

Planning Committee: 19 August 2014

Item Number: **18**

Application No: W 14 / 1084

Town/Parish Council: Leamington Spa

Case Officer:

Rob Young

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Registration Date: 17/07/14

Expiry Date: 11/09/14

Milverton Service Station, 130 Rugby Road, Leamington Spa, CV32 6DN

Removal of condition 5 (opening hours) of planning permission no. W/96/0559 so as to allow 24 hour opening for fuel and ancillary sales only FOR Rontec Watford Ltd

This application is being presented to Committee due to the number of objections received.

RECOMMENDATION

Planning Committee are recommended to GRANT this variation of conditions, subject to further conditions.

DETAILS OF THE DEVELOPMENT

The application proposes the removal of condition 5 of planning permission no. W/96/0559 so as to allow 24 hour opening. Condition 5 currently restricts the opening hours as follows:

"The premises shall be used for the purposes permitted only between the hours of 7.00am to 11.00pm Mondays to Saturdays and 8.00am to 10.00pm on Sundays."

THE SITE AND ITS LOCATION

The application relates to a petrol filling station situated on the north-western side of Rugby Road. The site is situated within a predominantly residential area, although the Lockwoods ski shop is situated on the opposite side of Rugby Road and the Rugby Road Local Shopping Centre is 135m (as the crow flies) to the south-west along Rugby Road (with two blocks of flats and Guys Cliffe Road in between). The application site is adjoined by dwellings to the south-west and north-west. Rugby Road runs along the south-eastern boundary of the site and Cliffe Road runs along the north-eastern boundary. Dwellings face the site from the opposite side of Rugby Road and Cliffe Road.

There are currently fuel pumps and an associated canopy occupying the centre of the application site. A single storey sales building is situated to the rear of this. There is a car wash behind the sales building, alongside the boundary with the

neighbouring dwelling at No. 2a Cliffe Road. There are vehicular accesses onto Rugby Road and Cliffe Road.

The application site adjoins the boundary of the Leamington Spa Conservation Area. The Conservation Area boundary runs along the south-eastern, north-eastern and north-western boundaries of the site.

PLANNING HISTORY

In 2013 planning permission was refused for "Demolition of existing service station and redevelopment to provide a foodstore (Use Class A1) with ATM, associated parking, landscaping and other ancillary works (resubmission of withdrawn application ref. W12/0641)" (Ref. W13/0597). A subsequent appeal was dismissed.

Prior to that there had been a number of previous planning applications relating to extensions and alterations to the premises. The most relevant of these is the planning permission that added the condition that is the subject of the current application for removal. That was the planning permission granted in 1996 for "Extension to shop and change of use from Class A1 to Class A1/Class A3 and installation of vapour balancing" (Ref. W96/0559).

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

SUMMARY OF REPRESENTATIONS

Town Council: Comments awaited.

Public response: 20 objections have been received, raising the following concerns:

- increased noise and disturbance at unsociable hours;
- the area is very quiet at night;
- increased traffic at night;
- increased crime;
- detrimental to highway safety;
- increased light pollution;
- street lights are turned off at this time; and
- detrimental to the setting of the Conservation Area and nearby Listed Buildings.

WDC Environmental Health: The applicant has submitted a noise assessment to support the planning application for a proposed 24 hour operation of the petrol filling station. The noise assessment has taken background readings from a

nearby residential garden as well as a variety of forecourts, in order to develop a noise model that details the predicted noise impact from extended operating hours. The noise assessment has made some assumptions that are not generally agreed with. However, these do not appear to affect the assessment's findings.

The existing petrol filling station is on the periphery of the town centre, and therefore, there are concerns that a 24 hour operation has the potential to attract customers off the street late in the evening. There is currently no precedent for late night trade in this area so the impact from this is unknown. However, existing 24 hour petrol filling stations in the town centre [namely the Shell garage on Clarendon Avenue], are known to attract a high volume of pedestrians that generates levels of noise considered to be a nuisance. The noise assessment does not appear to specifically consider customer noise, which can often be difficult to accurately quantify and assess.

As the proposals could potentially be detrimental to existing residential uses nearby, it is recommended that a twelve month temporary permission is granted, together with conditions to restrict the use of the site to fuel and ancillary sales only between 2300 hours and 0700 hours on Mondays to Saturdays and between 2200 hours and 0800 hours on Sundays. It is also recommended that a condition is imposed to restrict the hours that deliveries can take place and another condition is imposed to require lighting details to be submitted for approval.

ASSESSMENT

The main issue relevant to the consideration of this application is the impact on the living conditions of nearby dwellings.

The site is situated within a predominantly residential area and is adjoined by dwellings on two sides (in Cliffe Court and Cliffe Road). The site is also faced by dwellings on the opposite side of Rugby Road and Cliffe Road. There are no commercial premises operating on a 24 hour basis in the vicinity of the application site. Therefore a change to 24 hour opening clearly has the potential to cause noise and disturbance for nearby dwellings and needs careful consideration.

The applicant has submitted a Noise Impact Assessment which considers the proposed change in the hours of operation. This concludes that there are no significant issues relating to noise associated with the proposed change.

Environmental Health have queried some of the assumptions made in the Noise Assessment but do not consider that these affect the assessment's findings. Environmental Health have advised that a twelve month temporary permission should be granted to enable the impact of the change in operations to be reviewed. However, they have identified a particular concern regarding noise and disturbance caused by customers arriving on foot to make non-fuel purchases, which has been witnessed causing particular issues with noise and disturbance at other garage sites. Therefore Environmental Health have recommended that a further condition is imposed to restrict the use of the site to fuel and ancillary sales only between 2300 hours and 0700 hours on Mondays to Saturdays and

between 2200 hours and 0800 hours on Sundays. They have also recommended a condition restricting the hours that deliveries can take place.

The restrictions recommended by Environmental Health are a little more onerous than those proposed in the Noise Impact Assessment submitted by the applicant. The difference is that Environmental Health are recommending an additional restriction to prohibit the use of the shop overnight, except for ancillary sales to motorists purchasing fuel. This added restriction is considered to be necessary given the concerns about potential noise and disturbance from customers of the shop arriving on foot.

In the circumstances, a twelve month temporary permission is considered to be an appropriate way forward. This would give the opportunity for the actual impact of the revised opening hours to be assessed. The other restrictions suggested by Environmental Health will prevent the main types of disturbance that are associated with 24 hour garages, i.e. visits by customers on foot to make non-fuel purchases. There would still be some degree of noise associated with vehicles manoeuvring on the forecourt and car doors closing, but it is not considered that this would cause an unacceptable level of noise and disturbance for neighbours given the conclusions of the Noise Assessment.

Lighting has also been identified as a potential issue by Environmental Health. This can be addressed by a condition requiring details of lighting to be submitted for approval.

The proposed change in opening hours would not have a material impact on the character and appearance of the adjacent Conservation Area or the setting of nearby Listed Buildings.

The concerns that objectors have raised in relation to highway safety and crime are noted. However, it is not considered that an increase in opening hours would have any significant implications in terms of these particular issues.

In view of the nature of the proposal and the conditions proposed, it is not considered that there will be a significant impact on the health and wellbeing of the occupants of nearby properties, however should that be the case, it would be taken into account should a further application be submitted following the expiry of the proposed temporary period.

SUMMARY / CONCLUSION

Subject to a twelve month temporary restriction and limitations on the use of the premises overnight, it is considered that the proposals would have an acceptable impact on the living conditions of nearby dwellings. Therefore it is recommended that planning permission is granted.

CONDITIONS

- 1 The extended opening hours hereby permitted shall be discontinued and the restriction on opening hours shall revert to those under planning

permission no. W96/0559 on or before 20/08/2015. **REASON:** In order that the local planning authority have the opportunity of reviewing the impact of this development on the amenities of occupants of other properties in the vicinity in the light of experience of its operation in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

- 2 Between 2300 hours and 0700 hours on Mondays to Saturdays and between 2200 hours and 0800 hours on Sundays the site shall be used for the sale of fuel for motor vehicles and for the ancillary sale of other goods to motorists purchasing fuel and for no other purposes whatsoever. **REASON:** The site is closely adjoined by residential properties and the local planning authority considers it necessary to strictly control the nature and intensity of use of the site in the interests of the amenities of the area in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
 - 3 No deliveries shall be taken at or despatched from the site before 0730 hours or after 2100 hours on Mondays to Saturdays or before 0900 hours or after 1800 hours on Sundays. **REASON:** To protect the amenities of occupants of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
 - 4 No lighting or illumination of any part of any building or the site shall be operated between 2300 hours and 0700 hours unless and until details of the lighting and/or illumination have been submitted to and approved in writing by the local planning authority and the lighting and/or illumination shall be installed and operated only in full accordance with those approved details. **REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
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