



Appeal Decision

Site visit made on 7 September 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2021

Appeal Ref: APP/Z4310/W/21/3273596

1-3 Longmoor Lane/Warbreck Moor, Aintree, Merseyside L9 0EF

- 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 Daniel Loughran, LCC Group Ltd against the decision of Liverpool City Council.
 - The application Ref: 20F/0978, dated 2 April 2020, was refused by notice dated 13 April 2021.
 - The development proposed is to redevelop site by the erection of a 24 hour unmanned filling station including canopy, four pump islands, drive through car wash, storage and control buildings and means of enclosure, and to erect a free standing drive through and sit down A3 food/drink unit, including alterations to vehicular accesses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development refers to the proposed Use Class as it was prior to changes that took place on 1 September 2020¹. Under the Regulations, an application that was made prior to this date is also to be determined with reference to the uses or use classes that were in place prior to that date. Accordingly, I have considered the appeal on this basis.
3. The revised National Planning Policy Framework (revised Framework) has been published since the Council made its decision. The main parties were given the opportunity to comment on this matter during the appeal. I have considered the revised Framework in my decision.

Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the area; (ii) highway safety and the free flow of traffic in relation to the access arrangements; (iii) the living conditions of the occupiers of 3 Longmoor Lane (No 3) and 4 Warbreck Moor (No 4) by way of noise, disturbance and visual impact; (iv) the vitality and viability of Walton Vale District Centre (District Centre); and (v) whether the provision of adequate access would be made for disabled persons.

¹ Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Reasons

Character and Appearance

5. The appeal site comprises an area of cleared land that is located between Longmoor Lane and Warbreck Moor. The major junction of these busy roads lies a short distance from the site. The site also lies just beyond the boundary of the defined District Centre. A number of associated retail and commercial uses are found to the south and west of the site. To the north and east, the area becomes more residential in nature.
6. The character of the area is thus varied and building types are equally mixed. There are a number of period commercial and residential properties that are interspersed with those that are more modern in their design. Overall, this results in a variety of buildings that fit agreeably together and befit the location. Within this context, the site is located in a prominent position with its 2 site frontages onto the main roads and due to its proximity to a major junction.
7. The proposed petrol filling station (PFS) on the Longmoor Lane side of the site would consist of a canopy with pump islands underneath. The canopy would be positioned so that it would be very close to the site frontage and forward of the buildings on either side. The front of it would take the form of a large, slanted element that would quickly rise to the same height as what would be the more typical part of the canopy.
8. When its size, design and positioning are considered, the proposed PFS would appear as a stark and uncompromising structure that would be overly prominent. It would not sit comfortably in these surroundings. Even with the variety of commercial buildings in its vicinity, it would not respect the character. The materials would add to the harm in the sense that they would be part of its incongruous appearance. The proposed car wash would raise less of a concern because it would be well set back into the site. Nonetheless, this would not address the overall shortcomings of the proposed PFS.
9. The site presents a long frontage onto Warbreck Moor. With the positioning of the proposed food and drink unit in the north-east corner, much of the frontage would lack activity, even with the 2 storey height and associated size of the unit. It would be largely defined by enclosure, which has been referred to as a decorative wall, with planting to the front. This does not reflect that the site is found on a major approach into the District Centre where there would be more of an expectation of the presence of an active use in design terms.
10. The appellant considers that the particular characteristics of the proposed PFS relate to its function and the design of the proposed food and drink unit would be typical. Whilst I would agree they are familiar elements of the built environment, the particular design still needs to have proper regard to the site circumstances. This counts against the proposal.
11. In this respect, the revised Framework has placed a greater emphasis on well-designed development. It is not simply the case that a particular design can be utilised, irrespective of the location, with the importance that the revised Framework places on high quality buildings and places.
12. I conclude that the proposal would have an unacceptable effect on the character and appearance of the area. As such, it would not comply in this

regard with saved Policy HD18 of The City of Liverpool Unitary Development Plan (2002) (UDP) where it is concerned with a high quality of design, development relating well to the locality and the characteristics of local distinctiveness, amongst other considerations. Similarly, It would not accord in this regard with Policies UD1 and UD2 of the Liverpool Local Plan 2013-2033 Pre-submission draft (2018) (Draft Local Plan) where they are concerned with taking into account aspects of local character and distinctiveness, and the layout and form of a proposal.

Highway Safety

13. The appeal site is served by two vehicular accesses on Longmoor Lane and one on Warbreck Moor. Both of these roads are single lane 2 way carriageways that widen at the nearby signalised junction where the roads meet. Footways are provided on both sides of the roads. On the footway on the Longmoor Lane frontage, there are 2 bus stops that are located in close proximity to the existing access points. At the time of my site visit, these bus stops were well used and this is also borne out by the appellant's Transport Statement (TS). There is a further bus stop on the Warbreck Moor footway.
14. Although the Council's related reason for refusal is not precise, it is clear from the submissions that the matter of dispute centres on the proposed access arrangements. On Longmoor Lane, this would involve the remodelling of the existing access points to provide a typical 'in' an 'out' arrangement for the proposed PFS.
15. Whilst I note that such an arrangement has raised some concerns over whether this may cause congestion if vehicles are not able to pass stationary traffic turning into the site, the proposed PFS would not in itself cause significant traffic generation because it is a roadside facility that is geared to attracting passing traffic. Rather, a small proportion of the existing traffic would be utilising the site and so congestion over and above the existing levels would be likely limited.
16. In respect of the effect from fuel tankers, even if the proposed PFS would be available for use when such a delivery is taking place, the site layout shows that a tanker could be ably accommodated within the site and well clear of Longmoor Lane.
17. However, the proposed access arrangements on Longmoor Lane would also involve the relocation of the existing bus stops. This would not be insignificant because of the approximate 200 metre (m) distance involved with the relocation taking place onto Walton Vale, south of the signalised traffic junction. For the current users, it would involve crossing either Warbreck Moor, or Longmoor Lane and then Walton Vale, all of which are busy roads, and so it would not be a particularly appealing prospect for pedestrians. The use of the signalised crossing points would involve even more of a circuitous route. Overall, it would not benefit pedestrian safety or convenience.
18. The position of the relocated bus stops would also be partially inset into the existing footway. As Walton Vale is the main pedestrian thoroughfare through the District Centre, this would not be to the benefit of those not utilising the relocated bus stops, even with the width of the footway, especially if levels of usage are similar to the existing bus stops. Any benefits to the living conditions of local residents who live near to the existing bus stops would not

outweigh this harm, notwithstanding that they would lose ready access. The same applies in relation to the relocated bus stops being more centrally located in the centre because of the impact this would have on the existing users.

19. Nor am I persuaded that the insetting of the relocated stops addresses the issue of clearance between passing vehicles. From this direction, what are not inconsequential levels of traffic are essentially funnelled through Walton Vale before it separates to utilise either Warbreck Moor or Longmoor Lane. The swept path drawing shows that large cars would have to cross the centre line, and this does not account for larger vehicles. Whilst I note that the Stage 1 Road Safety Audit in the TS raised no safety related issues, in my view, it would be an unsatisfactory arrangement.
20. The proposed access arrangement onto Warbreck Moor would cause less of a concern because it would be a remodelling and as it would not involve the relocation of the bus stop. The access is at an angle but the swept path drawings do not raise a particular concern, in having regard to that the access effectively already exists. Using the site as a shortcut between the 2 roads would also not occur because there would not be a through route.
21. When these matters are taken together, the highway safety concerns that arise from the relocation of the bus stops caused by the Longmoor Lane access arrangements are decisive on this issue. In coming to this view, I have had regard to the totality of the highway evidence before me. Matters in relation to why the bus stops are configured as they are on Longmoor Lane are not for my deliberation because I have to consider them in-situ.
22. I conclude that the proposal would have an unacceptable effect on highway safety and the free flow of traffic in relation to the access arrangements. Accordingly, it would not comply with Policies TP2, TP6 and TP9 of the Draft Local Plan where they are concerned with safety matters in relation to transport assessments and safety for all users of the transport network, pedestrian safety and encouraging walking, and the consideration of public transport in the design of all development.
23. The reason for refusal also includes Policies TP3 and TP4 of the Draft Local Plan. I have not considered these policies any further as they are not of particular relevance as they concern safeguarding land for transport functions and strategic road schemes.

Living Conditions

24. The nearest residential properties to the appeal site are No 3 and No 4, both of which are separated from the site by alleyways. Both these properties have their main elevations facing towards the respective roads or over their enclosed rear gardens, rather than towards the site. No 3 does have a number of windows that I have assumed relate to habitable rooms that face towards the site from its side elevation, whilst No 4 has a lesser number of such openings.
25. With the proximity of these residential properties to the site, there would be the potential for the proposal to cause additional noise. As such, the applicant submitted an Environmental Noise Report (ENR) with the application. This included a baseline noise survey in order to capture the existing background noise levels. The sound levels applied consist of those representative for the nature of the proposal, together with historical noise data. The ENR has regard

to the guidance and criteria set out in British Standard 4142:2014² (BS 4142:2014).

26. The ENR also has regard to a number of measures that have been put forward that have a bearing on the potential noise levels. These include restricting the hours of deliveries, and that of the operation of the proposed car wash and food and drink unit. The hours of the proposed PFS would be unrestricted. A 2 m high acoustic barrier is proposed along the north-west and north-east boundaries of the site. This includes the boundaries nearest to No 3 and No 4. The ENR finds there would be a low impact.
27. It is also important to consider the effect of the characteristics of the noise. The Planning Practice Guidance: Noise sets out that a contributory factor includes non-continuous sources of noise. This is of relevance because the primary source of the noise would relate to vehicle movements, and this would include engine and car radio noise, and doors opening and closing. There may also be a degree of customer conversations. Where this potential disturbance may be more apparent is with the proposed PFS because the hours would be unrestricted. Consequently, noise would occur at times when levels would be expected to be quieter.
28. The ENR has not sought to apply a rating penalty to reflect such sources of noise. However, the context of the proposal also needs to be considered in this regard. The occupiers of No 3 and No 4 are in all likelihood already used to vehicular noise due to their close proximity to these busy roads, as well as noise from the idling of vehicles at the junction of the roads, together with noise associated with the District Centre. A planning condition would also ably deal with noise limits for the plant and the car wash if I was inclined to allow the appeal. Whilst I am mindful of the openings on the side of both properties, the ENR represents a worst case scenario and the internal levels of noise would in any event likely be lower, even with the windows.
29. When these factors are considered with the opening and delivery restrictions that would be applied, as well as the acoustic fence, the effects that would result from the characteristics of the noise would not be unacceptable. Overall, for the purposes of paragraph 185 of the revised Framework, a significant adverse impact would not occur.
30. I reach a similar conclusion in respect of the visual impact. Neither property has its main elevations facing towards the site, but effectively the proposal would be side on to them. That both the food and drink unit and the proposed PFS would be of a 2 storey height is common for locations next to residential properties that themselves are of such a height, or greater. In relation to the effect on the outlook from the windows on the side elevations and the gardens, there would be the separation afforded by the alleyways, as well as the drive through access lane on the side nearest No 4. The effects would not be overbearing.
31. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of No 3 and No 4 by way of noise, disturbance and visual impact. Hence, it would comply in this regard with saved Policies HD18 and EP11 of the UDP where they are concerned with the amenity of

² BS4142:2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

adjoining residents and noise as a form of pollution and nuisance, amongst other considerations.

32. The proposal would also comply in this regard with Policies UD2, R1 and SP4 of the Draft Local Plan where they refer to living conditions matters, including in having regard to the site's location adjacent to a district centre.
33. The Council's respective reason for refusal includes Policies H7 of the UDP and H4 of the Draft Local Plan. As these deal with other uses, I have not considered them further. The same applies in relation to Supplementary Planning Guidance Note 10.

Vitality and Viability of Centres

34. The site lies between two strands of the District Centre that run along the opposite sides of Longmoor Lane and Warbreck Moor to the site. Whilst it lies outside of the district centre, it is therefore located in very close proximity to it. This includes the proposed food and drink unit that constitutes a 'centre' type use. The site itself is deemed 'edge of centre'.
35. Policy SP6 of the Draft Local Plan sets out a sequential approach and states that in-centre sites should be considered first which should be thoroughly assessed for their suitability, availability and viability. The Council considers a sequential test has not been undertaken by the appellant in relation to the proposed food and drink unit. The appellant has however pointed to its roadside nature and purpose, and how it attracts trade. In this regard, it includes a drive through element and parking. In terms of suitability, it is not therefore apparent how it would be located in the District Centre, even if vacant units are available.
36. Moreover, with the juxtaposition of this site to the centre, it would be well connected to it in terms of viability. It would also be of an appropriate scale and function. It would be doubtful that customers would draw a distinction between the site and the centre. It would be accessible from the centre so that linked trips could occur, in particular for pedestrians.
37. On this basis, I conclude that the proposal would not unduly affect the vitality and viability of the District Centre and it would comply with Policy SP6.

Disabled Persons Access

38. The proposed PFS would not be a facility that would be staffed and so it is understandable that this may raise concerns for disabled customers, including stress and well-being. There would however be a 2 way call point that would be available in order to contact a representative of the appellant, who would be available on site within 5 to 10 minutes.
39. The Council consider these arrangements would be difficult to monitor. Still, they could be the subject of a management type planning condition to control the associated measures. The time it would take to get to the site would clearly be approximate as it would be reliant on how busy the roads are. The call point would seem though to allow the customer to be updated if there were delays. Overall, the arrangements would not be unsatisfactory.
40. The proposed food and drink unit includes the provision of disabled persons parking spaces. A number of concerns have been raised in relation to the

proposed layout by way of the width of pedestrian routes, bollards and the parking bays. Such matters could also be dealt with through a planning condition as they would result in fairly minor changes to the layout.

41. I conclude that the proposal would provide adequate access for disabled persons. It would comply with saved Policy HD19 of the UDP and with Policy UD4 of the Draft Local Plan where they are concerned with suitable provision for disabled people, and access matters. It would also comply with the Council's Ensuring a Choice of Travel Supplementary Planning Document in so far as it concerns accessibility issues for disabled persons.

Other Matters

42. The proposal would have the benefit of making use of previously developed land and bringing vacant land back into use. It would also result in economic benefits. With its proximity to the District Centre, it would also likely bring some viability and vitality advantage. Such benefits attract moderate weight. Set against this would be the harm that would arise concerning character and appearance, and highway safety matters. The harm attracts significant weight. All other matters attract neutral weight. Overall, the benefits would not outweigh the harm.
43. The reasons for refusal rely in part on the policies in the Draft Local Plan. The Draft Local Plan is the subject of modifications and has not been adopted. Hence, the policies do not attract full weight. Nevertheless, this does not change my view on the main issues because they remain legitimate planning considerations against which the proposal falls to be assessed.

Conclusion

44. The proposal would have an unacceptable effect on both the character and appearance of the area, and highway safety and the free flow of traffic in relation to the access arrangements. This is decisive. Accordingly, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR