



Appeal Decision

Site visit made on 23 March 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2020

Appeal Ref: APP/J1860/W/19/3242253

Cromwells Cuisine, Powick, Worcestershire WR2 4QP

- 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 K Dhakal against the decision of Malvern Hills District Council.
 - The application Ref 19/00922/FUL, dated 1 August 2018, was refused by notice dated 8 October 2019.
 - The development proposed is the use of car park as hand car wash, provision of valeting bay, office and staff area.
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Decision

1. The appeal is allowed, and planning permission is granted for the use of a car park as a hand car wash, provision of valeting bay, office and staff area at Cromwells Cuisine, Powick, Worcestershire WR2 4QP in accordance with the terms of application REF 19/00922/FUL dated 1 August 2018, and subject to the conditions in the attached schedule.

Procedural matters

2. The site address given on the application form was incomplete. I have therefore used the address on the appeal form for clarity.
3. I have also adjusted the description of development to remove reference to the previous scheme. This should not be part of the description as it is not development.
4. The proposed demountable building has already been installed. I shall take this into account in the appeal.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposed development on the living conditions of neighbouring occupiers of 4 and 5 The Village (No's 4 and 5) with particular regard to noise disturbance.

Reasons

Character and appearance

6. The appeal site is an area of land to the rear of a restaurant. The restaurant is adjacent to No's 4 and 5. The site is largely hard surfaced and used as customer parking for the business. The site is therefore commercial in nature and utilitarian in appearance. It includes two small buildings within its rearmost area. These consists of a precast concrete domestic garage and a demountable office building. The site is partially screened with trees and hedging adjacent to its rear boundary. The site also contains two large trees within the car park itself. The car parking area generally sits around one metre higher than the adjacent fields to its sides and rear. Furthermore, the site's side boundaries are largely open and without plant screening. Accordingly, the site is mostly exposed to wider views.
7. The A4440 is elevated when travelling from the A38 towards Powick. However, Carrington Bridge is some distance from the site. Accordingly, when crossing the bridge, the site cannot be readily seen. This is due to the curvature of the road, the site's lower elevation and the substantial intervening plant screening. Travelling further towards the site views are obscured by a significant earth mound which appears to be outside the construction site for the Southern Link Road expansion programme. I observed that views become more apparent from the A4440 when closer to the roundabout with Malvern Road. At this point the site is more visible to wider views. However, from this closer vantage it is read as a commercial car park to the rear of built form. Consequently, the appeal site makes a neutral contribution to the character and appearance of the local area.
8. The proposal seeks the retention of the installed demountable building and the addition of timber cladding to the existing garage. Customer cars located within the car park, either waiting to be washed or being washed, would not appear out of place or unconventional in this setting. Furthermore, the use would include minimal further built form which would not be overt from medium or long views. Although, only limited details have been provided the proposed acoustic screen would be located alongside the proposed washing bays. This screen would therefore not result in a loss of parking spaces or have a demonstrable effect of views through the site. Subsequently, the proposal would be of limited visual impact.
9. The proposal does not refer to canopies or advertisements although these may be later additions to the proposed development. However, I would expect signage to be relatively low-key and complement existing signage for the restaurant. The effect of the road improvement works to the A4440 has increased views into the site, having a temporary urbanising effect on the local landscape. This temporary change is therefore only of limited weight in my consideration of the visual impact of the proposal on the local area. Nevertheless, the proposal would in any event have only a limited visual impact on the wider area. This is in consideration of the commercial nature of the existing site, the limited extent of change attributed to the proposal and the benefit of the proposed planting on the northeast boundary that would partially

screen the site. The proposal would therefore not be harmful to the established character and appearance of the area.

10. Accordingly, in regard to the effect on the character and appearance the proposal would accord with policies SWDP21 and SWDP25 of the South Worcestershire Development Plan (2016) (DP). These seek, amongst other matters, for development to integrate well into its surroundings, complement the local character and integrate with the landscape setting. The proposal would also accord with the National Planning Policy Framework (the Framework) which seeks development to be sympathetic to the local character and recognise the intrinsic character and beauty of the countryside.

Living conditions

11. The proposed car wash would include the use of a vacuum and two jet wash units. The neighbouring dwellings, at No's 4 and 5, have small rear gardens. These gardens are enclosed by a fence and wall to their rear boundaries, with the appeal site beyond. The A4440, to the side of the site, is relatively close. Also, views of the highway are exposed with limited screening. I also observed that daytime traffic using the adjacent highways was busy and generated relatively significant ambient noise levels.
12. Policy SWDP 31 of the DP seeks to prevent development that would result in significant adverse effects of pollution. The companion text to this policy explains that this includes the effect of chemical, dust, light, noise, fumes, smell and vibration impacts. Also, the Framework requires new development to be appropriate for its location considering its likely effects on living conditions. Proposed development should therefore mitigate its noise impacts to avoid it giving rise to significant adverse effects on health and the quality of life.
13. The appellant's Noise Assessment¹ has considered the impact of the proposal on the adjacent noise sensitive receptors (NSR). The noise readings measured from washing equipment used by a local car wash facility has provided useful comparison data. These readings were then adjusted to account for their intermittent nature, having two jet washes, the distance from the NSR and the addition of an acoustic barrier. This has found that the predicted noise effects at the first-floor windows and rear gardens of NSR would be below background noise levels.
14. Although the Noise Assessment considered the effect of only two jet washes, it seems that the effect of four jet wash bays would only generate a limited further noise impact. This would be due to the acoustic screen and the degree of separation distance. Moreover, the screen would assist in the prevention of spray drifting and causing nuisance. Furthermore, the conclusions of the Assessment have not been challenged by the Council and are reasonable and robust. I therefore assign significant weight to this evidence. Consequently, the noise impact of the proposed use on the living conditions of occupiers of No's 4 and 5 would be negligible.
15. The proposal would therefore accord with policy SWDP 31 of the DP, which amongst other things seeks development to avoid significant adverse impacts from pollution on human health and wellbeing. The proposal also accords with the Framework as it would not result in significant adverse effects of noise

¹ Noise Impact Assessment, Nick Myerscough 19 November 2019

impact to the living conditions and quality of life of neighbouring occupiers. However, Policy SWDP 21 of the DP refers to protecting neighbour's amenity only in regard to privacy, outlook, sunlight and daylight. As such, it is not relevant to the noise impact of development.

Other matters

16. The proposed use would generate additional traffic and users to the site. However, the site is of sufficient size to accommodate expected queueing. This would be unlikely to extend back onto the highway. Furthermore, vehicles would only be able to exit the site and turn left due to the central reservation. As such, whilst Malvern Road is relatively busy, the proposal would not increase adverse turning manoeuvres or create conflict in the highway. Therefore, the proposal would not have an adverse impact on highway safety.
17. The officer report explains that used water would be captured by a new concrete slab. This would drain to a central channel and into an oil interceptor. This would then discharge to a sealed pumping chamber. Any overflow would be linked to an on-site attenuation pond. These works can be secured by condition and would also address concerns raised by residents in regard to underground works. Consequently, drainage issues would be suitably addressed without an adverse impact on the local environment.

Conditions

18. I have considered the use of conditions in line with the Government's Planning Practice Guidance (the Guidance). This identifies that planning conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission².
19. The Council's officer report identifies that drainage details were agreed between parties, but these are not before me. It is therefore necessary to require them to be submitted by condition. This would ensure that they are implemented in accordance with the county highway engineer's recommendation. Such a condition would not cause prejudice to any party. I have also expanded the Council's suggested noise control condition and added an implementation trigger for the landscape scheme.
20. Subsequently, I have imposed the following necessary conditions in the interests of certainty [1 and 2], to prevent conflict with parking requirements associated with the existing restaurant's evening trade and in the interests of adjacent living conditions [3 and 4], to mitigate the noise impact of the proposal [5], to maintain the character and appearance of the area [6] and to provide the necessary drainage arrangements [7].

Conclusion

21. For the above reasons the appeal is allowed, and planning permission is granted.

Ben Plenty

INSPECTOR

² Planning Policy Guidance: 001 Reference ID: 21a-001-20140306

Schedule of conditions

- 1) The development hereby permitted shall begin no 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: Location Plan and MAB 3, dated June 2019 and submitted in association with application ref 19/00922/FUL.
- 3) The car wash shall only be open to customers between the following hours: 09:00 to 17:00 daily.
- 4) The jet washing and car valeting activity shall take place only in the locations shown on approved plan MAB 3.
- 5) Prior to the first use of the development hereby permitted details of the recommended noise mitigation measures shall be submitted to and approved in writing the Local Planning Authority. These details shall accord with the Noise Impact Assessment undertaken by Walnut Acoustics and dated 19 November 2019, relating to the proposed acoustic fence and the enclosure of vacuum and jet washer unit. The acoustic fence shall have a minimum surface density of 15kg/m² and contain no holes or gaps.
- 6) Prior to the commencement of use a scheme of landscaping for the north eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The planting shall be installed prior to the commencement of use and maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Prior to the commencement of use drainage arrangements shall be submitted to and agreed in writing by the local planning authority to ensure that surface water from the site would not discharge onto the public highway. The agreed arrangements shall be fully implemented in accordance with the approved details prior to the commencement of use.

End of conditions