



Appeal Decision

Hearing held on 11 February 2026

Site visits made on 10 and 11 February 2026

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2026

Appeal Ref: APP/J0405/W/25/3374676

2 Pebblemoor, Edlesborough, Dunstable LU6 2HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by NMJ Motorhouse Ltd against the decision of Buckinghamshire Council.
 - The application Ref is 24/02589/VRC.
 - The application sought planning permission for change of use of existing vehicle service garage to retail convenience store including associated external alterations, plant equipment, parking and servicing area without complying with a condition attached to planning permission Ref 23/02966/APP, dated 24 May 2024.
 - The condition in dispute is No 10 which states that: The retail use hereby permitted shall only be open to customers between the hours of 07:00 hrs and 20:00 hours daily.
 - The reason given for the condition is: To protect the amenities of the nearby neighbouring properties, in accordance with Policy BE3 of the Vale of Aylesbury Local Plan (adopted September 2021), and the National Planning Policy Framework (2023).
-

Decision

1. The appeal is allowed, and planning permission is granted for the change of use of existing vehicle service garage to retail convenience store including associated external alterations, plant equipment, parking and servicing area at 2 Pebblemoor, Edlesborough, Dunstable LU6 2HZ, in accordance with the application Ref 24/02589/VRC, without compliance with condition number 10 previously imposed on planning permission Ref 23/02966/APP dated 24 May 2024 and subject to the conditions set out in the schedule to this decision.

Background and Main Issue

2. Planning permission was granted for a change of use of the appeal property to a retail convenience store in May 2024 (the original permission) and is now trading. The appellant wishes to extend the opening hours from those originally imposed in condition 10 of the original permission to between 7am and 10pm daily.
3. During the appeal the Council has confirmed that following the submission of additional information, in particular a revised Noise Impact Assessment dated 15 October 2025 (the NIA), it is conceded that the proposed extended opening hours would not cause unacceptable harm to the residential amenities of neighbouring occupiers.
4. Having regard to the representations from Edlesborough Parish Council (the Parish Council) and interested parties, the main issue is the effect that varying the

opening hours would have on the living conditions of neighbouring residents with regard to noise and disturbance.

5. At the Hearing, the parties agreed that the reason for refusal related to noise and disturbance from the arrival and departure of customers to and from the store during the proposed additional opening hours. It was also confirmed that the previous car repair garage use had restricted opening hours. I have dealt with the appeal on this basis.

Reasons

6. The appeal site comprises a single storey Tesco Express retail unit located within the village of Edlesborough. There is a parking area to the front of the building with access from the road. The parking area is small with a limited number of spaces.
7. The appeal building and the frontage parking area share a boundary with a neighbouring residential property to the side. There are residential properties further along the road and also behind the building at the rear. A Memorial Hall and Scout Hall are located to the other side of the building, with public open space and its associated car park located opposite. Overall, the area has a village character.
8. The proposal seeks to extend the opening hours of the shop such that the closing time would be extended by two hours in the evening to 10pm. Therefore, there would be additional activity from customers visiting the store during the extended opening hours.
9. It is the case that the store attracts customers during the existing opening hours, which generates noise and disturbance from their arrival and departure. Similar noise and disturbance can be expected during the proposed additional opening hours.
10. The NIA includes the results of noise surveys conducted in April 2022, July 2025 and October 2025, before the store was open. The noise surveys and NIA suggest that background noise levels during the proposed opening hours would be comparable to the levels experienced during the morning opening period between 7am to 8am. The NIA suggests that the only way that the impact on residential amenity can be increased is if the background noise levels are lower. As the average background noise levels during the 7am to 8am period and the 8pm to 10pm period are the same, the noise impact of cars arriving and leaving, and car doors closing, would be similar. Indeed, the NIA concludes that, based on BS4142:2014 'Methods for rating and assessing industrial and commercial sound', which is the British Standard, the impact of the proposal on the living conditions of residential occupiers would be unchanged.
11. To some degree I acknowledge that the effect of vehicles arriving and leaving the site, and the associated noise and disturbance, may be perceived to be less harmful during the morning period than later at night. However, there is no substantiated evidence which demonstrates that the level of activity during the additional opening hours would be significant compared to the early morning period.
12. The noise survey results suggest that background noise levels drop markedly after 11pm and rise again noticeably after 7am. This being the time period that the appellant suggests is classed as the 'nighttime' period, and when, during the

original permission, the Council's Strategic Environmental Health Protection Team (the EHPT) recommended that the shop shall not be open to customers. The proposal would ensure that the store is not open during this nighttime period, thus protecting neighbouring living conditions.

13. Extending the opening hours would provide greater flexibility and convenience for customers, and I am not persuaded that vehicle trips to the store during the proposed times would be significant. Indeed, although there is no streetlighting along the road, the shop is within a convenient location for the residents of the village, and not all trips would be by motor vehicles, even within the winter months and times when the weather conditions are less favourable. These factors, as well as the size of the front parking area, would ensure that the level of noise and disturbance, particularly from vehicle movements, and the associated closing of car doors, would be limited.
14. I am also mindful that the adjacent Memorial Hall, Scout Hall and public open space are likely to generate vehicle movements along the road, and parking close by in the evening period, especially during the summer months when the evenings are lighter. It is also the case that, as confirmed by the parties at the Hearing, there are no restrictions on the operational hours of those neighbouring uses. Within this context, and in combination with the other factors identified above, as well as the conclusions of the NIA, and the lack of objections to the proposal from the EHPT, I am satisfied that the effect of the proposal on the living conditions of neighbouring residents or the amenity of the area would not be significant.
15. While reference has been made to the opening and closing times of other convenience stores nearby, the parties were unable to confirm those times. Inevitably, as they are located elsewhere, the site context of those stores is unlikely to be comparable to the proposal before me. As such, I attach limited weight to the opening and closing times of other stores locally.
16. It is not the intention of the appellant to undertake home deliveries from the store and there is no suggestion from the parties that there would be a need to control the future prospect of home deliveries by condition.
17. General deliveries and collections for the store, and the associated activities, would be more harmful than noise and disturbance from customers visiting the premises. Accordingly, general store deliveries and collection times should continue to be restricted to between 7am and 7pm, as secured by the original permission, to protect neighbouring living conditions. Likewise, conditions which ensure that plant and machinery, as well as external lighting, is retained as previously approved would safeguard the amenity of the area.
18. Consequently, for the above reasons, and on the evidence before me, I conclude that varying the opening hours would not harm the living conditions of neighbouring residents with regard to noise and disturbance. Therefore, the proposal would not conflict with Policy BE3 of the Vale of Aylesbury Local Plan 2013-2033, which seeks to ensure that any proposed development would not unreasonably harm any aspect of the amenity of existing residents.
19. Similarly, the proposal would accord with the National Planning Policy Framework, which seeks, amongst other things, to ensure that new development is appropriate for its location, which avoids noise giving rise to significant adverse impacts on health and quality of life.

Other Matters

20. The Council's reason for refusal includes reference to a lack of community support for the proposal, and in addition to the concerns in respect of the main issue, I note that there were a number of other issues raised by interested parties. These included concerns about the principle of a new retail convenience store in this location. However, the Planning Practice Guidance (PPG)¹ is clear that in deciding an application under section 73, the local planning authority must only consider the disputed condition that is the subject of the application. I have also determined this appeal on that basis.
21. Other objections to the proposed extended opening hours are on the grounds of light pollution, additional anti-social behaviour, highway safety due to increased traffic, dangerous parking and speeding vehicles in the village. These factors are not in dispute between the main parties and were addressed in the Council's Planning Committee Report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Likewise, there is no substantive evidence that the additional opening hours would harm the character of the village and existing businesses. Given my findings above, I have found no justification to dismiss the appeal.

Conditions

22. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
23. The building works have been carried out, and the shop is now trading. As such, the standard commencement condition is no longer necessary, nor is a condition regarding unexpected land contamination during construction works, as the works are substantially complete. However, I have included a plans condition for certainty and a condition to ensure that the external materials continue to match the original building, to protect the appearance of the area.
24. The Council has drawn my attention to a previous permission for the removal of condition 4, related to electric vehicle charging provision. As such, it is not reasonable to impose that condition. I have re-imposed all other conditions that continue to take effect but as the parties agree that these have largely been discharged, compliance with the approved details is only reasonable and necessary.

Conclusion

25. For the above reasons, having taken account of the development plan, along with all other relevant material considerations, the appeal should be allowed.

N Bromley

INSPECTOR

¹ Paragraph: 031 Reference ID: 21a-031-20180615

APPEARANCES

FOR THE APPELLANT:

Dan Botten AssocRTPI

Senior Associate Director, ROK Planning

Rhys Scrivener MIOA

Noise Consultant, KR Associates

Ross Powell

Community Engagement Manager for Tesco

FOR THE COUNCIL:

Dipanwita Chatterjee

Principal Planning Officer

Salman Azad

Senior Planning Officer

EDLESBOROUGH PARISH COUNCIL:

Penny Patak

Clerk

John Wilkinson

Councillor

Christine Hurst

Councillor

SCHEDULE OF CONDITIONS

- 1) Minimum vehicular visibility splays of 43m from 2.4m back from the edge of the carriageway from both sides of the existing access onto Peblemoor shall be provided in accordance with the approved plans and the visibility splays shall thereafter be retained and shall be kept clear from any obstruction between 0.6m and 0.2m above ground level in perpetuity.
- 2) The areas for the parking and manoeuvring of cars and cycles as shown on the approved plans shall be retained as such in perpetuity and shall not be used for any other purpose.
- 3) Waste management arrangements for the site shall be implemented in accordance with the approved Waste Management Plan, as permitted under application reference 23/E2966/DIS (decision dated 11 September 2025) and maintained for the lifetime of the development.
- 4) The external materials to be used in the works to the existing building shall match those of the existing building.
- 5) The plant enclosure shall be provided in accordance with the details approved under application reference 23/D2966/DIS (decision dated 11 September 2025) and shall thereafter be retained as such in perpetuity.
- 6) The plant unit and associated machinery shall be installed and operated in full accordance with the Noise Impact Assessment approved under application reference 23/F2966/DIS (decision dated 20 August 2025) and shall thereafter be permanently retained as such, except where alterations are required for routine maintenance or upgrading.
- 7) The deliveries and collections serving the retail use hereby permitted, including refuse collection shall only be carried out between the hours of 07:00 hours to 19:00 hours daily.
- 8) The retail use hereby permitted shall only be open to customers between the hours of 07:00 hours and 22:00 hours daily.
- 9) External lighting shall be installed in accordance with the details approved under application reference 23/B2966/DIS (decision dated 17 January 2025) and shall be retained as such thereafter.
- 10) Ecological enhancements shall be implemented in accordance with the details approved under application reference 23/B2966/DIS (decision dated 17 January 2025) and shall thereafter be maintained as such for the lifetime of the development.
- 11) The development hereby permitted shall be carried out in full accordance with the Energy Statement approved under application reference 23/A2966/DIS (decision dated 20 December 2024) and shall thereafter be maintained as such for the lifetime of the development.
- 12) The development hereby permitted shall be carried out in accordance with the following approved plans: 21.038/001- A 28.09.2023; 21.038/010- E 03.05.2024; 21.038/011- F 03.05.2024; 21.038/012 28.09.2023; and 21.038/020- A 28.09.2023.