have been identified which would reduce the chances of similar crimes occurring during the proposed extended operating hours, including restricting internal access to the shop.
14. Moreover, Anfield Stadium is a short distance from the appeal site. Activities at the stadium regularly bring an influx of a large amount of people to the area. The presence of a large group of people at events is likely to be one of the underlying reasons for the high crime rate. Given the proximity of the stadium to the appeal site it is difficult to disaggregate crimes related to the stadium’s activity and the operation of the service station. As the proposed extended hours of operation are during the early hours of the morning. It is highly unlikely that events would be taking place at Anfield Stadium at the same time.
15. Concerns have been raised with anti-social behaviour and the gathering of people on the forecourt at night. If people wanted to gather on the forecourt at night, they would be able to step over the small wall. The introduction of overnight activity would extend the period of natural surveillance and may discourage people from gathering on the forecourt. Nonetheless, there is no substantive evidence to indicate this would lead to less crime or anti-social behaviour.
16. Whilst I am not convinced the proposal would lead to a reduction in crime and anti-social behaviour, there is no substantive evidence to support the assertion that the extended operating hours would lead to an increase in crime. As such, I conclude that Condition No 4 is not necessary to protect the living conditions of residents of properties on Walton Breck Road and Oakfield Road, with regard to the perception of crime and anti-social behaviour. The proposal would therefore comply with LP Policies H7 and UD2 which indicate that business development will be granted where there will be no detrimental effect on the amenities of the residential area, and proposals should demonstrate that the layout and form ensures that the proposal reduces opportunities for crime.

Conditions

17. The Planning Practice Guidance (PPG) is clear that decision notices for the grant of planning permission under section 73 should repeat the relevant

conditions from the original permission unless they have already been discharged. I also have the power to impose new conditions that I consider to be necessary. The conditions on the original planning permission have been considered in light of the advice contained in the PPG. Given the redeveloped service station is operational and some of the original conditions have been discharged, fewer conditions are necessary.

18. For the reasons given above, I have removed the disputed condition and replaced it with one that limits the 24-hour operation of the premises to a one calendar year period.
19. As the development has commenced, I have altered the trigger on the highway improvements works condition. Both the Council and the appellant have been consulted on the amended wording and did not object.
20. A condition specifying a time limit for the implementation of the development is not required as it has already been implemented. Similarly, conditions requiring the proposal to be built in accordance with the approved plans and details of the external materials are not required as the scheme has been constructed. I have also varied the condition relating to the laying out and retention of the car parking area, as it has already been laid out.
21. Conditions restricting the use of the air machine, delivery times and access to the internal area of the shop are required in order to ensure the living conditions of neighbouring residents on Walton Breck Road and Oakfield Road are protected, with particular regard to noise and disturbance, the perception of crime and anti-social behaviour. Condition No 6 would be enforceable, as the Council would be able to check whether the shop is open outside of the prescribed hours.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting others and restating those undisputed conditions that are still subsisting and capable of taking effect.

J Hobbs

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The premises may be operational for 24 hours a day for a limited period of one calendar year, other than the use of the air machine and subject to restrictions on timing of deliveries. This limited period must be commenced within three years of the date of this decision and the applicant must provide the local planning authority with written notification of the start and end date, 10 days prior to first commencement. Otherwise, the premises shall not be used between 0000 hours and 0600 hours Monday to Sunday, including Bank Holidays.
- 2) Within one calendar year of the date of this decision, a scheme for the design and construction of highway improvement works shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed in accordance with the approved details within 18 months of the date of this decision.
- 3) The area of car parking set out on drawing 120129-PLNG-04A shall remain laid out in accordance with the approved plans and retained at all times. The car parking shall not be used for any use other than in connection with the operation of the shop premises.
- 4) The air machine shall only be operational between 0600 hours and 2200 hours Monday to Sunday, including Bank Holidays.
- 5) Deliveries to the site shall only occur between 0600 hours and 2200 hours Monday to Sunday, including Bank Holidays.
- 6) Customers shall only have internal access to the shop between 0600 hours and 2300 hours Monday to Sunday, including Bank Holidays. Outside of these times they shall be served by the 'pay at window' system, specified in the Crime Impact statement v1.0, October 2023.