



Appeal Decision

Site visit made on 29 October 2024

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 November 2024

Appeal Ref: APP/W4325/W/24/3347570

ESSO Service Station, 209 Greasby Road, Greasby, Wirral CH49 2PF

- 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 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Motor Fuel Group Limited against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is RVC/23/01457.
 - The application sought planning permission for an extension to service station opening hours, without complying with a condition attached to planning permission reference APP/92/6314, dated 22 October 1992.
 - The condition in dispute is No. 2 which states that:
Trading at the premises shall not take place between 22.00 hours and 07.00 hours.
 - No reason was given for the use of the condition in the APP/92/6314 decision notice.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form refers to 'BP Service Station'. The appeal form notes that this is now 'ESSO Service Station'. During my site visit, it was noted that the branding on the fuel station canopy and totem pole read as ESSO and therefore, I have utilised the address given in the appeal form as this would be a more accurate description of the site location.
3. The appeal seeks to vary the condition stated above. This would allow the ESSO Service Station to operate earlier and later than their current condition allows. The hours of operation are proposed as 06:00 to 23:00. The original permission (APP/92/6314) relates to the erection of a petrol filling station, including a sales building, canopy, tanks, pump island and jet wash. My determination of the appeal relates solely to the necessity of condition No. 2 of the permission. No reason was cited on the decision notice for the imposition of condition 2. The Council's case focuses on the effect of the living conditions of neighbouring occupiers. I have therefore assessed the appeal on this basis.

Main Issue

4. It therefore follows that the main issue is whether the condition is reasonable and necessary in the interests of safeguarding the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

5. The service station is located on Greasby Road. During my site visit, it was apparent that this road is particularly busy and is one of the main roads through Greasby itself. The site is situated amongst other commercial premises such as a funeral directors, takeaway premises and a flower shop. However, the predominant form is that of residential properties and as such, the appeal site is located in a Primarily Residential Area. A residential property is located directly next to the service station at a very close proximity and with a low boundary treatment between the two sites. But, there are a number of other residential properties which are located behind the service station on Heygarth Drive.
6. A Noise Impact Assessment was submitted with the application and details how the noise survey was undertaken. The survey was undertaken next to the boundary with the nearest residential property, 207 Greasby Road. The assessment notes that for each possible customer a '*vehicle will arrive a door will be opened/closed, a fuel pump will operate for 90-seconds, the vehicle door will again be opened/closed and the vehicle will depart*'. The assessment further notes that it is of key significance that the existing hourly ambient sound levels are higher than the predicted rating noise levels due to its location next to a busy road. As such, the appellant is of the opinion that that the noise impact would not give rise any adverse noise impacts and this technical evidence is acknowledged.
7. However, the service station is also bound by residential dwellings on Heygarth Drive. Whilst these buildings would be located slightly further away than 207 Greasby Road, they still have a close relationship with the appeal site. The Noise Impact Assessment does not interrogate the effect of noise upon the properties which share a boundary with the service station on Heygarth Drive directly. Heygarth Drive is a small residential close which is not busy or experiences high levels of traffic when compared to Greasby Road.
8. I recognise that passing cars may add to the noise experienced by neighbouring residential occupiers which front onto Greasby Road. This is a passing vehicle where the noise generated is momentarily experienced which would not dilute or blend in with the noise created at the service station. The possible noise which may be generated during the extended hours would be localised to the service station as a noise source within the appeal site. The noise of passing cars is not likely to be experienced by properties located on Heygarth Drive due to their location on a smaller street away from Greasby Road.
9. The extension of the opening hours would allow for operation during unsociable hours, particularly at 06:00. It is not unreasonable for residents which are located next to and surrounding the site to expect a degree of quietness during these unsociable hours. The assessment notes the possible sources of noise for each possible customer. Yet, it does not mention additional noise sources which may occur such as the noise from car radios, general speaking, tannoy announcements, the noise made during shop and fuel deliveries, power foam jet wash equipment, delivery of metal gas containers, the delivery of fuel and the movement of any waste bins within the site.
10. All of these noise generators are possible at the appeal site as the relevant equipment was evident during my site visit. These are all generators of noise which could feasibly occur during the extended operational hours beyond those

cited in the noise assessment. The generation of noise is not just limited to customers arriving by a private vehicle to use a fuel pump.

11. The Noise Impact Assessment notes that any adverse impacts would be mitigated or minimised. However, this is not expanded on further to provide any examples of how noise generated through this extension to the operating hours would be mitigated. The use of 'polite notices', as suggested in the appellants statement, would not guarantee quiet customer behaviour, nor would it reduce the noise generated by possible tannoy announcements, the use of a power foam jet wash, deliveries and the movement of waste.
12. The absence of any objection from the Council's Environmental Health Officer, Ward Member along with little objection from local residents is not an adequate reason to expose occupants of neighbouring properties to possible noise at a more sensitive time of the day. Furthermore, the lack of recorded complaints regarding the operation of the service station is also not an appropriate reason to allow the appeal. The noise created during its accepted operational hours is at a time where a majority of residents would be beginning their day, or settling down to end their day.
13. Consequently, noise would likely be experienced during unsociable hours at the appeal site to the detriment of properties which do not face onto Greasby Road and who are not likely to experience the noise of passing cars beyond the current operational hours of the service station. Collectively, the possible effect of multiple noise generating sources, during unsociable hours of the day, where some neighbouring receptors in particular experience less background noise during these proposed hours, would have an unacceptable effect on the living conditions of neighbouring occupants.
14. Therefore, I conclude that condition 2 is reasonable and necessary in the interests of safeguarding the living conditions of the occupants of the neighbouring properties. The proposal would be contrary to Policy HS15 of the Wirral Unitary Development Plan 2000. This policy focuses on non-residential uses in Primarily Residential Areas. It states that within these areas, proposals must not cause nuisance to neighbouring uses, particularly in respect of noise and disturbance, amongst other things.

Other Matters

15. The service station does provide a facility to the general public and does provide economic benefits. However, the result of the proposal would lead to a poor standard of living conditions of the occupants of nearby residential properties. As such, the economic benefits associated with the proposal would be limited. They would be outweighed by the significant adverse impacts identified above to neighbouring occupants by virtue of noise and disturbance.

Conclusion

16. Extending the hours of operation would conflict with the development plan and there are no material considerations that outweigh this conflict. For the reasons given above, I find that the appeal should be dismissed.

J Smith

INSPECTOR