
Appeal Decision

Site visit made on 31 January 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 16 March 2017

Appeal Ref: APP/D0121/W/16/3162148

Locking Service Station, Locking Moor road, Weston-super-Mare, North Somerset BS24 7BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Giulio Ellis against the decision of North Somerset Council.
 - The application Ref 15/P/2420/F, dated 28 September 2015, was refused by notice dated 10 June 2016.
 - The development proposed is change of use from service station with forecourt facilities to service station with forecourt facilities and takeaway food shops.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from service station with forecourt facilities to service station with forecourt facilities and takeaway food shops at Locking Service Station, Locking Moor Road, Weston-super-Mare, North Somerset BS24 7BE in accordance with the terms of the application, Ref 15/P/2420/F, dated 28 September 2015, subject to the conditions set out in the Schedule to this decision letter.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on highway and pedestrian safety.

Reasons

1. Locking Service Station occupies a corner plot fronting the busy A371 Class A Locking Moor Road, which rounds the corner into Elm Tree Road. The appeal proposal seeks to modify the existing facilities at the service station, introducing two take-away units (A5), a larger service station shop and a smaller separate retail unit (A1). Elm Tree Road is a long route providing the primary link from Locking Moor Road to the residential settlement of Locking Village.
 2. The Council and local residents have raised the unsuitability of Elm Tree Road for additional use by pedestrians and I note the representation made refers to a fatal incident involving a child. However, I have not been provided with any substantive evidence, for example by way of traffic speed data or the specifics of any accidents involving pedestrians along Elm Tree Road having taken place in the last 5 years. Moreover, the Injury Accident Data gathered between 2011 and 2016 shows incidents have occurred on Locking Moor Road, close to the junction with Elm Tree Road, but none on the stretch of Elm Tree Road between the appeal site and the nearest public footway, and none involving
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- pedestrians. As such, there is no substantive empirical evidence to show that walking along this part of the road is dangerous.
3. Also, the lack of pedestrian facilities along Elm Tree Road, between the appeal site and the junction with The Orchard is an existing situation. There is very little information before me to quantify the existing number of pedestrian trips along this stretch of Elm Tree Road to the appeal site. The existing bus stop, which is situated to the immediate southwest corner of the site, however, does imply that pedestrians currently walk regularly, and safely, along the route. It is also probably the case that the existing garage shop attracts some pedestrians seeking to purchase convenience items, and there is nothing to show that there have been safety problems associated with such journeys.
 4. The 'Safe Walking Route Assessment' identifies Elm Tree Road as being an unsafe walking route for school children, notably due to encroachment of traffic onto verges, uneven and unstable step-offs and poor sightlines. While, in parts, Elm Tree Road narrows to 6.1m, the stretch of road between The Orchard and the appeal site is wide and relatively straight; it also includes the provision of 30mph speed restrictions, pedestrian warning signs, 'slow' painted road markings and speed bumps, as well as street lighting. Taking these factors and my own observations on site into account, it would not be reasonable to apply the impediments described within the Safe Walking Route Assessment to the 250m stretch of road between the appeal site and the public footway close to The Orchard.
 5. It is clear that the proposal would enhance the overall offer at the appeal site and, in turn, increase the attractiveness and customer base. In terms of distance, occupants of the 400 or so properties within 800m of the appeal site could walk to the appeal site. However, there are other facilities, including an existing take away on Grenville Avenue, which can be accessed safely by using public footways. Even with an enhanced offer at the appeal site, it does not necessarily follow that residents who live within walking distance to the existing facilities would choose to divert to the appeal site, or choose to go there on foot, especially considering that customers purchasing hot food would be likely to seek the quickest and most convenient route home. Moreover, many of the trips by customers would, in my view, still be linked to buying fuel, and not necessarily just visiting to purchase a take-away. In my judgement, although the proposed new footway would be a relatively short stretch of new pavement, it would lessen the distance walkers would be on the main carriageway. Thus, against this background, I am not convinced that the appeal scheme would inevitably lead to a material increase in pedestrians using this stretch of road, or that if it did, it would risk pedestrian survey.
 6. The survey conducted at the proxy site, looked at a single take-away and was carried out on one day in March between the hours of 12:00 – 14:00 and 16:30 – 20:30. Given the material differences between the road circumstances at this site, the number of take-away units and the hours in which the survey was undertaken, I do not consider it provides a useful or realistic comparison to the appeal site. I have therefore attached very little weight to the findings derived from this survey. The deficiencies of the proxy site survey notwithstanding, I still do not find that the appeal proposal would result in any significant increase in the number of pedestrian trips to the appeal site.
 7. Ultimately, the appeal site is intended to enhance the offer for customers using the service station or passes by, the majority of whom will be in private

vehicles. While a small proportion of journeys may be made on foot, the proposal would facilitate these and does not preclude journeys being made by more sustainable modes, such as by bicycle or on foot. Furthermore, the proposed footway would improve, in part, the existing situation along Elm Tree Road for pedestrians, as well as users of the bus service that runs close to the site. I therefore consider that the proposal satisfies the three dimension sustainable development established in the National Planning Policy Framework (the Framework).

8. On balancing the evidence before me, I do not consider that the appeal scheme would result in any unacceptable harm to highway or pedestrian safety. The proposal therefore accords with Policy DM24 of the Sites and Policies Plan, July 2016 and Policy CS10 of the North Somerset Core Strategy, 2012 insofar as they seek to ensure development does not prejudice highway safety and the impacts are adequately mitigated. The development would also satisfy the objectives with National Planning Policy Frameworks, notably at paragraph 32, which seek to achieve safe and suitable access for all people.

Other matters

9. As I am satisfied that the land ownership situation has been accepted between the parties, the matter has had no material bearing on my assessment of this appeal. There is no evidence that the proposal would give rise to an increase in anti-social behaviour or crime in the area, or lead to an over-supply of take-aways locally. I am satisfied that conditions to control extraction, times of opening and refuse collection will ensure there is no harmful impact on the living conditions of neighbouring residents. While I note the concerns of residents in respect of the proposed new wall, which would replace the existing boundary hedge, I am satisfied that any harm can be mitigated through a condition. The issue of property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

10. I have had regard to the various planning conditions that have been suggested by the Council. Conditions setting a time limit for the commencement of development and requiring development to be carried out in accordance with the approved plans are necessary for certainty. In the interests of pedestrian and highway safety it is necessary to require further details of the pedestrian footway and one-way access service arrangements, and to ensure the proposed parking, footpath and one-way access are implemented. Given the residential nature of Elm Tree Road, it is also appropriate that controls are placed on hours of opening, refuse, noise and smells from any ventilation equipment. It is also reasonable to impose a condition to require details of a landscaping scheme be submitted, also given the residential nature of Elm Tree Road.

Conclusion

11. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

H Porter

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: L01 (Site Location Plan); P02 REV B (Existing and Proposed Elevations); P03 (Site Plan with Parking); P04 (Proposed footpath to Elm Tree Road).
- 3) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 4) Before any external plant or machinery is used on the premises, it shall be implemented in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 5) Notwithstanding condition 2, no development shall take place until details of a one-way access into and out of the site, including related signage, have been submitted to and approved in writing by the local planning authority. Before the use hereby permitted takes place, the one-way access arrangements and related signage shall have been implemented, in accordance with the approved details. The one-way access and related signage shall be retained thereafter and operated in accordance with the approved details.
- 6) Notwithstanding condition 2, no development shall take place until details of the pedestrian footway, to include details of the kerb, materials and any drop kerbs, have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the pedestrian footway and associated access have been implemented, in accordance with the approved details. The pedestrian footway and associated access shall be retained thereafter.
- 7) The use of the A5 takeaway premises hereby permitted shall only take place between the following hours:
0900 - 2300 Mondays – Sundays (including Bank Holidays).
- 8) The development hereby permitted shall not be occupied until the parking area has been constructed, as well as bays marked out, in accordance with details shown on submitted plan no. P03. The parking area shall be retained thereafter and kept available at all times for the parking of vehicles.
- 9) No development shall take place until details of service arrangements have been submitted to and approved in writing by the local planning authority. When the use hereby permitted commences the service arrangements shall thereafter be undertaken in accordance with the approved details.
- 10) No development shall take place until a scheme of collection and storage of waste/litter on, around and adjoining the site, including details of the location and type of litter receptacles for customer litter, has been

submitted to and approved in writing by the local planning authority. The development shall not be occupied until waste/litter scheme has been implemented, in accordance with the approved details. The waste/litter scheme shall be maintained and operated thereafter.

- 11) No development shall take place until a scheme of landscaping adjacent to the new footway on Elm Tree Road, including maintenance and implementation dates, have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until implementation of the landscaping scheme has been carried out in accordance with the approved details. The works shall be maintained and retained thereafter.