



Appeal Decision

Site visit made on 8 September 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2021

Appeal Ref: APP/H4505/W/20/3253416

**Land adjacent to Rose Cottage, High Street, Wrekenton,
Gateshead NE9 7JS**

- 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 Sukhwinder Dhillon of Dhillon Property Services against the decision of Gateshead Council.
 - The application Ref: DC/20/00016/COU, dated 9 January 2020, was refused by notice dated 12 March 2020.
 - The development proposed is described as: Change of use from former petrol filling station to hand car wash and car valeting facility.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. As part of their appeal submissions, the appellant submitted a revised layout plan, Drawing Number WRKTN 418 101 Revision D, as an alternative to the details on the drawings originally submitted to the Council with the planning application. This alternative layout significantly increases the operational area of the proposed hand car wash when compared with the original submission, although the proposed additional works would be within the red line boundary of the site shown on the originally submitted drawing. This proposed arrangement was not before the Council when it decided the planning application that forms the subject of this appeal.
3. The appeal process should not be used to evolve a scheme, and what is considered by the Inspector at an appeal should be essentially what was considered by the local planning authority and on which the views of interested parties were sought.
4. The planning application form described the proposed development as 'Change of use from former petrol filling station to hand car wash and car valeting facility'. The additional land shown on the amended drawing is a grassed area containing a number of trees and is distinct from the area of hardstanding that formed the forecourt of the previous petrol filling station. There is no substantive evidence before me that this additional area of land formed part of the previous petrol filling station use or operation, albeit it is within the same Title as part of the appeal site. Land ownership and the relevant planning unit are not necessarily co-extensive.

5. The principal question is whether the amendment would result in a development that is substantially different from the original planning application. Whilst the resulting development would be the same in so far as it would be a hand car wash, the development would occupy a much larger area than the original proposal and operate on land that was not formerly part of the petrol filling station. In these respects, the amended proposal shown on Drawing number WRKTN 418 101 Revision D is substantially different from the original planning application. As such, and having regard to the principles in *Wheatcroft*¹, I therefore do not consider that it is open to me to have regard to this amended drawing in determining the appeal.
6. I am aware that as part of a previous planning appeal for a similar proposal on this site², which also came before me for a decision, an amended drawing was accepted at the appeal stage. However, in that case the amendment was a revised internal arrangement within the same footprint as the originally proposed scheme and did not seek to extend the operational area beyond that of the original proposal.
7. I have also noted that the appellant contends that, notwithstanding that he has submitted an amended drawing, the original details shown on Drawing Number WRKTN 418 101 Revision B, which was submitted with the planning application, are acceptable.
8. I have therefore determined the appeal based on the same plans that were before the Council when it considered the planning application.

Main Issue

9. The main issue in this appeal is the effect of the proposed development on highway safety in the vicinity of the appeal site.

Reasons

10. Policy CS13 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2015 (the CSUCP) expects new development to connect safely to, and mitigate the effects of, the development on the existing transport networks. The National Planning Policy Framework (the Framework) seeks to ensure that safe and suitable access to the site can be achieved for all users and sets out that development should only be prevented or refused on highways grounds if there would be either an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
11. The appeal site is a former petrol filling station that has been decommissioned and has been used as informal parking for several years. The adjoining building, Rose Cottage, was in residential use at the time of my site visit, and several vehicles were parked on the appeal site. The site presently has two access points from Old Durham Road. The proposed car wash facility would operate a one-way system through the site using the southern junction for access and the northern for egress.
12. Old Durham Road is a busy main road with a 30mph speed limit. Whilst there is a wide carriageway in the vicinity of the appeal site, this is marked out to

¹ Bernard Wheatcroft Limited v Secretary of State for the Environment [JPL 1982 P37]

² Appeal Reference APP/H4505/W/18/3216472

provide a protected right turning lane into a supermarket located to the north of the appeal site on the opposite side of the road and a combined bus and cycle lane on the southbound carriageway. This results in a single northbound and southbound carriageway being available for general vehicle use. The bus lane terminates opposite the southern access to the site where the southbound carriageway then splits into two lanes for left turning and right turning onto Springwell Road.

13. The appeal proposal was accompanied by a Highways Statement which concludes that the appeal proposal could operate safely in terms of access and egress to the highway. Whilst I note from the copy of the Highways Statement from the previous appeal, which has been submitted as part of the evidence for the current appeal, that the traffic survey data figures, committed developments, and junction diagrams have not been updated since the earlier appeal, some of the other elements have been updated. This notwithstanding, the road layout is unchanged since the previous appeal and the Council have not indicated that there have been any material changes that would affect traffic numbers on Old Durham Road since that time.
14. There have also been no changes to the surrounding area that would affect visibility from the access or egress points, which I have previously found, in connection with the earlier appeal, would meet the forward visibility requirements for re-joining a 30mph road from the site.
15. At the time of my site visit, there were relatively low numbers of vehicle movements on Old Durham Road and the surrounding roads. However, this would have been, in part, due to the Covid 19 pandemic suppressing demand for travel.
16. As with the previous appeal, the scheme has been assessed on the basis that there will be 60 two-way vehicle movements at the site during each of the morning and evening peak times. These are split on the basis that 50% of the vehicle movements would be in each direction both entering and leaving the site. The conclusion of the Highways Statement for the current proposal is that the use of the site as a car wash would not result in significant delays or queuing of vehicles on Old Durham Road as the junctions would work within capacity.
17. However, junction capacity essentially assesses the effect of waiting time for gaps in oncoming traffic to allow the manoeuvre to be completed. The safe operation of the junctions is also dependant on vehicles being able to enter the site from the main carriageway and the internal layout of the site being able to accommodate them. The submitted drawing shows a theoretical site capacity of 15 vehicles and swept path diagrams have been provided that illustrate that this layout could function with a medium sized car.
18. I share the concerns of the Highways Authority that the theoretical capacity of the site relies on very precise placement of vehicles with only minimal gaps between them and that there is very little working area around the spaces shown as wash bays and drying/valeting bays. The illustrative swept path diagrams rely on vehicles entering the site extremely close to the kerb line. Whilst the entry width is approximately 5.6 metres, vehicles entering the site are more likely to use the approximate centre of the access point to avoid colliding with the kerbs. This would affect the ability for two vehicles to queue side by side immediately upon entering the site and reduce the theoretical site

- capacity. I also note the Highways Authority's point regarding the small size of the vehicle spaces shown on the layout. I accept that there are unused portions of the site that would allow for larger vehicles to be accommodated, nonetheless, as the proposed layout relies on vehicles being positioned almost nose to tail between the access and egress points to accommodate the suggested number, varying vehicle sizes combined with a realistic use of the access point, will inevitably reduce the number of vehicles that can be present on the site to less than that suggested.
19. The proximity of the washing and valeting bays to each other, adjacent to the site egress, would result in practical difficulties if neighbouring vehicles were being washed and/or valeted simultaneously. In addition, if the valeting bays adjacent to the egress were in use, these would prevent vehicles leaving the wash bays located behind them from egressing the site.
 20. Whilst the Highways Statement submitted with the planning application suggests that those who have used such facilities will be aware of just how close vehicles being attended to can be to each other, there is no evidence to support this statement. In my experience of observing other hand car wash facilities, a greater working area was required than is illustrated on the submitted layout to facilitate the use of jet washing equipment and to prevent spray from this drifting on to other vehicles.
 21. Whilst the submitted layout shows an idealised situation, based on idealised behaviours, actual driver behaviour, varying vehicle sizes, and the need for realistic working areas around vehicles, lead me to conclude that the practical capacity of the site would be significantly less than the theoretical capacity suggested.
 22. There is little evidence in respect of predicted usage of the site and the appellant's highways evidence is clear that the traffic surveys taken at a car wash site on Sunderland Road were only used for trip generation data and should not be used for comparison with the appeal proposal. I recognise that demand for the proposed car wash facility will be variable, nevertheless, it is evident that there are times when such facilities experience high demand.
 23. Although driver behaviour can be unpredictable, I would agree with the appellant's assessment that due to the waiting restrictions on Old Durham Road and the character of the road itself, which is a busy main route, there are limited opportunities to legally wait on the highway near to the site. On this basis if the site were busy, many drivers would leave and return at another time, or find a different car wash facility. However, other drivers may choose to try and wait in the access point or pull onto the wide footway outside the appeal site which would obstruct both pedestrian movements and visibility from the egress point.
 24. Added to this, due to the small size of the site, southbound traffic would have little time to make an accurate assessment of activity on the site before committing to turning and the proposed 1.8 metre high close boarded fence on the southern boundary of the site would limit advance visibility of conditions within the site for drivers approaching from the south. This would lead to drivers having their attention divided between assessing whether the site can be entered and what other traffic is doing, and also drivers who may have slowed down in preparation, or entered the access point before becoming aware that the site is at capacity. As a result, the proposed development

would give rise to erratic and unpredictable vehicle behaviour on a busy main road.

25. The restricted practical capacity of the site, the difficulty for drivers to assess whether there is sufficient capacity to allow them to enter the site, and the resulting erratic vehicles movements would give rise to conditions that would have an unacceptable prejudicial effect on highway safety in the vicinity of the appeal site.
26. I have had regard to the previous use of the site as a petrol filling station, the more recent use as an informal parking area, and the fact that there has only been one recorded personal injury accident near the site since 1974. From the evidence, it is common ground that the appeal site has not operated as a petrol filling station for at least 17 years and that only a small number of vehicles use the accesses to the site at present. Road conditions and traffic flows will have altered since the site was last regularly in a formal use and it is not in dispute that the proposal will increase the use of the junctions with Old Durham Road over that resulting from the present use as informal parking. Whilst there is no requirement to report non-injury traffic accidents to the police, the absence of records in this respect does not indicate that they have not occurred. Consequently, I do not find the argument that these factors indicate that the accesses would continue to operate safely were the development to proceed a compelling one, or one that would lead me a different conclusion regarding highway safety.
27. I therefore conclude that the proposed development would cause harm to the operation of the highway in the vicinity of the appeal site. It would not comply with the relevant requirements of Policy CS13 of the CSUCP or the Framework

Other matters

28. The proposal would re-use a previously developed site in the built up area and the establishment of a new business would create 3 full time and 3 part time jobs, which would represent a small economic benefit. I also note that the Council have not raised any other concerns in respect of the proposed development, nor have there been any objections from residents, or other occupiers of the area. This notwithstanding, the small number of jobs that would be created would result in only a modest economic benefit and none of these factors, either singly or together, would outweigh the harm that I have found.

Conclusion

29. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR