



Appeal Decision

Site visit made on 10 September 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2019

Appeal Ref: APP/C3105/W/19/3228237

Euro Garages, Oxford Road, Bicester OX26 1BT

- 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 Euro Garages Ltd against the decision of Cherwell District Council.
 - The application Ref 18/01822/F, dated 19 October 2018, was refused by notice dated 8 March 2019.
 - The development proposed is described as redevelopment of the existing service station including the retention of the existing Petrol Filling Station (PFS) and kiosk; demolition of existing restaurant building and construction of a Drive-Thru coffee-shop; construction of a restaurant building on land currently used for HGV parking; associated parking provision; retention of existing vehicular access from Oxford Road and reconfiguration of internal access routes to serve the development; creation of separate pedestrian/cycle access; all associated engineering and landscape works.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the existing service station including the retention of the existing Petrol Filling Station (PFS) and kiosk; demolition of existing restaurant building and construction of a Drive-Thru coffee-shop; construction of a restaurant building on land currently used for HGV parking; associated parking provision; retention of existing vehicular access from Oxford Road and reconfiguration of internal access routes to serve the development; creation of separate pedestrian/cycle access; all associated engineering and landscape works at Euro Garages, Oxford Road, Bicester OX26 1BT in accordance with the terms of the application, Ref 18/01822/F, dated 19 October 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Following the submission of the appeal and after the refusal of the application, discussions have taken place between the appellant and the Highway Authority regarding access for cyclists and pedestrians. I have been provided with copies of correspondence between these two parties. When determining the application, the Council and the Highway Authority considered the access arrangements shown on drawing number 64950-CUR-00-XX-DR-TP-75002-P03.
3. However, following further discussions this drawing has been amended and I have been provided with a copy of drawing number 64950-CUR-00-XX-DR-TP-75002-P05. The Highway Authority has advised the appellant that this drawing

is acceptable. The amended drawing is very similar to the one considered when the Council determined the application with the exception of alterations to the annotation on the plan and a minor alteration to the position of the path proposed at the southern end of the site. The Council has been given the opportunity to comment on the plan.

4. Having regard to the minor nature of the amendments to the plan and to the nature and scale of the proposal, I am satisfied that my consideration of the amended plan would not be prejudicial to any interested parties who have not had the opportunity to consider it. I have determined the appeal accordingly.

Application for costs

5. An application for costs was made by Euro Garages Ltd against Cherwell District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide suitable and safe access for pedestrians and cyclists.

Reasons

Character and appearance

7. The appeal site comprises an existing service station located adjacent to Oxford Road which contains a petrol filling station and a separate restaurant building. The appearance of the filling station is typical of other similar facilities whilst the restaurant building is a relatively modern, single storey brick building, the rear elevation of which is positioned parallel and close to the road. Landscaping along the site boundary with the road partially screens the restaurant building, though its roof structure and the upper canopy of the filling station are clearly visible from beyond the site.
8. Oxford Road is a multiple lane and busy main road and the immediate surrounding area comprises a mixture of large scale retail, commercial and residential buildings of varying designs and external materials with construction works taking place to the south and west of the site.
9. The proposal includes the demolition of the existing restaurant building and the erection of a coffee shop building and a restaurant building, both of which would have a drive-through facility. The coffee shop building would be located in a similar position to the existing restaurant building and the proposed restaurant would be positioned in the north west corner of the site. Both buildings would be offset from the site boundaries, with the drive through lanes and landscape areas being positioned to the side and rear of the buildings. The main pedestrian entrances to the buildings would be via a central parking area.
10. The restaurant building would be positioned near to the western and northern boundaries of the site, close to permitted residential development to the west of the site. I understand from the evidence that future development to the north of the site is likely to comprise either a health village or further residential development. I have been provided with a copy of the permitted

layout of the residential development to the west of the site and have had regard to this where relevant to the proposal, noting that the rear elevation of the restaurant would be positioned parallel to the western boundary of the site, to an access road and to what appears to be the front elevations of a number of dwellings on the adjacent development.

11. The design and appearance of the restaurant building would reflect the corporate image of its future occupiers and its rear elevation would be facing towards the adjacent residential development. However, its position relative to the site boundaries and to the proposed dwellings means that notwithstanding its height relative to the filling station and the gap that would remain for landscaping, I consider that it would predominantly be viewed in the context of it forming part of a wider service station area comprising other commercial buildings rather than as part of the surrounding residential development. I have no information regarding the permitted scale and materials of development near to the restaurant building, though at my site visit I noted the large scale and contemporary design of the new retail development to the south of the site and that the residential development includes a number of three storey dwellings of significant height.
12. As is the case with the existing restaurant building, the rear elevation of the coffee shop building would face towards Oxford Road and its shallow mono-pitched roofline and projecting fin would likely be visible above boundary landscaping. However, the proposed building would be positioned further away from the road than the existing building and would have a smaller footprint. Consequently, having regard to its particular design, scale and materials and given the largely commercial context of the site adjacent to a busy main road, I do not consider that the buildings failure to address the road frontage would result in a detrimental effect on the character and appearance of the locality or that it would fail to integrate into the surrounding context which does not comprise road fronting development.
13. I consider that the scale and layout of the proposal is such that it would not result in a cramped, poor quality environment. Although I note the Council's concerns regarding space for boundary landscaping, noting that both buildings would be set away from the site boundaries, I am satisfied that sufficient space would be provided to enable suitable boundary landscaping to be provided in order to ensure that the proposal is successfully integrated into its surroundings. Furthermore, I am satisfied that the proposed design and appearance of the buildings is of a sufficiently high quality and that the proposal would not be at odds with its context which comprises built development of a variety of functions, scales and designs. I consider that the proposal has sufficient regard to and would be responsive to its context and the use of external materials would be controlled by condition.
14. Taking the above matters into consideration, I conclude that the proposal would not have an adverse effect on the character and appearance of the area. It therefore accords with Policy ESD15 of The Cherwell Local Plan 2011 – 2031 Part 1 adopted 20 July 2015 (LP2015), saved Policy C28 of the Cherwell Local Plan November 1996 (LP1996) and to relevant paragraphs of the National Planning Policy Framework (the Framework). These policies seek, amongst other things, proposals to meet high design standards, to complement and enhance the character of its context and to create or reinforce local distinctiveness.

Access for pedestrians and cyclists

15. At my site visit I noted that there is no formal provision for access to the site by pedestrians and cyclists and that there are no footpaths on this side of Oxford Road near to the site. However, there are footpaths further along the road and I understand that an extension to the existing footpath to the south of the site is proposed in association with the permitted retail development. As part of the proposal, footway links are proposed to the north, south and west of the site, with extensions proposed to existing footways beyond the site boundary where necessary. It appears from the evidence that these extensions would be within an existing highway verge on land under the control of the Highway Authority.
16. Although the appellant states that the proposal is unlikely to materially increase pedestrian and cycle movements to/from the site, given the nature of the proposed uses, the changing nature of the area and the position of the site relative to surrounding uses and the busy road network, I consider that it is appropriate and necessary to ensure that enhanced access provision for pedestrians and cyclists is provided as part of the proposal.
17. Having regard to the submission of the amended plan showing the provision of pedestrian routes to/from the site to the north, south and west and subject to the imposition of suitably worded conditions ensuring that such links are provided, I am satisfied that the proposal would provide suitable and safe access for pedestrians and cyclists. Although the Council has not formally withdrawn this reason for refusal, I note that no objections are now raised to the proposal by the Highway Authority and that the Council's concerns in respect of this issue primarily stemmed from the objection received from the Highway Authority.
18. Taking the above matters into consideration, I conclude that the proposal would provide suitable and safe access for pedestrians and cyclists. It therefore accords with policies SLE4 and ESD15 of the LP2015 and relevant paragraphs of the Framework insofar as they relate to connectivity and pedestrian and cyclist access. These policies require, amongst other things, development proposals to facilitate the use of sustainable modes of transport to make the fullest possible use of walking and cycling and to promote permeable and accessible spaces that connect to each other.

Conditions

19. I have had regard to the conditions suggested by the Council and to the appellant's comments on them.
20. I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed conditions requiring the submission of a surface water drainage scheme, a construction traffic management plan and an investigation into contamination prior to the commencement of development. These conditions are required in order to ensure adequate drainage, in the interests of highway safety and living conditions of nearby occupiers and to ensure that any contamination is adequately identified and mitigated. The requirements of the conditions and the nature of the information is such that it needs to be provided before any development takes place. The appellant has raised no objections to the imposition of these conditions.

21. In addition, I have imposed conditions regarding the construction of the proposed footways, a delivery and servicing plan, a car park management plan, provision of cycle and car parking spaces. These are all in the interests of highway safety and living conditions and to ensure adequate parking facilities. I have imposed conditions regarding ventilation and extraction equipment and the permitted hours and nature of the approved uses. This is having regard to the living conditions of nearby occupiers and to the site's out of town location. I have extended the suggested opening hours by 2 hours to allow opening at 6am as originally requested by the appellant as I have seen no evidence to justify a departure from the time applied for and am satisfied that the proposed opening time would not be harmful to living conditions given the existing use of the site and the site context. Landscaping, lighting and materials conditions have also been imposed in the interests of the character and appearance of the area.
22. I have not imposed the suggested condition regarding low emission transport as I am not satisfied, based on the evidence submitted, that such a condition is reasonable and necessary. Where necessary in the interests of clarity, I have amended the wording of some of the suggested conditions.

Conclusion

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

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) Except where otherwise stipulated by conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following submitted plans: PLN072.01G, BD/0000/17 A3/100, BD/0000/17 A3/200 Rev A (Sheet 1 and 2), A-1000 Rev A, A-1001 Rev A, A-1002 Rev A, 75002-P05 and 3962 01 Rev B.
- 3) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include the following: Discharge Rates, Discharge Volumes, SUDS (Underground Attenuation Tank), Infiltration in accordance with BRE 365, Maintenance and management of SUDS features, to include provision of a SuDS Management and Maintenance Plan, Sizing of features – attenuation volume, Detailed drainage layout with pipe numbers, Network drainage calculations, Phasing, Flood Flow Routing in exceedance conditions, to include provision of a flood exceedance route plan.
- 4) Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include details of the timing of deliveries, their routing and the means of communicating this. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.
- 5) Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.
- 6) If contamination is found by undertaking the work carried out under condition 5, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

- 7) No development shall take place above ground floor slab level until full construction details of the connections to the existing footways to the north and south of the site along Oxford Road have been submitted to and been approved in writing by the Local Planning Authority. The development shall not be occupied until the footways are provided in strict accordance with approved details and shall remain open for all members of the public to use in perpetuity.
- 8) Prior to any construction of the buildings hereby permitted above slab level, samples of the proposed external materials to be used in the construction of the buildings, including the cladding and windows and doors, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.
- 9) No development shall take place above ground floor slab level until details of the external lighting shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be retained thereafter.
- 10) Notwithstanding Condition 2 of this permission, no development shall take place above ground floor slab level until details of the hard landscape scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: a) Details of the hard surface areas including vehicular pavements, pedestrian footways and other areas, crossing points and steps; b) Details of position and appearance of litter bins to be provided; c) Details of proposed fences/walls/boundary treatments. The development shall be carried out in accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.
- 11) Prior to its installation, full details of the mechanical ventilation and extraction equipment and other plant including external noise levels and odour suppression shall be submitted to and approved in writing by the Local Planning Authority. Depending on these levels provided a noise report to BS4142:2014 may be required to be submitted and approved with any mitigation required. The development shall thereafter be carried out in accordance with approved details and retained.
- 12) Prior to occupation of the development hereby permitted, a delivery and servicing plan shall be submitted to and approved in writing by the Local Planning Authority. Site deliveries and servicing shall thereafter be carried out in accordance with the approved plan.
- 13) Prior to the occupation of the site a Car Park Management Plan (CPMP) shall be produced and should include measures to deter non-site related parking activity. The CPMP shall be submitted to the Local Planning Authority for approval. The plan shall be executed on occupation of the site.
- 14) The development hereby approved shall not be occupied until the car parking spaces as shown on the approved plans have been provided. All car parking shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter other than for the servicing of the unit unless otherwise agreed in writing beforehand by the Local Planning Authority.

- 15) Prior to the first occupation of the building hereby permitted full details of the covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be provided in accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.
- 16) If remedial works have been identified in condition 6, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved **by that condition**. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
- 17) The soft landscaping for the development shall be carried out in accordance with the approved drawing. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the buildings or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.
- 18) The development hereby permitted shall only be used as a drive thru coffee shop (use class A1) and drive thru restaurant (use class A3/A5) and no other purpose whatsoever.
- 19) The coffee shop and restaurant uses hereby permitted shall only be open to customers between the following times:- Monday - Sunday: 6am to 9pm.