

APPLICATION REPORT - PA/341390/18

Planning Committee, 18 April, 2018

Registration Date: 09/02/2018

Ward:

Application Reference: PA/341390/18

Type of Application: Removal/Variation of Conditions

Proposal: Removal of Condition 5 restriction of opening hours from PA/023286/88

Location: Texaco Hollinwood Service Station, 257 Manchester Road, Oldham, OL8 4RH

Case Officer: Matthew Taylor

Applicant Anwar & Company Ltd

Agent : Emery Planning Partnership Ltd

THE SITE

This application relates to the Texaco petrol station on Manchester Road, Oldham, a single storey building in a mixed-use area situated on the A62. The site fronts onto the dual carriageway to the north whilst residential properties and associated amenity space bound the site to the south.

THE PROPOSAL

This application has been made under Section 73 of the Town and Country Planning Act 1990 (as amended) seeking consent for the removal of condition no. 5 attached to PA/023286/88, to allow 24 hour opening of the petrol station on any day.

RELEVANT HISTORY OF THE SITE:

PA/336288/14 - Variation of condition no. 5 relating to app no. PA/23286/88 – refused 26/02/2015, for the following reason;

1. *'The additional noise, activity and disturbance caused by the extended opening hours at the premises would be significantly detrimental to the residential amenity of the occupiers of the nearby residential properties on Moorfield Road and Chelbourne Drive. The proposal would thereby be contrary to Policy 9 of Oldham's LDF Joint DPD.'*

PA/023286/88 – Petrol station, car wash and shop – Granted 15/12/1988

RELEVANT PLANNING POLICIES & GUIDANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, to the extent that development plan policies are material, planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. This requirement is reiterated in Paragraph 11 of the National Planning Policy Framework (NPPF).

In this case the 'Development Plan' is the Joint Development Plan Document (DPD) which forms part of the Local Development Framework for Oldham. The application site is unallocated by the Proposals Map associated with this document.

The following policies are relevant to the determination of this application.

Joint Development Plan Document

Policy 1 - Climate change and sustainable development

Policy 9 - Local Environment

CONSULTATIONS

Pollution Control	Recommended the removal of Condition 5 restriction of opening hours granted for probationary period of 12 months to access the impact of the 24 hour opening times on the local amenity of the residents.
Traffic Section	No objection.

REPRESENTATIONS

The application has been publicised by way of neighbour notifications and site notice, to which one letter of objection has been received which raises concerns that increased opening hours would have a greater noise and smell impact, and the current opening hours are adequate.

PLANNING CONSIDERATIONS

DPD Policy 9 in this context states that the Council will protect and improve local environmental quality and amenity by ensuring that development proposals do not cause significant harm to the amenity of existing and future occupants through impacts on privacy, safety and security, noise, pollution, the visual appearance of an area, access to daylight and other nuisances. In addition Oldham's Supplementary Planning Document Vibrant Centres is a material planning consideration.

The proposed variation of condition no.5 would result in the premises being able to operate 24 hours on any day. The main issue is therefore if these extended hours will tip the balance and result in an unacceptable level of disruption for the residents of the nearby properties. It is noted that the application site is bounded by residential properties on the southern boundary, these include No's. 31, 33, 35 and 37 Chelbourne Drive and No's. 1 to 7, 9 and 11 Moorfield Road.

In support of the application a Noise Impact Assessment has been submitted. It states that the noise climate measured towards the end of the current opening hours (22:00 hours till 23:00 hours) and those measured just after 23:00 hours, showed very little difference in the noise climate due to the activity at the fuel station.

National Planning Policy Framework (NPPF) paragraph 123 states that planning decisions should aim to:

'avoid noise from giving rise to significant adverse impacts²⁷ on health and quality of life as a result of new development'

However, no specific guidance on numerical acoustic assessment relevant to this development is provided within the NPPF or Technical Guidance. To this end, the Noise and Vibration Consultants made the assessment of the impacts of the extended opening hours under the British Standard 4142:2014 'Method for rating and assessing industrial and commercial sound'. They included within the assessment the prevailing noise climate and calculations of likely noise levels from the fuel station at the nearest dwellings. The BS4142:2014 assessment concluded that noise from the change of opening hours at the application site would be low impact.

Having regards to this submitted supporting information, the Council's Environmental Health Department has raised no objection to the scheme. However, it is recommended that the removal of condition No. 5 is granted for a probationary period of 12 months, to access the

impact of the 24 hour opening times on the local amenity of the residents.

Whilst the suggestion of the Environmental Health Officers is noted, in the absence of any evidence to show that the use would have a detrimental impact, it is considered that an unrestricted planning permission can be justified in this instance.

To this end, as the applicant has demonstrated that the proposed development would not have a significantly detrimental impact on the amenity currently enjoyed by the neighbouring residential properties and taking into account the absence of an objection from Environmental Health. On balance, it is considered that the removal of condition would not impact on residential amenity to such a degree to warrant a refusal.

RECOMMENDATION

Approve.

CONDITIONS

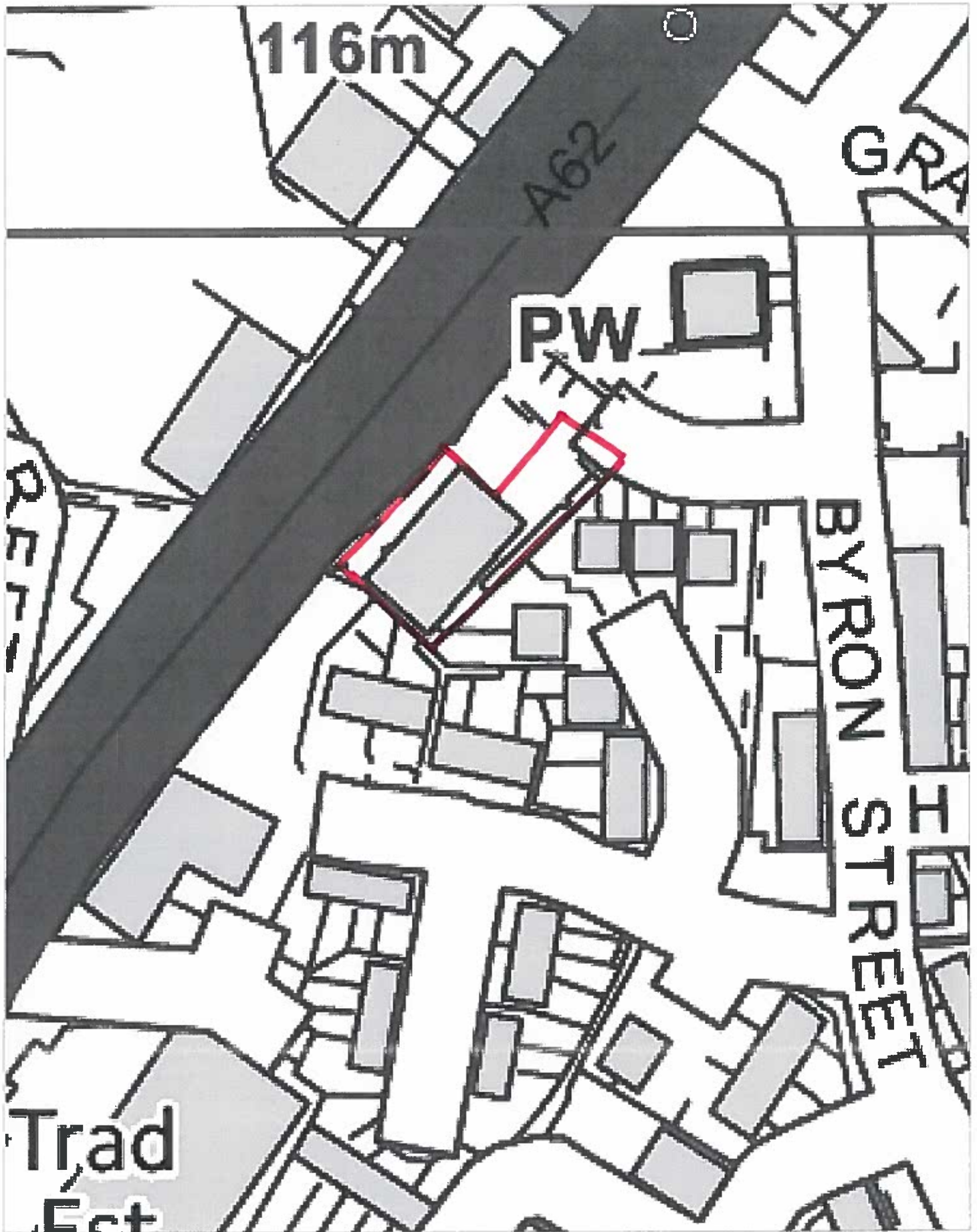
1. Noise from operations conducted within the premises shall not exceed 50dB(A) CNL as measured at the site boundary between the hours of 08:00 and 18.00 Monday to Saturday and 40 dB (A) CNL at any other time.

Reason – To protect the amenities of the occupiers of the dwellings on the adjoining land.

2. A sight line measuring 4.5 metres by 90 metres at the junction of the site egress with Manchester Road as improved shall be provided and maintained free of all obstruction exceeding 0.6 metre in height within the splay area so formed on land under the applicant's control.

Reason – In the interests of highway safety.

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PLANNING COMMITTEE - BACKGROUND PAPERS

REPORT OF THE HEAD OF PLANNING AND INFRASTRUCTURE

PLANNING AND ADVERTISEMENT APPLICATIONS

The following is a list of background papers on which this report is based in accordance with the requirements of Section 100D (1) of the Local Government Act 1972. It does not include documents, which would disclose exempt or confidential information defined by that Act.

THE BACKGROUND PAPERS

1. **The appropriate planning application file:** This is a file with the same reference number as that shown on the Agenda for the application. It may contain the following documents:

- The application forms
- Plans of the proposed development
- Certificates relating to site ownership
- A list of consultees and replies to and from statutory and other consultees and bodies
- Letters and documents from interested parties
- A list of OMBC Departments consulted and their replies.

2. **Any planning or advertisement applications:** this will include the following documents:

- The application forms
- Plans of the proposed development
- Certificates relating to site ownership
- The Executive Director, Environmental Services' report to the Planning Committee
- The decision notice

3. Background papers additional to those specified in 1 or 2 above or set out below.

ADDITIONAL BACKGROUND PAPERS

1. The Adopted Oldham Unitary Development Plan.
2. Development Control Policy Guidelines approved by the Environmental Services (Plans) Sub-Committee.
3. Saddleworth Parish Council Planning Committee Minutes.
4. Shaw and Crompton Parish Council Planning Committee Minutes.

These documents may be inspected at the Access Oldham, Planning Reception, Level 4 (Ground Floor), Civic Centre, West Street, Oldham by making an appointment with the allocated officer during normal office hours, i.e. 8.40 am to 5.00 pm.

Any person wishing to inspect copies of background papers should contact Development Management telephone no. 0161 770 4105.

