



Appeal Decision

Site Visit made on 28 April 2021

by Sarah Manchester BSc MSc PhD MIEEnvSc

an Inspector appointed by the Secretary of State

Decision date: 14th May 2021

Appeal Ref: APP/Z2315/W/20/3262937

Barracks Service Station, Barracks Road, Burnley BB11 4SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Euro Garages Ltd against the decision of Burnley Borough Council.
 - The application Ref VAR/2020/0235, dated 3 June 2020, was refused by notice dated 28 September 2020.
 - The application sought planning permission for Remove Condition 8 (provision of electric vehicle charging points) of planning permission APP/2018/0080 for PFS with shop and drive through coffee shop without complying with a condition attached to planning permission Ref APP/2018/0080, dated 21 September 2018.
 - The condition in dispute is No 8 which states that: *The approved Petrol Filling Station shall not be first open for use until a minimum of two electric car charging points have been provided and are available for use. The electric charging points shall thereafter be retained and remain available for use at all times during the Petrol Filling Station opening hours.*
 - The reason given for the condition is: *To allow for the charging of electric cars, in the interests of sustainable travel, in accordance with the National Planning Policy Framework.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission APP/2018/0080 was granted in 2018 for development described as Demolish church buildings and public house and erect petrol filling station with shop and separate café with drive through and improved access from Barracks Road. Condition No 8 requires at least 2 electric car (EV) charging spaces to be provided before the Petrol Filling Station (the PFS) is first open for use.
3. The permission has been implemented and the development was completed before the application subject of the appeal was made. Evidence submitted with the appeal confirms, and I observed at the time of my visit, that the PFS is operational but no EV charging spaces have been provided. The application subject of the appeal sought to remove condition No 8 with reference to section 73 of the Planning Act. However, the evidence indicates the condition was breached before the planning application was made. Accordingly, I have determined the appeal on the basis that it seeks to retain the development without complying with the disputed condition and it therefore relates to a section 73A application.

Main Issue

4. The main issue is whether or not condition No 8 is necessary, in the interests of sustainable travel.

Reasons

5. The appeal relates to a PFS site that includes a filling station, a petrol station shop selling a limited range of convenience goods and takeaway food, a coffee shop with indoor and outdoor seating and a drive-through takeaway service, and parking for 27 vehicles. It is in an area with a mix of uses including a hotel and public house, fitness and leisure, retail, food and drink premises and residential. The site is located close to the junction of the M65 motorway and it is on a strategic route to Burnley town centre.
6. The Site Layout plan (Ref 171161-PL-02 (H) revised September 2018) indicates 2 EV charging spaces at the northern end of the row of parking spaces to the front of the petrol station shop. At the time of my visit, I observed that an air pump and water machine has been installed adjacent to the spaces instead of the approved EV charging infrastructure.
7. The National Planning Policy Framework (the Framework) promotes sustainable transport, including realising opportunities from changing transport technology and usage and avoiding and mitigating adverse effects of traffic and transport infrastructure. It expects policies for local parking standards to take into account the need to ensure adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. Development should be designed to enable such charging in safe, accessible and convenient locations.
8. Policy IC3 of Burnley's Local Plan Adopted July 2018 (the LP) sets out the Council's parking standards including that charging points for ultra-low emission vehicles should be provided in accordance with the standards set out in Appendix 9 where practical. Appendix 9 requires, for non-residential developments with between 20-50 parking bays, a minimum of 1 bay with a charging point for use by EV only.
9. The appeal site provides 27 parking spaces, largely split between the petrol station shop and the coffee shop, such that a minimum of 1 EV charging space is required. However, the LP supports provision over and above the minimum requirements, in the interests of environmental protection including air quality. This is consistent with the Framework in relation to reducing emissions, improving air quality and public health, and mitigating and adapting to climate change. In this case, taking into account the parking provision and the likely adverse effects on air quality arising from the increased traffic associated with the PFS site, the provision of 2 EV charging spaces appears reasonable.
10. I note the suggestion that EV vehicles would have little reason to visit the appeal site because the primary function of the PFS is to provide petrol and diesel and there is a limited retail offer. However, on the basis that the location is convenient and accessible by petrol and diesel vehicles, I see no reason why it would not be similarly convenient and accessible by EV using the same road network. Moreover, while PFS have traditionally provided only petrol and diesel, they are instantly recognisable locations for refuelling of vehicles. Therefore, road users might reasonably and logically expect strategically located and modern PFS to have diversified their offer to serve the changing

needs of road users. Furthermore, while the petrol station shop might not be a destination where people would spend the 30 minutes or more necessary for fast charging of vehicles, they could spend this amount of time in the coffee shop on the site. The lack of a wider range of shops and facilities does not render the location inherently impractical or inappropriate for EV charging.

11. Lancashire County Council Highway Authority considers that the location is suitable for EV charging. It advises that current EV usage is limited in part by the uncertainty surrounding the ability to maintain sufficient charge during journeys. Increased availability, and visibility, of EV charging points would be expected to increase consumer confidence and encourage greater use of EVs. In the absence of EV charging points, the development would fail to contribute to the sustainability aims of the Framework and the LP. There would be costs associated with the provision of the charging points, but this would have been the case when they were first proposed as part of the approved scheme.
12. Monitoring data has been provided for EV charging points at the service area adjacent to junction 6 of the M65 motorway. While the data demonstrates a relatively low level of usage, it relates to the first year of opening and then to a 10 month period in 2020, much of which coincided with the coronavirus pandemic lockdown. Even if the monitoring periods were representative of normal circumstances, there is little to demonstrate that the sites are directly comparable. The map of EV infrastructure in the area indicates that alternate charging locations are available but, in the absence of contextual information or monitoring data, no meaningful comparisons with the appeal site can be drawn. The limited information in relation to the availability and usage of EV charging points elsewhere does not justify the appeal proposal.
13. Therefore, I find that condition No 8 is necessary to make the development acceptable, with particular regard to sustainable transport and air quality and public health. The appeal proposal, to remove the condition, would conflict with the development plan and the Framework and there are no material considerations that would outweigh that conflict.

Conclusion

14. For the reasons set out above, the appeal should be dismissed.

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INSPECTOR