



Appeal Decision

Site Visit made on 28 September 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2021

Appeal Ref: APP/D2320/W/21/3274353

Land at Preston Road/Chorley Hall Road, Chorley, Lancashire PR7 1PW

- 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 Tom Jeremiah of Euro Garages Ltd against the decision of Chorley Borough Council.
 - The application Ref 20/01264/FUL, dated 24 November 2020, was refused by notice dated 25 March 2021.
 - The development proposed is erection of drive thru coffee shop with car parking and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of drive thru coffee shop with car parking and other associated works at Land at Preston Road/Chorley Hall Road, Chorley, Lancashire PR7 1PW in accordance with the terms of the application, Ref 20/01264/FUL, dated 24 November 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021. Consequently, I have had regard to it in my determination of the appeal including that paragraph 109, referred to in the Council's reasons for refusal, has been replaced by Paragraph 111.

Main Issues

3. The main issues are the effects of the proposal on:
 - i) The safe operation of the highway; and
 - ii) The living conditions of neighbouring residential occupiers, with particular regard to noise.

Reasons

The safe operation of the highway

4. The appeal site is an area of overgrown previously developed land at the junction of Preston Road and Chorley Hall Road. It was formerly in use as a convenience store and petrol filling station (PFS), but its use ceased over 20 years ago and the buildings have been removed. Preston Road is a main through route and it serves a mix of uses at this point including a PFS, retail and industrial estate, a food establishment and residential dwellings. Chorley

Hall Road is primarily residential, although there is a children's nursery opposite the junction of Highfield Road South.

5. The proposed drive thru coffee shop building would be set back towards the rear of the site behind 20 parking spaces. The drive thru access would be between the building and the rear boundary. Vehicles would enter the site from Preston Road and they would exit onto Chorley Hall Road.
6. The proposal would be accessible by sustainable transport modes including walking, cycling and public transport. There would be 3 pedestrian access points from the surrounding footways and there would be internal crossing points across the parking area and the drive thru lane. Cycle storage would be provided.
7. The submitted Transport Statement concludes that, during the busiest hour on the local highway network, the proposal would result in roughly 48 2-way movements. By virtue of the strategic roadside location, the majority of customers arriving by vehicle would be those already travelling past the site and the proposal would be unlikely to be a destination in its own right. Based on the estimated trip generation, there would be a peak car parking accumulation of 10 vehicles, which would be well within the parking capacity proposed. On this basis, the proposal would not contribute to a significant increase in the number of vehicles using the local highway network and it would not result in overspill parking on surrounding streets.
8. The proposal would be accessed from Preston Road close to the vehicular access that serves the neighbouring retail premises. At this point on Preston Road, there are 2 northbound carriageways, 1 southbound carriageway and a central pedestrian refuge island with a cross-hatched lane in either direction. The refuge island would be relocated and a dedicated right turn lane would be created. On the basis of the evidence, taking into account existing vehicular access points and road junctions along Preston Road, I see no reason why the proposed Preston Road access would harm highway safety.
9. There are waiting restrictions on Preston Road and these extend around the junction and along both sides of the Chorley Hall Road junction finishing close to the Highfield Road South junction. The appeal site is separated from Chorley Hall Road by a wide footway with a dropped kerb, which is currently used for parking. The footway and its kerb would be reinstated. Dropped kerbs and tactile paving would be created to both sides of the site egress and on both sides of Chorley Hall Road close to the Preston Road junction. In this regard, the proposal would be a benefit to pedestrians on the footway.
10. Vehicles exiting onto Chorley Hall Road would either turn left towards Preston Road or they would turn right and travel along Rockwood Avenue or Highfield Road South. No traffic survey data has been provided. However, Preston Road is a busy arterial road such that, at peak times, vehicles attempting to join it have to wait for suitable gaps in traffic. The local residents perceive that turning right onto Preston Road from Chorley Hall Road is hazardous. In this regard, while I am aware that there have been 2 personal injury accidents in the last 5 years on Preston Road close to the PFS and Chorley Hall Road, it has not been demonstrated that the junction was involved or that it is unsafe.
11. Chorley Hall Road is wide enough for 2 vehicles to pass. The local residents report that the Preston Road junction is narrow and it can sometimes be

difficult to navigate without waiting on Preston Road or driving over the pavement. The proposal would contribute to an increase in the number of vehicles using the junction. Nevertheless, there is little substantive evidence that it would result in significant congestion or harm to highway safety.

12. The third party representations indicate that vehicles use Chorley Hall Road and Highfield Road South to access the town centre avoiding congested arterial roads. It seems likely that some vehicles exiting the proposal would similarly use the residential roads to travel southwards rather than queuing to turn right onto Preston Road at busy times of day. However, there is little evidence that a relatively small increase in the number of vehicles using the residential roads would be detrimental to the safe operation of the highway.
13. Therefore, I conclude that the proposal would not result in nor contribute to unacceptable impacts on highway safety. It would accord with the highway safety aims of Policy BNE1 of Chorley Council Local Plan 2012-2026 Site Allocations and Development Management Policies Development Plan Document Adopted July 2015 (the LP). It would accord with Policy 111 of the Framework which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Living conditions

14. The closest neighbouring property Springdene is to the rear of the site. It is set back roughly 7m from the boundary, which is formed by 2 solid and tall close-boarded timber fences with conifers planted in between. 80 Highfield Road South and 5 Preston Road are on the opposite side of Chorley Hall Road. Their gardens are separated from the footway by walls and fencing.
15. The proposed coffee shop would be a modest building and it would be well separated from neighbouring residential properties. Consequently, there would be no adverse impact on the living conditions of neighbouring residential occupiers in terms of overbearing, overshadowing or loss of privacy.
16. There would be an increase in vehicle movements and activity within the appeal site. The noise assessment considered all noise sources associated with the proposal including car engines, opening and closing of car doors, air conditioning units and extractor fans, the drive thru intercom, and people talking to one another. More rarely, other sources of noise would include car audio systems and anti-social behaviour.
17. The opening hours would be restricted and the proposal would only operate between 07:00 to 22:00 Mondays to Saturdays and 08:00 to 22:00 on Sundays. Furthermore, from 30 minutes after closing until 30 minutes before opening, vehicular access to the car park would be obstructed by bollards and there would be no external illumination. The car park would not be used by vehicles other than in association with the proposal. It would not result in noise or disturbance to neighbouring residential occupiers overnight.
18. By virtue of the busy Preston Road and Chorley Hall Road, the area around the appeal site is already subject to and dominated by vehicle noise. The noise generated by the normal operation of the proposal would be indistinguishable from the background noise. The assessment demonstrates that the proposal would have a low impact on surrounding sensitive noise receptors. Taking

account of the boundary treatments and the soft landscaping, the proposal would not result in significant noise disturbance to neighbouring occupiers.

19. The noise assessment uses the peak predicted daytime activity and it assumes this persists all day. Consequently, in reality and for much of the time, the noise levels would be lower than predicted. Moreover, background noise was measured in January 2021 during the coronavirus pandemic lockdown, when non-essential shops were closed and people were encouraged to work from and stay at home. The measured noise levels at this time would be likely to underestimate ambient noise under normal conditions. Therefore, I am satisfied that the noise assessment represents the worst case scenario and its conclusions are robust and reliable.
20. The majority of future customers would be passing the site rather than making a specific journey to it. Nevertheless, some vehicles exiting the site, which would otherwise have stayed on Preston Road, would instead be likely to divert through nearby residential streets. This would be most likely to occur at peak travel times when the local road network would already be busy. At quieter times of day including evenings and on Sundays, vehicles would be likely to re-join Preston Road. There is little compelling evidence that additional vehicle movements at busy times of day would be detrimental to the local residents.
21. Therefore, taking into account the surrounding context, I conclude that the proposal would not harm the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance. It would accord with LP Policy BNE1 in that it would not cause an unacceptable degree of noise disturbance to surrounding land uses. It would accord with the aims of the Framework in relation to avoiding noise giving rise to significant adverse impacts on health and the quality of life.

Other Matters

22. The Highway Authority considers that the proposal would not result in harm to the safe operation of the highway and there would be no severe cumulative impacts, subject to conditions. The Council did not submit evidence to the appeal to substantiate the reasons for refusal by the deadline for submissions. However, I have had regard to the third party representations and objections in the determination of the appeal.
23. I understand that there has been an increase in traffic locally as a result of new residential development and the children's nursery on Chorley Hall Road. Local residents are understandably concerned that the proposal would exacerbate the existing use of Highfield Road South as a cut-through route, that it would impact upon traffic flows and contribute to congestion thereby harming road safety. Concerns have also been raised in relation to air quality and antisocial behaviour. However, based on the evidence before me, and taking into account the mitigation measures which can be secured by planning condition, I am satisfied that the proposal would not result in significant harm.

Conditions

24. The Council has suggested conditions in the event that the appeal was allowed. I have assessed these against the relevant tests set out in the Framework and I have amended the wording accordingly where I consider this is necessary.

25. In addition to the standard condition limiting the lifespan of the planning permission, I have specified the approved plans in the interests of certainty. A condition securing the external facing materials as detailed on the plans is not necessary because this is achieved by the condition that specifies the plans.
26. Several planning conditions are necessary in the interest of safeguarding residential amenity. These include a restriction on the hours of opening (condition No 3), a restriction on the use of temporary refrigeration units externally (No 15), and the closure of the car park to vehicles (No 16) and avoidance of external lighting (No 17) during the overnight period. Conditions relating to boundary treatments (No 9) and landscaping (No 10) are necessary in the interests of residential and visual amenity.
27. Conditions relating to ground contamination (No 5) and coal mining risk (No 6) are necessary in the interests of environmental protection, land stability and human health. A condition requiring a method statement for the control of Japanese knotweed and Himalayan balsam (No 7) is necessary to prevent the spread of invasive species. Conditions relating to sustainable drainage (No 4), and foul and surface water drainage (No 8), are necessary to ensure the development does not contribute to the risk of flooding or water pollution.
28. Conditions relating to parking provision (No 11), cycle storage (No 13), site access and off-site highway improvement works (No 12), and wheel washing during construction (No 14) are necessary to in the interests of highway safety and sustainable transport.

Conclusion

29. For the reasons set out above, the proposal would not harm the safe operation of the highway or the living conditions of nearby residential occupiers. It would comply with the relevant policies in the development plan and the Framework.
30. Therefore, the appeal should be allowed subject to the conditions in the attached schedule.

Sarah Manchester

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not 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: ref 1674-1, Site location plan; ref 1674-5b, Proposed site layout plan; ref 1674-6, Plans and elevations; ref 1674-7, Proposed site elevations; ref 1674-8, Electric meter kiosk ET6 Type; ref 4597-01, Landscape layout; and Boundary treatments.
- 3) The use hereby permitted shall only take place between the following hours: 07:00-22:00 Monday to Saturday and 08:00-22:00 Sundays.
- 4) No development shall take place until details of a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent version), together with evidence of an assessment of the site conditions, have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall be in accordance with Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version). In the event of surface water draining to the combined public sewer, the pass forward flow rate to the public sewer shall be restricted to greenfield QBar. The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 5) No development shall take place until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted has been submitted to and approved in writing by the local planning authority. The strategy shall include:
 1. A site investigation scheme, based on phase 1 desk study, to assess the risk to all receptors that may be affected, including those off-site.
 2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy including full details of the remediation measures required and how they are to be undertaken.
 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development or relevant phase of development is occupied.
- 6) No development shall take place until a site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The

- site shall be remediated in accordance with the approved measures before development takes place.
- 7) Prior to earthworks, a method statement detailing measures that shall be implemented for the control of Japanese knotweed and Himalayan balsam shall be submitted to and approved in writing by the local planning authority. The approved method statement shall be implemented in full.
 - 8) Prior to the development hereby permitted being brought into use, foul and surface water shall be drained on separate systems and maintained thereafter.
 - 9) The development hereby permitted shall not be occupied until all boundary walls and fences have been erected in accordance with the approved details. The fences and walls shall thereafter be retained in accordance with the approved details at all times.
 - 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged, diseased or defective shall be replaced in the next planting season with others of similar size and species.
 - 11) The parking and associated manoeuvring facilities shown on the approved plans shall be implemented in accordance with the approved plans and made available before the development hereby permitted is brought into use. Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015, the parking facilities shall be retained and kept available for its intended use at all times thereafter.
 - 12) No development shall take place except for remediation and enabling works until a scheme for the construction of the site access and the off-site highway improvement works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development hereby permitted is brought into use and shall be retained thereafter.
 - 13) The development hereby permitted shall not be occupied until details of covered and secure cycle storage facilities in accordance with Chorley Council's parking standards have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented before the development hereby permitted is brought into use and shall be retained thereafter.
 - 14) Wheel washing facilities shall be provided and available within the site, and additional measures shall be implemented as necessary, to prevent the deposition of dirt and debris on the public highway for the full construction period.
 - 15) No temporary refrigeration units shall be used in the outdoor areas of the service yard unless details have been submitted to and approved in writing by the local planning authority. The details shall be submitted prior to, or within 24 hours of, the temporary refrigeration units being used in the outdoor area. Thereafter, the temporary refrigeration units shall be used in accordance with the approved details.

- 16) Vehicular access into the car park of the development hereby permitted shall be physically closed to vehicular traffic by bollards as specified on the approved site layout plan (ref 1674-5b) between the following hours:
22:30 - 06:30 Monday to Saturday
22:30 - 07:30 Sundays
- 17) The external lighting of the development hereby permitted shall only be illuminated between the following hours:
06:30 - 22:30 Monday to Saturday
07:30 - 22:30 Sundays