

MC/14/1498

Date Received: 2 June, 2014

Location: 217-225 High Street, Rainham, Gillingham, ME8 8AY

Proposal: Application for variation of condition 1 on planning permission MC/13/1982 (Variation of condition XI of planning permission GL/58/79Q to extend the opening hours of shop and petrol sales to 6:30 to 23:30 Monday to Friday, 06:30 to 23:00 Saturday and 07:00 to 23:00 Sundays and Public Holidays - Resubmission of MC/13/0367) to extend the opening hours of the petrol station to 0600 to 00:00 Monday to Sunday and bank holidays

Applicant: Rontec Watford Ltd

Agent: Miss Butt Pegasus Group Barnett House 53 Fountain Street Manchester Greater Manchester (Met County) M2 2AN

Ward Rainham South

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 10 September 2014.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan received 2 June 2014

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The petrol station shall only operate between the hours of 0600 to 00:00 Monday to Sunday including Public holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 3 The car wash shall only operate between the hours of 08:30 to 18:00 Monday to Saturday and 09:00 to 17:00 Sundays and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 No wall, structure or any other obstruction to visibility exceeding 1 metre in height shall be placed on the site within 4.5 metres of the existing highway kerb on the north side of the High Street.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency and to accord with Policy T1 of the Medway Local Plan 2003.

- 5 No vehicle shall be maintained, serviced, repaired, sold or displayed for sale on the site

Reason: In the interests of and to prevent car parking inconvenience to other road users in accordance with Policies BNE2 and T1 of the Medway Local Plan 2003.

- 6 Deliveries, including tanker deliveries, shall not occur outside of 0730-2300 Monday to Saturday and 0830-2200 on Sundays and Public Holidays with the exception of deliveries of newspapers and dairy products which are allowable during times outside the above hours, but only between 06:30 - 23:30 hours Monday to Friday, 06:30 - 23:00 Saturday and 07:00 - 23:00 Sunday and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see planning appraisal section and conclusion at the end of this report

Proposal

The submitted application is for the variation of condition 1 on planning permission MC/13/1982 (Variation of condition XI of planning permission GL/58/79Q to extend the opening hours of shop and petrol sales to 6:30 to 23:30 Monday to Friday, 06:30 to 23:00 Saturday and 07:00 to 23:00 Sundays and Public Holidays - Resubmission of MC/13/0367) to extend the opening hours of the petrol station to 0600 to 00:00 Monday to Sunday and bank holidays.

Relevant Planning History

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| MC/13/1982 | Variation of condition XI of planning permission GL/58/79Q to extend the opening hours of shop and petrol sales to 6:30 to 23:30 Monday to Friday, 06:30 to 23:00 Saturday and 07:00 to 23:00 Sundays and Public Holidays - Resubmission of MC/13/0367
Decision Approval With Conditions
Decided 25/10/2013 |
| MC/13/0367 | Variation of condition xi of planning permission GL/58/79Q to allow the garage to extend opening hours to 0600-midnight Monday-Saturday and 0700-2330 on Sundays
Decision Refusal
Decided 10 April, 2013 |

MC/12/0493 Variation of condition xi of planning permission GL/58/79Q to allow the garage to be open 24 hours a day Monday-Sunday

Decision Refusal
Decided 12 June, 2012

GL/58/79Q Demolition of existing petrol filling station and erection of new petrol filling station and car wash (revised plans received 22/2/88)

Decision Approval with Conditions
Decided 16/09/1988

Representations

The application has been advertised on site and by individual neighbour notifications to the owners and occupiers of neighbouring properties.

A petition with 13 signatures with regard to the following:

- Concerns about the way that the Noise Impact Assessment has been carried out, with regard to the placement of the noise recorders
- Noise from the increased hours would impact sleep
- Consultation should have been taken with more people as noise travels
- Car Wash is being operated outside the conditioned hours
- Noise needs to be taken into account that travels over the wall into the surrounding houses
- Residential area
- Other commercial premises in the area close earlier

Development Plan Policies

The Development plan for the area comprises the Medway Local Plan 2003. The policies referred to within these documents and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Planning Appraisal

Background

The original application (GL/58/79Q) was approved with the restriction of the hours of operation to 07:30 until 23:00 hours Monday to Saturday and 08.30 until 22:00 Sundays and bank holidays. The reason behind the imposition of this condition was in the interest of residential amenity.

In April 2013 permission was refused (MC/13/0367) for the extension of the hours to 0600-midnight Monday-Saturday and 0700-2330 on Sundays for the following reason:

The noise and disturbance to neighbouring occupiers from the customers using the petrol filling station in terms of doors being slammed on cars, the filling of vehicles and the starting of engines on vehicles using the site, combined with the additional hours of operation late into the night and or early morning means that this would have a detrimental impact on the amenities of neighbours. The application would therefore be contrary to Policy NRM10 of the South East Plan 2009 and Policies BNE2 & BNE3 of the Medway Local Plan 2003.

In October 2013 (MC/13/1982) planning permission was granted to extend these hours as set out below under condition 1:-

The petrol station shall only operate between the hours of 06:30 to 23:30 hours Monday to Friday, 06:30 to 23:00 Saturday and 07:00 to 23:00 Sundays and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

The current application seeks to increase these approved hours so that the petrol station is open between the hours of 06:00 to midnight everyday; no changes are sought to the hours of operation of the car wash. The reason that the application has been submitted is to enhance the viability and functionality of the site. A new noise report has been submitted in order to overcome the issues raised as part of the refusal reason of MC/13/0367.

Principle and Residential Amenity

The use of the application site as a petrol filling station and associated shop has already been accepted by previous applications. The variation of the condition would result in the business operating for an additional half an hour in the morning and evening Monday to Friday, an additional half an hour in the morning and an hour in the evening on a Saturday and an additional hour in the morning and evening on Sundays and Public Holidays.

The NPPF sets out three dimensions to sustainable development within paragraph 7: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- *An economic role* – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- *A social role* – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its

- health, social and cultural well-being; and
- *An environmental role* – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

Paragraph 18 and 19 of the NPPF supports building a strong, competitive economy in order to create jobs and prosperity and states that “*Planning should operate to encourage and not act as an impediment to sustainable growth*”. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Whilst this is acknowledged, the amenities of neighbours also needs to be taken into account to ensure that the development is not at the expense of the local community. The Planning Practice Guidance (PPG) that accompanies the NPPF under the section “Noise” states in paragraph 001 that “*Noise needs to be considered when new developments may create additional noise..*”

The proposal seeks to extend the opening hours by 30 minutes Monday to Saturday morning and 60 minutes on a Sunday morning. In the evening the extra opening times are extended by 30 minutes Monday to Friday and by 60 minutes on Saturday and Sunday nights.

The noise assessment has been undertaken at the rear gardens of 2 properties adjacent to the petrol station over a 4-day period, which included a weekend. The acoustic evidence indicates that the extension to opening times in the morning would not adversely affect residents in the vicinity of the petrol station.

The case for the extra hours in the night is less clear-cut. Using BS4142, the extra time at night gives a dB difference of between -5dB Monday to Friday, -12dB on Saturday and -3dB on a Sunday. BS 4142 states that if the rating level is more than 10dB below the measured background noise level then this is a positive indication that complaints are unlikely. The petrol station has a number of residential properties abutting the perimeter of the site and it was considered that the level of the predicted noise from the noise report was not sufficient to ensure that the extended use of the petrol station would not cause disturbance to these residents at night. As a result the Councils Environmental Health Officer undertook two visits to the closest property to the application site at 215 High Street Rainham with the intention of comparing noise levels from the Petrol Filling Station when it is open and comparing it to noise levels after it is closed.

Visits were made on the 31 July 2014 and 4 August 2014. Noise measurements were taken from the rear bedroom of 215 High Street and the window was open on both occasions. On 31 July 2014 only 2 measurements were taken. This was due to the fact that a fuel tanker was making a delivery at the time. The tanker was on the forecourt at the time of arrival on site and was still there at the time the noise survey ended at 2340. Limited readings were taken as the forecourt was partially closed for health and safety reasons and there appeared to be very little activity on site. Noise from the fuel delivery hoses being connected/ disconnected could be heard, within

the property.

On the 4 August 2014 measurements were taken from the same location in the bedroom. A number of five-minute readings were taken between 2250 up until 2342. Even in the rear bedroom, the survey concluded that the dominant noise source was from traffic noise on the A2. The traffic noise was so dominant it was not possible to identify when a car came on to the forecourt to fill up.

While noise can override other planning concerns, as set out in paragraph 002 of the PPG “neither the *Noise Policy Statement for England* nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.” It is therefore considered with the additional survey work that has taken place by the Council's own Environmental Protection Officer, that on balance that the extension to the hours is acceptable.

Highways

The TRICS database contains a number of traffic surveys undertaken at petrol filling stations. This data indicates that an 8 bay filling station could generate around 50 vehicle movements between 0600 and 0700 and around 100 vehicle movements between 0700 and 0800. The existing petrol station opens at 0730, and therefore the additional 1.5 hours of operation proposed may generate between 50 and 100 vehicle movements. Unfortunately, only one of the petrol filling stations surveyed operated beyond 2200 and therefore the data is not particularly robust. Notwithstanding this, around 34 vehicle movements were generated between 2200 and 2300. The vehicle movements at these times, outside of the peak periods on the surrounding network, are unlikely to have a material impact on highway capacity. Furthermore, the existing access points to the site have good visibility along the A2 and therefore no detrimental impact on highway safety is anticipated.

Overall, no objection is raised to this application in respect of the transport policies of the Local Plan.

Other Matters

If this application is to be granted planning permission it is necessary to reimpose any other conditions previously imposed on the planning permission MC/13/1982 that are still relevant and applicable.

In response to the suggestion that the car wash is operating outside of hours, the case officer has carried out investigations and it has been found that the car wash is not operating outside of the permitted hours but that some noise from the car wash occurs outside of hours from the air intake valves.

Conclusion and reasons for recommendation

The amended hours are considered on balance to be acceptable with regard to potential noise and disturbance to neighbouring occupiers and in accordance with Policy BNE2 of the Medway Local Plan 2003 and the National Planning Policy

Framework 2012.

This application would normally fall to be determined under delegated powers but has been referred to committee due to the submission of a petition and therefore the number of representations received contrary to officer's recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/dconline/AcolNetCGI.gov>