

TWC/2018/0288

Land rear of Edgmond Foods, Units 6 -10 Audley Avenue Industrial Estate, Audley Avenue, Newport, Shropshire

Variation of Condition 9 of planning permission TWC/2017/0341 relating to submission of air quality information

APPLICANT

BP (Oil) UK Ltd,

RECEIVED

06/04/2018

PARISH

Chetwynd Aston and Woodcote,
Newport

WARD

Church Aston and Lilleshall, Newport
South and East

OFFICER Kate Stephens

COUNCILLOR ANDREW EADE HAS REQUESTED THE APPLICATION BE CONSIDERED BY THE PLANNING COMMITTEE.

1. PROPOSAL

1.1 This application seeks to vary condition 9, relating to air quality, on planning application TWC/2017/0341 that granted planning permission for a Petrol Filling Station (PFS) off a new access on the A41 and off Audley Avenue.

1.2 Condition 9 currently reads:-

Prior to the commencement of development an investigation of the site is to be undertaken to address any air quality concerns. The scope of the air quality assessment needs to incorporate (but is not limited to):

- *An assessment of construction dust impacts assessed using IAQM 'Guidance on the assessment of dust from demolition and construction';*
 - *A review of baseline air quality conditions at the application site and surrounding area using TWC monitoring data and Defra projected backgrounds;*
 - *A detailed assessment of traffic emissions impacts using ADMS Roads for NO₂ and particulate (PM₁₀ and 2.5); and*
 - *Identification of mitigation requirements.*
- a) *The commissioning of the development shall not take place until a scheme for the monitoring of air pollution in the vicinity of the development is submitted, and is approved in writing by the Local Planning Authority. The scheme shall include the measurement locations within the Local Authority's area from which air pollution will be monitored, the equipment and methods to be used and frequency of measurement. The scheme shall provide for the first measurement to be taken not less than 12 months prior to commissioning of the development, and for the final measurement to be taken not more than 24 months after the commissioning of the development. The company shall supply full details*

of the measurements obtained in accordance with the schemes, as soon as they become available.

- b) *Should the Local Authority require continued monitoring of air pollution, the company shall extend the scheme approved pursuant to part a) above, for the period of up to 36 months from the date of the last measurement taken, pursuant to Condition a. The company shall supply full details of the measurements obtained in accordance with the schemes, as soon as they become available.*

Reason: In order to protect public health and preserve amenity.

- 1.3 The applicant notes that the condition seeks to monitor air quality in relation to three main factors – traffic emissions, construction dust, and monitoring air pollution in the vicinity of the site both pre and post-development for 36 months. The application considers that all of this together is too onerous in relation to the scale of the petrol filling station and its location, and what has been required of other planning development in the vicinity. However, the applicant considers that dust from construction should continue to be monitored.
- 1.4 In light of this and following the submission of additional information listed in 1.5 below, the applicant is proposing that condition 9 be amended to read:-

“Development shall occur in accordance with the Construction Environmental Management Plan by Fox Construction (30th March 2018). All works which form part of the plan shall be implemented throughout the construction phase of the development unless otherwise approved in writing by the Local Planning Authority.”

- 1.5 The application form and plans are also accompanied by the following documents:
- Covering letter
 - Air Quality Technical Note, prepared by Wardell Armstrong
 - Construction Environmental Management Plan, prepared by Fox Construction
 - Transport Technical Note, prepared by Markides Associates

2. SITE AND SURROUNDINGS:

- 2.1 The 0.41ha brownfield site is located approx. 1.2kms south-east of Newport town centre, within the built up area of Newport (as defined on the Local Plan Policies Map) and within an established industrial area off Audley Avenue. The site once formed part of a larger site proposed for a supermarket, which was allowed on appeal in 2014 but which has not been built.
- 2.2 The A41 forms the eastern site boundary. There are industrial buildings to the west, and south is a vacant brownfield site that has recently been granted consent for retail development (TWC/2016/173), whose red line overlaps with this current application as the two proposals will share the same new access

off the A41. Further to the south is a recently constructed Aldi supermarket (on site of former Focus DIY store). This part of Audley Avenue is a commercial area which includes a range of industrial, retail and office uses, a John Deere Tractor showroom to the west and the Audley Avenue Enterprise Park to the north-west.

- 2.3 There is an undetermined outline application TWC/2016/1152 for housing (amended for up to 63 dwellings) abutting the site's northern boundary and which extends westwards onto Audley Ave and Parkland House/car auction.

3. RELEVANT PLANNING HISTORY

TWC/2017/0341 - Erection of petrol filling station with sales building, canopy, car parking, 8no. fuel pumps, 2 no. underground storage tanks, air/water bay, vent stack, retaining structure, new access to A41, ancillary arrangements to forecourt and boundary treatment. Full granted 21/2/18

TWC/2011/0632 – Proposed Foodstore. Allowed on appeal July 2012.
Note: This included the PFS site which was shown as the service area.

On adjacent/nearby sites:

TWC/2017/1073 Erection of 1no. foodstore, 4no. retail units and 1no. cafe/restaurant unit with formation of new access onto the A41 and associated parking, landscaping and servicing. Full granted 4/12/17. Note: This application shares the same new access onto the A41

TWC/2013/0889 Petrol filling station. Outline granted 25/6/14.

4. PLANNING POLICY CONTEXT:

- 4.1 National Planning Policy Framework (the NPPF) – the NPPF is not the development plan for Telford and Wrekin but it is a material consideration in this case because all of the borough's development plan policies have to be viewed in the light of this more recent national guidance.

- Section 11: Conserving and enhancing the natural environment

4.2 Telford & Wrekin Local Plan

- SP2: Newport
- SP4: Presumption in favour of sustainable development
- BE1: Design Criteria

5. SUMMARY OF CONSULTATION RESPONSES:

Standard consultation responses

- 5.1 Newport Town Council – No comment.

5.2 Ward Councillor Andrew Eade – Object

- Would oppose the removal of this condition which was put in place for public health and amenity reasons.
- If you are minded to approve Rapleys' proposals for removal, I would like this application to be determined by the Planning Committee.

5.3 TWC Public Protection - Support

Having reconsidered this on additional information received including:

- i. Air quality technical note dated the 4th April 2018
- ii. Transport technical Note dated 31st March 2018
- iii. Construction Environmental Management Plan 30th March 2018

The proposed variation to condition is reasonable.

5.4 Shropshire Fire Services – No Comment

6. PLANNING CONSIDERATIONS:

6.1 Planning permission has already been granted for the PFS under application TWC/2017/0341, so the principle of the development on this site has already been established. For that application the Council's Environmental Health Officer requested the imposition of condition 9. Officers were concerned about the proposed increase in housing development adjacent and near to the PFS site, and in particular benzene (a volatile organic compound found in stored fuels), and that there was no suitable local data available.

6.2 Condition 9 requires an investigation of the site to assess any air quality concerns that need to be addressed to include:

- An assessment of construction/demolition dust impacts
- Review of baseline air quality conditions at the site and surrounding area using TWC monitoring data and DEFRA projected backgrounds,
- Traffic emissions impacts using ADMS Roads for NO₂ and particulate (PM₁₀ and 25),
- Identify any mitigation requirements.

6.3 Air pollution monitoring would be required for 12 months before commissioning of the development and for 24 months after commissioning, with scope for further monitoring if the Local Authority considers it necessary. The applicant's agent has sought to address these concerns with the submission of additional information in para 1.5 and considers the timescale and all the requirements of the condition to be excessive and unjustified, taking into account the relatively small-scale nature of this particular PFS.

6.4 With regards traffic emissions, the applicant's agent considers that traffic monitoring is excessive, taking into account that much of the traffic visiting the PFS is likely to be already passing the site and that as a result, air quality impacts at the site will be insignificant. Also there is new housing development in the vicinity of the site that has been granted planning permission, and similar conditions have not be required for those

developments. Therefore any traffic emission monitoring will not necessarily distinguish between traffic created by the PFS or traffic that will be generated from the housing development.

- 6.5 The applicant's Air Quality Technical Note (prepared by Wardell Armstrong) advises that the site is not within or close to an Air Quality Monitoring Area (AQMA) or known area of air quality concern, either within Telford & Wrekin Council's area or within adjacent authorities. The concentrations of NO₂ (Nitrogen Dioxide) and fine particulate matter (PM₁₀) at the site is 7.86 and 13.02 µg/m³ respectively. This is below the annual mean air quality objective for both of these pollutants, which is 40 µg/m³. Therefore the applicant's supporting information concludes that any slight increase in pollutant concentrations as a result of the PFS alone will not cause any air quality levels to be reached or exceeded at existing or future receptor locations. Furthermore Benzene emissions are not considered to be significant as to cause concern.
- 6.6 With regards construction/demolition dust, the applicant's agent still proposes that this should be monitored. A Construction Environment Management Plan (prepared by Fox Construction) has been submitted that sets out on-site measures to suppress dust, such as spraying areas with water particularly on dry or windy days. The Council's Environmental Health Officer is now satisfied with these measures.
- 6.7 Much of this information was not presented at the time of assessing the PFS application and the applicant's agent has also spoken with the Council's Environmental Health Officer. Now that it has been submitted, the Council's Environmental Protection Officer is satisfied that traffic emissions are no longer an issue and baseline monitoring data has been provided. Therefore he is satisfied that the only element of condition 9 that requires monitoring is potential dust from demolition/construction. Hence he agrees to the proposed re-wording of Condition 9.
- 6.8 Planning officers concur with the applicant's agent that condition 9, as proposed to be re-worded, will not affect public health nor amenity in accordance with Policies SP4 (Presumption in favour of sustainable development) and BE1 (Design criteria)..

7. CONCLUSIONS

- 7.1 Much of the information that has now been submitted with this variation of condition application was not presented at the time of assessing the PFS application. Now that it has been, the Council's Environmental Protection Officer is satisfied that traffic emissions are no longer an issue and baseline monitoring data has been provided. Therefore he is satisfied that the only element of condition 9 that requires monitoring is potential dust from demolition/construction. Hence condition 9 can be re-worded to read:
"Development shall occur in accordance with the Construction Environmental Management Plan by Fox Construction (30th March 2018). All works which form part of the plan shall be implemented throughout the construction phase

of the development unless otherwise approved in writing by the Local Planning Authority.”

- 7.2 The effect of granting this variation of condition application is to issue a new decision notice for the PFS, with the imposition of conditions relevant to the PFS. However, some of the PFS pre-commencement conditions have already been discharged under the PFS application and need not be imposed again on this new decision. Therefore the conditions will need to be revised to address those that have been discharged already and those that still require discharging, but this had not been finalised at the time of writing this report.

8. RECOMMENDATION

- 8.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is that **PLANNING PERMISSION IS GRANTED** to:-

a) Vary condition 9 to read:-

“Development shall occur in accordance with the Construction Environmental Management Plan by Fox Construction (30th March 2018). All works which form part of the plan shall be implemented throughout the construction phase of the development unless otherwise approved in writing by the Local Planning Authority”.

And

- b) Subject to other relevant conditions from TWC/2017/0341, with delegated authority for officers to finalise conditions.