

Application for Determination

Parish Great Yarmouth

Reference: BA/2013/0119/COND **Target Date:** 26/06/2013

Location: Shell Petrol Station, Caister Road, Great Yarmouth

Proposal: Variation of condition on pp BA/2012/0316/CU to allow for winter and summer opening times

Applicant: Mr Nick Shatri

Reason for referral: Objection from neighbour and consultee

Recommendation: Approve with conditions

1 Background

- 1.1 The application site is a Shell petrol station situated on the A149 Caister Road on the northern edge of Great Yarmouth. The site lies within a small spur of the Broads Authority's executive area which extends from the River Yare right up to Caister Road.
- 1.2 Caister Road is a busy 'A' road leading north out of Yarmouth towards Caister. Residential development lines either side of the road along most of its length, however the petrol station marks the end of residential development on the western side of the road, with land to the north of the station being open amenity space.
- 1.3 The petrol station site fronts on to Caister Road and to the west, at the rear of the site, shares a boundary with two residential properties and a public house (currently closed).
- 1.4 The site is broadly rectangular in shape and measures approximately 50m x 50m. The site comprises a shop and filling station which are both housed under a large canopy, and the hand car wash business which is the subject of this application.
- 1.5 Consent for the operation of the hand car wash business was granted by Planning Committee in March 2013 (BA/2013/0119/COND). In light of the objection received from a neighbouring property Great Yarmouth Environmental Health requested that any consent issued be temporary for one year, to allow for a proper assessment of the impact of noise and overspray on the amenity of this neighbouring property. Accordingly, the consent granted is temporary for one year, expiring in April 2014. This

application seeks to alter condition 5 attached to that consent

- 1.6 Initially this application sought consent for the variation of Condition 2 in addition to condition 5. Condition 2 requires that the car wash is set out in accordance with the approved plan. The application sought to vary the approved plan by relocating a 3m high vinyl spray screen.
- 1.7 The applicant indicated that this alteration was required to ensure the screen did not impede the operation of the car wash and to maximise the effectiveness of the screen in preventing overspray from reaching neighbouring properties. However, following an objection to this element of the proposal from the Environmental Health Officer, the applicant has agreed to retain the screen in its originally approved location and, consequently, deleted this element of the proposal.
- 1.8 Condition 5 restricts the hours of operation of the hand car wash to between the hours of 08.00 and 18.00 Mondays to Saturdays and 09.00 and 16.00 on Sundays and Bank Holidays. This application seeks to vary these opening hours to take account of the seasonal nature of the business, with a proposed winter opening pattern (1 November to 31 March) of 08.00-18.00 Monday – Sunday, and a proposed summer opening pattern (1 April to 31 October) of 08.00 – 19.00.

2 Site History

In 2013 retrospective consent was granted for the operation of a hand car wash business at the petrol station site. The consent is temporary for 1 year and expires in April 2014.

In 2010 retrospective consent was granted for the installation of an ATM cash machine (BA/2010/0356/FUL).

In 2010 consent was granted for the erection of two illuminated advert displays (BA/2010/0197/ADV).

3 Consultation

Broads Society – No objection.

Great Yarmouth Borough Council (Planning Department) – No response received.

District Councillor – No response received.

Great Yarmouth Borough Council Environmental Health Officer – I object to this proposal and wish to make the following comments:

Condition 2

I stated in my initial response to planning application BA/2012/0316/CU that there is a potential for a nuisance to be encountered by neighbouring

properties. The reason for recommending a canopy to be provided for the area where the jet washing is taking place was to prevent the spray/aerosol from the jet wash causing a nuisance to neighbouring properties.

I therefore object to this variation as by relocating the canopy to the boundary fence would mean that this would not stop the aerosol and the spray created from the jet washing from getting into the atmosphere and being blown into neighbouring properties and therefore getting on to washing etc which would potentially cause a nuisance to the neighbouring properties.

Condition 5

I stated in my initial response to planning application BA/2012/0316/CU that due to the time of year and not being able to witness the entire cleaning equipment running simultaneously along with the increase of staff, the noise they make and the general noise from cars visiting the garage with their windows down and music being played, that it was impossible to assess the planning application without the accumulation of noise that will be present during the summer and warmer times of the year. I can appreciate why the applicant wishes to vary these times and the times which he has requested highlight the fact that the hand car wash is busier in the summer.

Currently I have undertaken one set of noise readings but these readings are not representative of the busier times. I therefore object to this variation as I am not able to assess the impact of the noise created by the hand car wash at this time.

4 Representations

Mr T. Fell, 20 River Walk, Great Yarmouth – objection due to noise and disturbance associated with the hand car wash business.

Mr C. Lynskey, 18 River Walk, Great Yarmouth – no objection but raises concerns regarding noise, disturbance and overspray.

5 Policy

- 5.1 The following policies have been assessed for consistency with the NPPF and have found to be broadly but not fully consistent with the direction of the NPPF, therefore aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

Broads DM DPD (2011)

[DMP DPD - Adoption version.pdf](#)

DP28 - Amenity

5.2 **Material consideration**
National Planning Policy Framework
[NPPF](#)

6 Assessment

- 6.1 The principle consideration in the determination of this application is the impact of the operation of the car wash on the amenity of the neighbouring residential occupier, and achieving an appropriate balance between protection of this amenity whilst at the same time not unduly fettering the operation of a successful small business which employs two full time and three part time employees.
- 6.2 When considering impact on amenity Policy DP28 requires that new development has no unacceptable impact on the amenity of neighbouring occupiers. In this case the hours of operation were limited to restrict the impacts of noise generated by the site (from machinery and staff) and overspray from pressure washers. The degree to which these impact on the amenity of the neighbouring residential property is a matter of dispute between the applicant and the resident, and the uncertainty as to the true impact of the car wash business on amenity is reflected in the temporary, 'trial' nature of the consent issued (which expires in April 2014).
- 6.3 What is not disputed is the fact that the wider site is a petrol station which operates from very early in the morning to late at night. This use in itself creates a degree of noise and disturbance throughout the day and into the night; this is relevant to the determination of this application as one of the principal detrimental impacts on amenity reported by the objector to this application is the slamming of car doors, starting of engines and radio noise generated by cars using the hand car wash.
- 6.4 Consequently, when considering this application for variation of condition it must be noted that in the times when the car wash is not operating there still exists the potential (and, indeed, the reality) for noise to arise from the site, and that this forms part of the consented use of the site as a petrol station.
- 6.5 When considering this application for variation of condition the key issue in planning is whether the extension of hours proposed would result in an unacceptable impact on the amenity of any neighbouring occupier, when compared to the existing consented hours. The proposed increase is relatively modest – extending the permitted hours of operation to 19.00 at night during the period April – October (inclusive) and extending the permitted hours on Sundays and Bank holidays from closing at 16.00 to closing at 19.00.
- 6.6 In the context of the application site (namely a busy filling station and shop) and having regards to the fact that the existing consent is temporary in order that the impacts on residential amenity can be properly assessed, it is not considered that there are any material planning reasons to refuse this application for a modest relaxation of the hours of operation.

- 6.7 It is noted that the Environmental Health Officer at Great Yarmouth Borough Council has raised an objection to the proposed alteration of approved operating hours, stating that *'(I) object to this variation as I am not able to assess the impact of the noise created by the hand car wash at this time'*.
- 6.8 When an objection is received from a technical consultee such as an Environmental Health Officer (EHO) very careful consideration must be given to any recommendation which does not accord with the consultee's opinion on the matter. However in this instance the limitation on hours of operation were not requested by the EHO but were imposed by the Planning Committee on the recommendation of the Planning Officer in order to protect the amenity of the neighbouring residential properties. It is the case that the approved hours of operation do not represent the only possible acceptable hours of operation but were based on the opening hours submitted on the application form and an assessment of what represents an appropriate balance between the commercial requirements of the business and protecting the amenity of neighbouring properties.
- 6.9 Regrettably, the applicant has indicated that the opening hours submitted on the application form were the winter opening hours (08.00 – 18.00 seven days per week) and have further indicated that the restriction imposed would *'severely impinge on the operations and viability of this site, especially due to passing traffic leaving off work in summer between five and seven'*. It is unfortunate that this issue was not identified when the proposed operating hours were discussed as part of the previous application process, however the fact that consent was only recently granted (and on a temporary basis) does not preclude an application to vary these hours.
- 6.10 In objecting to the proposed revised hours of operation the EHO states that it is not possible to assess the impact of noise created. However, by virtue of the fact that the EHO did not object to the granting of a temporary consent and having regards to the fact that the limitations on operating hours were not imposed at the request of the EHO, it is unclear why the previous hours were acceptable on a temporary one year basis but the proposed revised hours are not, still operating on the basis of a temporary one year consent.
- 6.11 Furthermore, it is material to note that since approval of the application in April 2013 the EHO has conducted one noise and nuisance monitoring visit on which it was found that any disturbance arising from the car wash was not sufficient to be considered statutory nuisance. Whilst it is accepted that this is not necessarily a wholly representative or conclusive test (it being conducted in the quieter winter/spring months) it does add weight to the contention that an adjustment of the operating hours such as that proposed would not have an unacceptable impact on the amenity of the neighbouring properties. Consequently, having regards to all of the above, there is no objection to the proposed alteration in hours of operation.
- 6.12 In making this recommendation it is noted that the National Planning Policy Framework requires planning to *'encourage and not act as an impediment to*

sustainable economic growth’ and states that Authorities must place ‘*significant weight*’ on the need to support economic growth through the planning system (paragraph 19).

7 Conclusion

- 7.1 This application sought consent for the variation of conditions 2 and 5 of consent BA/2012/0316/CU to allow for the relocation of a vinyl screen and the relaxation of opening hours to reflect the seasonal nature of the business.
- 7.2 Having regards to the intended purpose of the vinyl screen it is considered that a relocation of the screen would be detrimental to the effectiveness of the screen and, following negotiations with the applicant, this element of the proposal has been dropped.
- 7.3 With regards to the proposed variations to opening hours, whilst the concerns of the neighbouring residential occupier are noted, it is not considered that the proposal would result in any unacceptable impacts on residential amenity having regards to the commercial nature of the wider site and the protection of amenity afforded by the fact that this is a temporary consent permitted whilst Great Yarmouth Environmental Health Officer’s continue to monitor noise, disturbance and overspray emanating from the site.

8 Recommendation

- 8.1 Approve subject to the following conditions:
- (i) Temporary consent until April 2014
 - (ii) In accordance with approved plans
 - (iii) Vacuum and pressure washers must only be operated when motor unit is encased in enclosed boxes
 - (iv) Revised hours of operation

Background papers: Application File BA2013/0119/COND

Author: Fergus Bootman

Date of report: 5 July 2013

Appendices: APPENDIX 1 - Location Plan

APPENDIX 1

BA/2013/0119/COND - Variation of conditions 2 and 5 on pp BA/2012/0316/CU to allow relocation of spray screen and to allow for winter and summer opening times
Famous Hand Car Wash, Shell Petrol Station, Caister Road, Great Yarmouth

