
Appeal Decision

Site visit made on 7 December 2016

by Elizabeth Jones BSc (Hons) MCTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 January 2017

Appeal Ref: APP/U3935/C/16/3154662

Land at Chiseldon Service Station, Marlborough Road, Chiseldon, Swindon SN4 0NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Euro Garages Ltd against an enforcement notice issued by Swindon Borough Council.
- The enforcement notice was issued on 16 June 2016.
- The breach of planning control as alleged in the notice is without planning permission, the erection and siting of a storage container as an extension to the main service station building ("the unauthorised development") on the Land, which for the purpose of identification is shown in the attached photograph marked "Appendix".
- The requirements of the notice are to remove the extension (steel Structure) to the north elevation of the building and clear the Land of any materials or debris arising from its removal.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld with correction.

The Notice

1. The notice alleges that the breach of planning control is "the erection and siting of a storage container as an extension to the main service station building". The requirement of the notice is to "remove the extension (steel structure) to the north elevation of the building...."
2. Both parties refer to the erection and siting of a storage container. The requirements of the notice should reflect the terms of the allegation. Therefore the requirement would be better described as storage container. I do not consider that there would be injustice to any party and therefore I shall correct the notice accordingly.

The Site and Planning History

3. The appeal site is located in a prominent position on the west side of Marlborough Road at its junction with New Road. There are a number of residential properties to the north and west of the appeal site. To the east of the appeal site on the other side of Marlborough Road lies open countryside. The appeal site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB).
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4. The appeal site includes a shop building. The appeal storage container sits behind the shop building fronting onto New Road.
5. A retrospective application for the erection of a storage container and alterations to waste storage area Ref: S/16/0219/JROD was refused on 17 March 2016.
6. The appeal site has a planning history which includes a planning permission Ref: S/03/03189CA granted on 1 July 2004. This permission included a "garage box" as shown on Drawing no. 6172/OTR/020 Revision D together with a waste storage area and compressor compound.

The appeal on ground (a)

7. The main issues are the effect of the development on the character and appearance of the street scene and surrounding area and whether the development conserves and enhances the natural beauty of the North Wessex Downs AONB.
8. Whilst the appellant acknowledges that the storage container and waste storage area extend further along the north elevation than approved, it is contended that there is no material difference between what was approved in 2004 and the appeal container currently in situ. Based on the evidence before me, the storage container is significantly larger in size, being twice the length than the "garage box" approved in 2004. Due to its size the container appears dominant in the street scene. In addition, the container is readily visible from New Road and a number of other locations in the surrounding area. Moreover, rather than brick and tiles as previously approved, the grey steel results in a building which appears at odds with the adjacent building. Consequently, due to its size, design and siting in a prominent location close to the highway; the container appears incongruous in the street scene and the surrounding area and has a harmful effect on the character and appearance of the area. Painting the container a different colour as suggested by the appellant would not overcome the identified harm as it would still be clearly visible due to its size and prominent position.
9. A number of residents have raised concerns regarding the visual impact and safety of waste containers regularly being stored on the grass verge alongside the storage container. The Council considers that the storage container has resulted in a reduced area for refuse storage which has led to trade refuse containers being left on the verge and public footpath outside the designated area. The appellant states that waste containers deposited outside the designated waste storage area will not continue. Be that as it may, I saw at my mid-morning site visit that refuse containers were being stored on the verge alongside the container which is visually harmful to the appearance of the area.
10. The appellant says that similar containers exist at other Petrol Filling Stations throughout the country in similar locations. I have not been provided with any details thus, whether or not there are similar storage containers at other locations, I do not know if they are directly comparable to the particular set of circumstances in Marlborough Road. Moreover, and in any event, each case must be determined upon its own merits and that is how I have determined the appeal before me.

11. I note the appellant's comments that the storage container is required for short term storage only. However, no details have been provided to indicate the length of time the container is required or whether it is the appellant's intention to remove the container once the storage is no longer required. The appeal before me is to retain the container on a permanent basis. I am mindful of the harm that has been identified above would be permanent and is not outweighed by the appellant's particular circumstances.
12. For the above reasons and with regard to all other matters raised, I conclude that the storage container unacceptably harms the character and appearance of the street scene and the surrounding area. Furthermore, due to its prominent position, the development also fails to conserve and enhance the natural beauty of the North Wessex Downs AONB. The development conflicts with Policies DE1 and EN5 of the Swindon Borough Local Plan 2026 (2015) which require high standards of design for all types of development. These policies are consistent with the National Planning Policy Framework which indicates that greater weight should be given to conserving the landscape and natural beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty.
13. Therefore, the appeal on ground (a) fails and I refuse to grant planning permission on the deemed application.

Appeal on ground (g)

14. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The appellant seeks 4 months to comply with the notice, on the grounds that planning permission for alternative on site storage facilities needs to be obtained. In my view I can see no good reason why the required steps could not be comfortably accomplished within a 2 month period. This timescale would also provide the appellant the opportunity to explore alternative proposals with the Council. The appeal on ground (g) fails accordingly.

Formal Decision

15. It is hereby directed that the enforcement notice is corrected by:

The deletion of the wording "extension (steel structure) to the north elevation of the building" under paragraph 5. "What you are required to do" and the substitution therefor of the words "storage container as an extension to the main service station building".

16. Subject to this correction the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Elizabeth Jones

INSPECTOR