

Appeal Decision

Site Visit made on 4 January 2021 by Hilary Senior BA (Hons) MCD MRTPI

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2021

Appeal Ref: APP/Z4310/W/20/3260304

2 Walton Park, Walton, Liverpool, L9 1AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Heshmat Parian against the decision of Liverpool City Council.
 - The application Ref 20F/0570, dated 6 February 2020, was approved on 21 September 2020 and planning permission was granted subject to conditions.
 - The development permitted is to upgrade existing car wash facility including erection of single storey store office waiting area kitchen wc covered canopy valeting area jet wash bay and drainage system.
 - The conditions in dispute are Nos 1, 4, 7 and 9 which state that:
 1. This permission is granted for a limited period which will expire on 30th October 2021 and at the expiration of this period the development for which permission is hereby granted shall be discontinued and removed unless, on application to the Council, permission has been granted for a further period.
 4. Within one month of the date of this decision notice a scheme to prevent the discharge of surface water on to the public highway shall be designed and submitted to the Council as Local Planning Authority. Once approved in writing the drainage scheme shall subsequently be implemented within one month.
 7. Prior to commencement of development, details of a scheme to demonstrate that all surface water from parking & servicing areas shall be passed through a suitably designed and adequate capacity oil interceptor prior to being discharged into any watercourse, surface water sewer or soakaway system, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and completed to the satisfaction of the local planning authority before the development is occupied/brought into use.
 9. Within 1 month of the date of the date given on this permission, a plan detailing the number, size, species, and location of planting proposed has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt, the plan must be to a recognised scale and the symbols used and plant schedule provided must comply with BS EN ISO 11091:1999 Construction Drawings Landscape drawing practice.
 - The reasons given for the conditions are:
 1. The development is of a temporary nature only and is not considered acceptable on a permanent basis.
 4. To prevent unnecessary surface water from being deposited on to the highway thus causing a potential source of danger to other road users.
 7. To prevent pollution of controlled waters.
 9. These details have not been submitted with the application and the Council wishes to ensure they are satisfactory in the interests of visual amenity.
-

Decision

1. The appeal is allowed and the planning permission Ref 20F/0570 to upgrade existing car wash facility including erection of single storey store office, waiting

area, kitchen, wc, covered canopy, valeting area, jet wash bay and drainage system at 2 Walton Park, Walton, Liverpool, L9 1AB granted on 21 September 2020 by Liverpool City Council, is varied by deleting conditions 1, 4, 7 and 9 and substituting for them the following conditions:

1. The development hereby permitted shall begin not later than 3 years from 21 September 2020.
4. The approved drainage works set out in the Drainage Management Strategy dated February 2020 shall be completed within 6 months of the date of this permission. The scheme shall thereafter be retained for the life of the development.
9. Within one month of the date of the date given on this permission, a plan detailing the number, size, species, and location of planting proposed has been submitted the local planning authority. For the avoidance of doubt, the plan must be to a recognised scale and the symbols used and plant schedule provided must comply with BS EN ISO 11091:1999 Construction Drawings Landscape drawing practice.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Background and Main Issues

3. Permission was originally granted for the use of the site as a hand car wash facility on a temporary basis, expiring in 2018¹. Subsequent to that a further permission to continue the use and provide associated structures was granted until 20 September 2021².
4. The application that has given rise to this appeal sought permission to, in effect, retain the hand car wash use and, amongst other things, replace the existing structures with a new building of a different design in a different location and a canopy. The Council granted permission for that development subject to certain conditions as set out in the banner heading above, including a condition (1) limiting the permission to a temporary one expiring on 30th October 2021; as well as conditions 4 and 7 which related to drainage and condition 9 relating to landscaping.
5. The Council has subsequently accepted that it does not consider condition 7 to be necessary, as a drainage strategy was submitted with the application and on that basis has no objection to condition 7 being deleted. I have proceeded with the appeal on this basis.
6. The main issues are therefore:
 - whether disputed conditions 1 and 9 are necessary having regard to the effect of the development on the character and appearance of the area and
 - whether condition 4 is necessary having regard to the effect of the development on the safety of pedestrians and other road users.

¹ Planning application ref: 14F/2366

² Planning application ref: 18F/0829

Reasons

7. The appeal site is located on the corner of Walton Park and Rice Lane and has been in use as a hand car wash since 2014. The surrounding area is in a mix of uses, including commercial, residential and community uses, with a variety of building types, heights and materials. There is a single storey, industrial style commercial building on the opposite corner of Walton Park and large brick built houses to the rear and side of the appeal site. Rice Lane is a busy thoroughfare which I understand is a designated 'strategic highway route'.
8. The site is currently occupied by an office building and canopy towards the front of the site and is bounded by a low wall along both frontages. That building and canopy, which was granted permission on a temporary basis, would be removed as part of this proposal.
9. The proposal is for a single storey building which would be used for storage, office space a waiting area and a kitchen, along with a covered valeting area and jet wash bay. The building, which would be of a modern asymmetric design and constructed in aluminium powder coated cladding panels, would be sited to the rear of the site. The remainder of the site would be largely open with the car wash area covered by a powder coated aluminium canopy. Hedging is proposed to the perimeter of the site.

Condition 1

10. I note that there were no objections to the revised proposal from the Council's Urban Design specialist in design terms, however the Council's concern remains that the use of the site, with single storey building would not replicate the form and massing of the previous buildings and in urban design terms is a poor replacement.
11. There is no evidence before me of the previous building on the site which I understand was demolished many years ago. Nevertheless, it is clear that the style of the proposed building would contrast with the traditional appearance of the houses adjacent to it in terms of its materials, form and massing. However, the modern form and appearance of the building, and its scale, reflects the function and scale of the use of the site. Its position towards the rear of the site, and its use, would respect the building lines and reflect and be compatible with that of the car sales garage opposite. In addition, it would allow the houses to remain legible as imposing traditional buildings. Moreover, the position of the building on the site, and its scale would mean that it would not dominate the street scene and would be read as a modest commercial element within it. Accordingly, it would not harm the character or appearance of the area.
12. The Planning Policy Guidance (the Guidance) on the use of Planning Conditions indicates that it would be rarely justifiable to grant a second temporary permission. As set out above, the site has been in use as a car wash since 2014 and the use has been granted a temporary permission on two occasions. There is no suggestion that the use in itself has caused harm to interests of acknowledged importance, and a further grant of temporary permission, as opposed to the grant of full permission for the use, would therefore be unjustified.

13. Whilst the building is a new element of the proposal, it seems to me unreasonable to limit the permission to a year given the expense it would take to construct it. Moreover, the development would not be harmful to the street scene for the reasons set out above.
14. I acknowledge the emerging Local Plan policy to change the designation of the area from a Local Centre to primarily residential and the Council's long term ambition for the redevelopment of the site. However, there is no evidence before the appeal of a scheme or master plan for the redevelopment of the site. The construction of new buildings would not prevent the site being subject to further applications for a change of use or fundamental redevelopment in the future.
15. For the above reasons, condition 1 is neither reasonable or necessary to protect the character and appearance of the area. As such the condition does not meet the tests set out in paragraph 55 of the National Planning Policy Framework (the Framework). I have therefore deleted the temporary permission and replaced the condition with standard time limit for implementation. The time limit is necessary to ensure that the replacement building and associated drainage and landscaping schemes come forward in a timely manner.

Condition 4

16. I understand that despite the fact that the site has been in use as a car wash for some time a satisfactory drainage scheme has not been installed to prevent water from discharging onto Walton Park, a matter required by condition on the previous permission. I understand that a land dispute and the temporary nature of the previous permissions may have played a part in that. Nevertheless, as part of the planning application for the scheme before me, a drainage scheme was submitted to the Council, which was approved. Accordingly, the submission of a further drainage scheme for approval is unnecessary and this has been accepted by the Council.
17. A time limit for the installation of the drainage system is necessary in order to ensure the site is satisfactorily drained. As the continued use of the site as a car wash is a risk to pedestrian safety the scheme should be implemented as soon as possible. However, given there is little reasonable prospect of the appellant being able to undertake the work in a short time period, the time limit of 1 month set out in condition 4 is unreasonable.
18. Nevertheless, I understand that the land use dispute is nearing resolution and a permanent permission will give the appellant more certainty. On that basis, taking into account the submissions of both parties on the appropriate time period, a period of 6 months from the date of this permission would be reasonable. I have therefore varied the condition to that effect.

Condition 9

19. The scheme of landscaping is integral to the proposal and is necessary to make the proposal acceptable in terms of its effect on the character and appearance of the area. It would soften and add interest to the frontage and screen the view of the vehicles using the car wash.
20. Whilst I agree that the approval of a submitted scheme by the local planning authority within one month is not in the control of the appellant, the

submission of the details within that timeframe is not unreasonable. As the use has already commenced a pre commencement condition is not suitable in this case. However, I have removed the requirement for the scheme to be approved by the Council within one month of the decision as this is not reasonable, whilst maintaining the requirement for the landscaping scheme to be submitted to the Council within one month.

21. The decision notice for the application includes condition 10 which requires that the approved landscaping and boundary scheme is completed not later than the first planting session following first occupation or in accordance with an agreed programme. This will ensure that the approved scheme is implemented at the same time as the approved building is occupied.

Other Matters

22. I have had regard to the previous appeal³ in my decision. From the information before me, although described as a repeat application, this scheme is fundamentally different to that previously considered both in location of the proposed building and the design of it. Whilst the appeal decision is a material consideration, there are sufficient differences between the schemes to allow me to come to a different decision.

Conclusion and Recommendation

23. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed such that conditions 1, 4,7 and 9 are deleted and replaced with new conditions 1,4,and 9 as indicated.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Susan Ashworth

INSPECTOR

³ APP/z4310/W/18/3210158