



---

## Appeal Decision

Site visit made on 30 November 2020

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2020**

---

**Appeal Ref: APP/V4630/W/20/3258479**

**74 Cannock Road, Willenhall WV12 5RZ**

- 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 Evaldas Zukas, on behalf of Carcart Limited, against the decision of Walsall Metropolitan Borough Council.
  - The application Ref 19/1225, dated 20 September 2019, was refused by notice dated 12 March 2020.
  - The development proposed is the change of use for the external display and sale of motor vehicles, including preparation.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the change of use for the external display and sale of motor vehicles, including preparation at 74 Cannock Road, Willenhall WV12 5RZ, in accordance with the terms of application 19/1225 dated 20 September 2019, and subject to the attached schedule of conditions.

### Procedural matter

2. The application form states that the use was already active when the planning application was made in 2019. During my visit I observed that the site was occupied by vehicles to an extent that exceeded the level of parking shown on the submitted layout plan. The appellant has recognised this and states this is a temporary situation. Nevertheless, cars were parked in the general configuration proposed. I shall take these matters into account in my decision.

### Main Issue

3. The main issue is the effect of the proposed use on highway safety, with particular respect to the availability of on-street parking, transporter movements, on site manoeuvring and other road users.

### Reasons

4. Cannock Road is part of the district's distributor road network. This is a relatively narrow road, and although only affording a snapshot in time, I observed that traffic levels were comparatively high. Furthermore, the site is opposite a junior and infants' school and adjacent to a pelican crossing. Furthermore, the surrounding highway is subject to a range of traffic regulation orders including zigzag lines, double yellow markings and school 'no parking' areas. A parking lay-by is beyond the pelican crossing that could accommodate

- 3 to 4 vehicles. As a result, on-street parking is extremely limited adjacent to the site.
5. The layout plan shows parking for 48 vehicles. Four staff and five visitor spaces are indicated. These are arranged adjacent to the northern boundary of the site. The provision of staff and visitor parking appears to be sufficient for the scale of business proposed. Although the majority of the site consists of loose gravel, the arrangement of on-site parking observed was clearly defined in rows and was clearly regimented. As a result, adequate identifiers could be installed within the car park to clearly sign-post the designated staff and visitor parking zones. The layout of the car park, and protection of manoeuvring space, could be adequately controlled by planning condition. This would prevent overspill onto the busy highway.
  6. The evidence indicates that some car transporter deliveries have historically serviced the site. These took place on-street causing congestion on the highway. A car transporter could currently unload on the double yellow lines. Although acknowledging this, the appellant has stated that deliveries would normally occur using a flat-bed lorry. On-site manoeuvring, for a rigid base flat-bed lorry, is shown on the vehicle tracking plan. Moreover, the appellant's Operational Management Plan (OMP) states that deliveries would be by flat-bed lorries not exceeding 7 metres in length. It also states that deliveries and collections, using such a vehicle, would be limited to after 9am and exclude the hours of 3 to 4 pm to avoid school conflicts. During my visit I observed a flat-bed lorry loading a vehicle. I noted that the vehicle had adequate manoeuvring area to undertake this on-site. Although the business operation could change over time, compliance with the specifications of the OMP would ensure that deliveries/collections would not affect the free-flow of traffic on the highway.
  7. Therefore, taking the above matters into account the effect of the proposal on school pedestrian and vehicle traffic and other road users generally would be negligible. The proposal would accommodate adequate on-site parking for staff and visitors and its OMP would prevent disturbance on the highway. Consequently, the proposal would not result in an unacceptable impact on highway safety.
  8. Accordingly, the proposal would satisfy saved policy GP2 of the Unitary Development Plan (2005) which seeks development to make a positive contribution to the quality of the environment and have an acceptable traffic impact. Also, the proposal would accord with policy T4 of the Walsall Site Allocation Document (2019) which seeks to strictly regulate street parking and direct frontage access on district distributors. These policies are generally consistent with the National Planning Policy Framework which seeks to only refuse development that would have an unacceptable impact on highway safety.

### **Other matters**

9. Interested parties have raised concerns that the proposal would cause disturbance in regard to deliveries and late-night activity. The proposal would not cause substantial evening noise disturbance subject to it being managed by suitably worded conditions to regulate the hours of use and delivery times.

10. It is reported that the office is partially used as residential accommodation. This is a separate matter to the proposed scheme and the Council has not raised an adverse effect to residential amenity as a main issue.
11. The reported claim that customers have in the past parked within the school access has not been substantiated with evidence. However, if this is taking place it is an enforcement matter. Moreover, as adequate and convenient customer parking is proposed for customers on-site it seems highly unlikely that this would be a sustained activity.

### **Conditions**

12. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (The Guidance). The Council has suggested the imposition of conditions. I shall impose most of these with some minor amendments and adjustments for clarity.
13. I have not required development to begin within 3 years as it has already commenced. For similar reasons I have adjusted the cycle parking condition to postpone timing from pre-commencement to within 3 months of the date of approval. I have simplified the Council's suggested hours of use condition and added vehicle preparation. I have also removed a later suggested condition, in regard to vehicle preparation, to avoid repetition. The hours of use sought by the appellant would mean that the use would be operational until 19:00 hours Monday to Friday. In contrast, the Council has suggested that vehicle preparation should cease at 17:00 on these days. However, I see no compelling reason in evidence to justify why preparation would need to be limited in this way, especially as it would only take place within the building to the rear of the site. Accordingly, the preparation of vehicles can cease at 19:00 hours without causing a harmful effect on the living conditions of existing neighbouring residents.
14. I have included, within the delivery related condition, a specification for the type of vehicle that can undertake deliveries/collections and precluded an overlap with school collection times. I have not prevented collections and deliveries at weekends as this is unnecessary and would be an unreasonable restriction to the functionality of the business. I have also combined the suggested conditions relating to customer parking and sales bays for clarity. I have not included the Council's suggested condition in regard to the residential use of the office building. This is not necessary to enable the proposed development to take place.
15. I have applied a condition that lists the approved plans to accord with the Guidance and for clarity. The further conditions are necessary in the interests of sustainable travel [2], to protect the living conditions of existing residential neighbours [3 and 4] and in the interests of highway safety [5 and 6].

### **Conclusion**

16. For the above reasons the appeal is allowed, and planning permission given subject to the attached conditions.

*Ben Plenty*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 0242/001, Block Plan 0242/002, Site Layout Plan 0242/003 and Rigid vehicle track plot 100.
- 2) Within 3 months of the date of this decision, full details of a covered and illuminated cycle shelter for staff and customers, shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle shelter shall be installed within 6 months of the date of this decision.
- 3) No external lighting shall be installed on any building or erected on floodlighting columns on the application site as identified on block plan drawing number 0242/002.
- 4) The approved use shall not operate outside the hours of 09:00 and 19:00 hours Monday to Friday and only between the hours of 10:00 to 16:00 at weekends. There shall also be no vehicle preparation on site outside of these hours.
- 5) Any cars transported to or from the site shall only be moved on and off the site by flat-bed vans, as specified in the Operational Management Plan and the rigid vehicle track plot 100. There shall be no deliveries/collections by flat-bed vans outside the approved hours of operation and also no deliveries/collections by flat-bed vans shall take place between the hours of 15:00 to 16:00 hours Monday to Friday.
- 6) The customer parking bays shall only be used for this purpose, and cars for sale shall only be placed in areas marked for display and no other location on site, both areas of which as annotated on drawing number 0242/003 'Site layout Plan'.

### **End of conditions**