

Appeal Decision

Site visit made on 8 March 2022

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2022

Appeal Ref: APP/R3515/W/21/3277029
23-27 Woodbridge Road East, Ipswich, IP4 5QN

- 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 Petrogas Group UK Ltd against the decision of Ipswich Borough Council.
 - The application Ref IP/20/00756/FUL, dated 2 September 2020, was refused by notice dated 18 December 2020.
 - The development proposed is removal of automatic car wash and erection of new stand-alone Costa Drive Thru building with associated parking and external works.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. Firstly, the effect of the proposed Costa Drive Thru on the amenity and safety of all users and in particular pedestrians and cyclists; and secondly, the effect of the Costa Drive Thru on the living conditions of neighbouring residents with respect to noise, disturbance and pollution.

Reasons

3. The appeal site comprises a petrol filling station with associated car wash. The site is situated on the busy Woodbridge Road East (A1214) at its junction with Colchester Road, and Woodbridge Road which provides access to The Ipswich Hospital. The road is a main route linking the centre of Ipswich with the A12 dual carriageway to the east. In addition to the hospital, the surrounding area is mainly residential with a parade of local shops immediately to the east of the site and a secondary school about five minutes walk away.
 4. At the time of my site visit, midday on a weekday, the filling station had a constant throughput of customers. The Subway take-away in the filling station shop was well patronised and the existing on-site car parking facilities were busy with comings and goings. A number of people were sitting at picnic tables on the grassed area to the north of the forecourt. The existing car wash which appeared to be undergoing testing or maintenance is located near the north-west boundary of the site but separated from it by a grassed area. It is accessed via an anti-clockwise loop road to the north of the forecourt.
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5. The proposed Costa Drive Thru with associated access and parking would occupy the entire area of the site to the north of the forecourt. The access road would run close to the northern and north-west boundaries and traffic would travel in a clockwise direction.
6. The appellant's original Planning/Design and Access Statement makes clear that the expectation would be that the new and existing facilities would be used principally by the motoring public with a figure of in excess of 90% of customer visits quoted as being typically for the purposes of buying fuel, either exclusively or in conjunction with other site facilities. Other documents submitted by the appellant suggest that its location means that the site is well placed to attract both pedestrians and cyclists. It is also clear from my site visit that a noticeable number of motorists visit in order to use the existing forecourt shop and Subway take-away without buying fuel. The proposed Costa Drive Thru would therefore be likely to attract a mix of customers arriving by all three modes of transport.
7. The Highway Authority (HA) is satisfied that safe access and egress from the public highway could be achieved which would protect pedestrians and cyclists passing the site. Notwithstanding third party evidence contradicting this, I accept that it would be the case. However, I have no evidence that the HA has given consideration to access and egress to and from the Costa Drive Thru within the site, other than in the context of assessing that adequate on-site parking is proposed and that there would be sufficient space on site to accommodate queuing vehicles without obstructing the access or the public highway. Owing to the proposed site layout, the Council raises concerns regarding the potential for on-site conflict between pedestrians, cyclists and motorists.
8. With respect to motorists wishing to both refuel and visit the drive thru, there is no designated route between the two facilities. Cars would either need to exit the site and re-enter or manoeuvre against the prescribed flow of traffic using the drive thru and car park. This would bring them into conflict with other vehicles as well as pedestrians and cyclists, leading to a potential public safety hazard.
9. Turning to pedestrians, the appellant has submitted Technical Note 3 to address the first reason for refusal regarding pedestrian access. The Council suggests that this evidence should not be admitted. However, I agree with the appellant that it has been submitted specifically to address a reason for refusal and should be accepted. The HA is a consultee, would have been aware of the appeal and could have commented on the document had they wished to do so.
10. The designated footway providing safe access to the drive thru is on the eastern side of the site. However, this would be a tortuous route to the Costa entrance door, and it is likely that pedestrians, including school children, would choose to cut across from the forecourt building to the car park and thence directly to the Costa. This would result in potential conflict with vehicles leaving the drive thru and car park and also with vehicles manoeuvring against the designated traffic flow, thereby coming from an unexpected direction and increasing the risk.
11. Pedestrians entering or leaving the site from the west would have no safe designated route and would be likely simply to walk directly between the site

entrance and the Costa entrance, thereby cutting across the flow of traffic accessing the drive thru and car park.

12. The appellant suggests that the drive thru would be unlikely to attract a significant number of pedestrians given the existing Costa dispensing machine in the forecourt shop. However, the site is clearly laid out to provide café facilities in addition to the drive thru and pedestrians as well as motorists wanting to buy hot drinks for consumption on site or drinks not available at the machine would therefore be expected to use the drive thru service counter. Moreover, pedestrian numbers have been estimated using the TRICS database but this is limited by the number of available multi-modal surveys for both drive thru sites and petrol stations. This reduces the level of confidence that can be given to the accuracy of the estimates in respect of the appeal site.
13. Finally, anyone parking and visiting the forecourt shop and Subway outlet would be likely to cut directly from the car park to the forecourt building, rather than following the longer designated walking route. This would place them in conflict with cars leaving or doubling back via the car park to enter the drive thru.
14. The cycle racks would be located on the east side of the drive thru building, close to an outdoor seating area and fenced from the vehicle route. To reach them, cyclists would have to use the relatively narrow walking route serving the seating area, bringing them into potential conflict with pedestrians.
15. The appellant suggests that vehicle movements to access the Costa Drive Thru would be similar to those currently permitted in respect of the car wash. However, the existing layout and direction of traffic flow enables cars to readily use both the car wash and refuelling facilities. Moreover, there is no reason for pedestrians or cyclists to approach the car wash. Overall, there is currently significantly less risk of conflict between vehicles, pedestrians and cyclists.
16. There would be two outside seating areas, both in close proximity to the vehicular route into and out of the drive thru, including within a short distance of the ordering point. People would therefore be forced to sit in close proximity to moving, queuing and idling vehicles which would make these areas unpleasant to use due to noise and fumes. Moreover, the area close to the ordering point would also be close to the commercial waste bin compound with the potential for smells and noise from filling and emptying of the bins.
17. Overall, the proposed layout would be poor. Although the facility would be car orientated the vehicular circulation arrangements would lead to potential conflict between motorists and this, combined with inadequate circulation arrangements for cyclists and pedestrians, would be likely to bring different users into conflict with each other, leading to a public safety hazard. In addition, the provision of outside seating in locations that were close to traffic would make them unpleasant and unhealthy places to sit.
18. It is concluded on the first main issue that, owing to the site layout, the proposed Costa Drive Thru would have a materially detrimental effect on the amenity and safety of all users and in particular pedestrians and cyclists. In consequence, it would conflict with Policies DM5, DM17 and DM18 of the Ipswich Borough Council Local Plan, Core Strategy and Policies Development Plan Document (LP), 2017, and with the provisions of the National Planning Policy Framework (NPPF). Taken together these expect new development to be

well designed so as to function well and promote healthy and safe communities through, amongst other things, layouts that provide safe, attractive, coherent, accessible and useable public areas and routes which are pedestrian and cycle orientated, and integrate cycle and waste storage and car parking in a way that safeguards amenity.

19. Turning to the amenity of neighbouring occupiers, the appellant's submitted noise survey demonstrates that, subject to adequate fencing being provided on the site boundary (through the repair of the existing high, close boarded fence) and around the compound containing the condenser units, and these units being of a suitable noise specification, disturbance due to noise at the nearest habitable windows, estimated to be some 30m away, would be unlikely. The Council's Environmental Protection Officer agrees with the report recommendations and, subject to conditions to secure the necessary screening and mechanical plant specification, raises no objection. However, the evidence suggests that the rear of dwellings to the north and west are noticeably closer than 30m from the proposed development.
20. Moreover, the Council and neighbouring occupiers point out that several gardens and in particular 54 and 56 Digby Road and 343 Colchester Road lie immediately adjacent to the proposed drive thru and that noise, including from vehicles, the ordering point, filling and emptying of commercial waste bins, plant and machinery and people sitting at the outside seating areas, would cause disturbance if they were relaxing in their gardens. Noise would be particularly noticeable at weekends and on summer evenings when people are more likely to be outside.
21. Currently, the car wash is understood to be little used and its opening hours are restricted to 0800 – 1800 Monday to Saturday and 0800 to 1330 on Sunday (although permission was granted for longer hours in 1998 the evidence, including a letter from the Council in 2007, shows that conditions attached to the planning permission were not complied with and the permission was never lawfully implemented). Although the petrol filling station is understood to be open 24 hours a day it is well separated from the residential gardens to the north and north-west.
22. The drive thru would be open between 0600 and 2000 seven days a week. I am concerned that the evidence fails to demonstrate that noticeable disturbance to local residents would not occur, particularly to their quiet enjoyment of their gardens. Even if the noise levels inside dwellings were acceptable, no assessment of noise levels or general disturbance in garden areas has been carried out and, given the opening hours, anticipated level of activity at the site and various potential noise sources, I consider that a precautionary approach is necessary.
23. The Council and third parties raise concerns regarding air pollution from vehicle fumes. However, the Council's Environmental Health Officer raised no objection to the proposal subject to conditions, including the provision of electric vehicle charging facilities. Although some air pollution would result from vehicles visiting the drive thru this would be limited and unlikely to have a noticeable effect on air pollution levels in the area. I am also satisfied that it would be unlikely to materially affect the living conditions of neighbouring occupiers, particularly in view of the substantial fence on the intervening boundary.

24. It is concluded on the second main issue that although the Costa Drive Thru would have no materially harmful effect on the living conditions of neighbouring residents with respect to air pollution, it has not been demonstrated that there would not be a materially detrimental effect due to noise and disturbance. In consequence, the proposed Costa Drive Thru would conflict with Policy DM26 of the LP and with the NPPF which, taken together, expect new development to create places that promote health and wellbeing, ensure that the quality of life of people close by is protected and provide a high standard of amenity for existing and future users. Development that would be likely to cause material nuisance to adjacent residents as a result of noise and disturbance is resisted.
25. Turning to other matters, the appellant argues that the proposal would be the re-development of previously developed land, would make the petrol station more viable and would create new jobs in the area. However, whilst that may be so, unacceptable development cannot be made acceptable through being sited on previously developed land, I have no evidence that the existing busy filling station is not already viable and whilst job creation would be welcome it would not in this case outweigh the detrimental effects of the proposed development.
26. For the reasons set out above and having regard to all other matters raised, including the availability of other Costa Drive Thru facilities and hot and cold food and drink outlets in the local area, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR