



Appeal Decision

Site visit made on 15 May 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/Y3425/W/22/3310474

Darlaston Roundabout at the Junction with A51, North Darlaston ST15 0PX

- 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 Euro Garages Ltd and Greene King against the decision of Stafford Borough Council.
 - The application Ref 21/34623/FUL, dated 29 June 2021, was refused by notice dated 8 September 2022.
 - The development proposed is the demolition of existing Public House and Children's Indoor Play warehouse with redevelopment of the site to provide 24hr petrol filling station accessed from A34 comprising new forecourt with canopy (3 starter gate for car), underground tanks, 4 no car jet wash bays, 1 no car wash, 1 no vac/air bay, parking (15 customer car spaces and 4 cycle), 8no covered EVC bays (with solar PV to roof), landscaping / picnic area and sales building (total 465 GEA sqm / 421 sqm GIA) including store, office, w/c and convenience store with ancillary food counter together with ATM.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing Public House and Children's Indoor Play warehouse with redevelopment of the site to provide 24hr petrol filling station accessed from A34 comprising new forecourt with canopy (3 starter gate for car), underground tanks, 4 no car jet wash bays, 1 no car wash, 1 no vac/air bay, parking (15 customer car spaces and 4 cycle), 8no covered EVC bays (with solar PV to roof), landscaping / picnic area and sales building (total 465 GEA sqm / 421 sqm GIA) including store, office, WC and convenience store with ancillary food counter together with ATM at the Darlaston Roundabout at the junction with the A51, North Darlaston ST15 0PX in accordance with the terms of the application, Ref 21/34623/FUL dated 29 June 2021, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. The site is within the Green Belt. Paragraph 137 of the National Planning Policy Framework (the Framework) identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. Paragraph 149 establishes that new development would be inappropriate unless it meets a listed exception. Exception (g) allows for "...the complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development".
3. The existing large and multi-levelled building would be replaced with a single-storey shop unit, petrol pumps and associated canopy. Although located in a different part of the site, the proposed development would have a reduced floor

area and volume in comparison to the existing development. It would result in a reduced visual and spatial effect on the openness of the Green Belt. As this matter is undisputed between parties, and based on my own findings, I am satisfied that the proposal would not be inappropriate development in the Green Belt by virtue of paragraph 149(g).

4. An appeal was dismissed¹ in 2020 on the site for a petrol filling station, ancillary retail facilities and drive through restaurant. The decision acknowledged that pedestrians would be attracted to the site as the proposal would include a retail offer, albeit for convenience goods, and a restaurant. The proposed uncontrolled pedestrian crossing was found to be unsuitable. This was as it would be adjacent to an extensive dropped kerb area, serving the car showroom, and close to multiple road junctions on and off the gyratory. The Inspector found that motorists would be distracted by the proliferation of access points and vehicles changing lanes leading to an unsafe crossing point for pedestrians. This former proposal raised different trip generation issues, in comparison to the current appeal. The dismissed appeal is therefore only of moderate weight in my consideration of the matters associated with this appeal.
5. The site is currently occupied by a large public house/restaurant with connected indoor play facility. Declining trade resulted in the public house closing in 2018. This followed a marketing exercise that demonstrated that no alternative operator was interested in using the building for its current use. Nonetheless, upon external inspection during my visit, the building appeared to be intact and weatherproof. Consequently, there appears to be no compelling reason why the building and site could not be returned to active use with limited further investment in future years irrespective of the outcome of this appeal. Accordingly, the extant use of the site in providing a clear fallback position, is an important material consideration.
6. The description of development initially included reference to the provision of filling facilities for Heavy Goods Vehicles (HGVs). However, this component was removed from the proposal during the application consideration process. As this would reduce the overall traffic impact of the scheme, interested parties would not be prejudiced by my consideration of the revised description as I have done so.

Main Issue

7. The main issue is the effect of the proposal on highway safety, with particular regard to the safety of pedestrians and cyclists accessing the site.

Reasons

8. The appeal site is within a gyratory formed where the A34 splits around the site, creating a large island, and which is also partly bisected by the River Trent. The building on site consists of a two-storey public house and a connected metal clad warehouse. The proposed vehicular access into the site would use the existing access points via the northbound spur of the A34, just after its junction with the A51. A small cluster of residential properties are to the west of the site either side of the A51 and a footway follows the outside edge of most of the gyratory.

¹ Planning Appeal Reference: APP/Y3425/W/19/3227057

9. The gyratory around the site has a 50mph speed restriction with northbound traffic, approaching the site, turning sharply to the left at the warning chevron signs close to the site. Within the gyratory, there are several access points which serve a car dealership, the junctions of both Jervis Lane and the A51, and the appeal site entrance and exit. Accordingly, the highway context around the site's access/egress consists of comparatively fast-moving traffic.
10. The Appellant's Transport Statement² (TS) demonstrates that during peak hours, the proposal would record around 60 arrivals and 60 departures of motor vehicles, with an average of one a minute. The proposed layout would accommodate sufficient internal space to prevent vehicles queuing onto the gyratory. The egress would provide clear visibility across the gyratory towards the car showroom for exiting vehicles and this would be further improved through the demolition of the existing building. Accordingly, vehicular movements would take place within a safe environment and would be unlikely to adversely affect the safety of existing road users on the highway network.
11. Manual for Streets³ identifies that walking offers the greatest potential to replace short car trips, particularly those within 2kms. The site is within walking distance of Meaford village, parts of northwest Stone, a large residential estate via Mount Road and local commercial areas including Meaford Business Park. Nonetheless, most of these areas are closer to other retail offers such as the garage on Newcastle Road and beyond this to shops within the centre of Stone. These facilities would provide easier access to retail facilities via surfaced routes, reducing the likelihood of pedestrians seeking to access the site. Accordingly, whilst the retail element of the proposal may attract pedestrians from the local area, the demand would be likely to be limited.
12. The TS has compared the transport movements of the proposed and extant use. Using the Trip Rate Information Computer System (TRICS) database the use is predicted to attract a daily pedestrian count of around 40 arrivals and 40 departures. The TRICS data shows that the extant use is predicted to attract more cycle trips, than the proposed use, and has a daily pedestrian count of around 70 arrivals and 70 departures. The proposed use would therefore attract substantially fewer pedestrians and cyclists. Moreover, the impact of the proposal on cyclist's safety would be limited as they would be already within the carriageway and would not need to cross the gyratory in the same manner as pedestrians. Accordingly, the Council has demonstrated how the proposal would increase the likelihood of conflict between pedestrian and traffic in comparison to the extant use.
13. Therefore, whilst the data demonstrates that the proposal would attract cycle and pedestrian movement, this would be relatively low and this reflects the primary use of the site as a petrol station in catering primarily for motorists. Furthermore, whilst the TRICS data excludes London and only includes edge of town sites, it is likely that actual pedestrian/cyclist visits to the site would be fewer than predicted due to its rural location and the small local population. As such the use would be rather inaccessible to non-road users. However, its principal purpose would be to serve motorists, which largely informs where such a use should be located rather than be well linked to more sustainable forms of travel.

² Transport Statement, by EG Group Ltd, dated April 2021

³ Manual for Streets, Highways and Transportation, 2007 para 4.4

14. Nevertheless, the proposal would not give priority to pedestrian and cycle movements and therefore fails to be safe, secure and attractive to all users, contrary to paragraph 110 of the Framework. However, the Framework also recognises that sustainable travel solutions will vary between urban and rural areas. The proposal would minimise the scope of conflict between pedestrians, cyclists and vehicles through the removal of a use that attracts higher levels of pedestrian activity which would be in compliance with paragraph 112(c). The proposal would therefore assist in the free flow of traffic on the highway having a reduced impact on the transport network and easing congestion in accordance with paragraphs 104(a) and 105. Consequently, the proposal would comply with the objectives of the Framework when taken as a whole.
15. The Council stated that the proposal would fail to comply with policy T1(h) of The Plan for Stafford Borough [2014]. This seeks to prevent development that would generate significant levels of traffic, which cannot be accommodated in terms of capacity, road safety and load. However, the TS has demonstrated that traffic levels associated with the proposal would not be significant and could be accommodated on site without detriment to highway safety. As such, the proposal would not be contrary to this policy.

Other Matters

16. The Council's submitted Road Safety Audit⁴ is concerned with the scheme that was subject to the 2020 appeal. The identified problems/recommendations relate to the use of the access into the site and the use of the uncontrolled pedestrian crossing for a scheme including a drive through restaurant, neither of which are matters germane to this appeal. As such, the Audit related to a different form of development with different highway impacts which are of limited weight in my consideration of the merits of this appeal.
17. The proposal the subject of the previous appeal in 2020 would have generated a substantially greater level of pedestrian activity due to its inclusion of a drive through restaurant. Its exclusion has removed the related on/off site pedestrian activity and thus substantially lowered the number of pedestrians that would enter the site, lowering the potential for pedestrian/motorist conflicts within the gyratory.
18. The site is outside but within 10 metres of the boundary of the Meaford Conservation Area (MCA). The proposed development would place most of the development within the upper car park area. The existing buildings would be replaced with landscaped areas. The design of the overall development would be largely functional in character due to its intended use. Nonetheless, the retail unit would be clad in black charred timber, with an interesting, long glass frontage and would be contemporary in design. It would have a low profile and integrate well with its setting. Softened by landscaping it would complement the local area and be in keeping with its rural location and the MCA.
19. The proposal is within proximity to a number of residential properties and would be a 24-hour operation. The TS demonstrates that around 1000 vehicles enter the gyratory from the south at peak hours. The proposal would be unlikely to materially increase traffic using the highway as it would largely provide for users already within the road network. Consequently, the proposed

⁴ Road Safety Audit Stage 1, issue A, Amey consulting, November 2019

development would be unlikely to materially contribute to air or noise pollution in the area.

20. The gyratory is illuminated by relatively tall streetlighting. Lighting is proposed within the site. This would be low-key and partially screened by landscaping from local resident's outlook. Therefore, the proposal would not have an adverse impact on the living conditions of existing residential occupiers through light-spill.
21. The site is adjacent to the River Trent, the lower parts of the site are within flood zones 2 and 3, with the lowest part being 3b (the functional floodplain). Due to the site being proposed for general industry and retail use, the Appellant's Flood Risk Assessment⁵ classifies the site as being 'less vulnerable' to flooding. Furthermore, the development has been designed to ensure it would be built within flood zone 1, at the highest part of the site and would not therefore be at risk of flooding.
22. The Appellant's Drainage Strategy includes infiltration of drainage for surface water. Forecourt runoff will be contained within an interceptor connected to foul water drainage. The proposed foul and surface water drainage scheme has been found to be acceptable by the Lead Local Flood Authority (LLFA) and the Environment Agency. The proposal would contain on site rainwater runoff and not present a risk to flooding subject to a condition to require that drainage mitigation measures and associated maintenance be undertaken.
23. The proposal would include two underground fuel tanks, holding a maximum of around 100,000 litres of fuel. These would be relatively close to the river representing a potential risk of fuel leaking and reaching controlled waters. Although unconfirmed, the Appellant suggests that the groundwater may fluctuate around the tank base depth or nearer to the surface, which could assist any leaks in rapidly reaching the river. The Appellant's Fuel Storage Feasibility Assessment⁶ recognises this risk but deems it to be low if additional engineered control measures were employed. Accordingly, being within a sensitive area for both surface water and ground water the Assessment recommends that the tanks include tertiary containment, internal monitoring wells and interstitial leak detection to the fuel lines and tanks. This high level of engineered protection would reduce the risk to low.
24. The Appellant's Preliminary Ecological Assessment⁷ and Bat Emergence Surveys⁸ identified that the existing building has a day roost for pipistrelle bats. Paragraph 180 of the Framework includes a number of principles that should be applied by decision-makers when planning applications/appeals are being determined with a view to conserving and enhancing biodiversity. One of these principles is that, "if significant harm from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".
25. Bats are a protected species by virtue of the Conservation of Habitats and Species Regulations [2017] (The Habitats Regulations). The species protection provisions of the Habitats Regulation requires regard to be given to the requirements of the Habitats Directive in the exercise of its functions. This

⁵ Flood Risk Assessment, euro garages, dated March 2022

⁶ Fuel Storage Feasibility Assessment, by EPS, dated April 2022

⁷ Preliminary Ecological Appraisal and Potential Bat Roost Survey, by bek, dated May 2021

⁸ Bat Emergence Surveys, by Rachel Hacking Ecology, July-September 2021

contains three 'derogation tests' which must be applied by a competent authority when determining a planning application or appeal.

26. The Ecological Assessment has identified that demolition would need to be subject to an EA Licence and that compensation could be provided in the provision of suitable bat boxes within the site. The Council indicates that the offered compensation would be of similar value to biodiversity as that lost and that this could be secured by a condition. The proposal would result in the regeneration of the site attracting new employment and in providing an important service to the public. Furthermore, the building, if left unused, would over time fall into disrepair and the bat population would be lost. Accordingly, there is no satisfactory alternative to the proposed compensation, and this would not compromise the maintenance of the population of bats within its natural range. Moreover, there are overriding economic and social benefits of the scheme, that satisfy the tests of the Habitat Regulations.
27. Interested parties have objected to the loss of the public house. However, whilst of traditional design the building is of limited architectural interest and closed due to insufficient custom. Furthermore, an alternative facility exists in Meaford providing a similar service to the local community. As a result, the loss of the existing building as a community resource is of limited weight against the proposal.
28. I have paid regard to other concerns raised by interested parties, such as litter and the need or otherwise for a petrol station, but these matters do not affect my findings on the main issue.

Conditions

29. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity.
30. It is necessary for details relating to an arboricultural method statement, tree retention measures, tree pruning details, underground tank details, demolition statement and construction management plan, to be submitted prior to the commencement of development. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. These are required prior to construction commencing as these will affect the ground within the footprint of the building and relate to the initial setting out of the site. These measures would ensure the development would maintain the character and appearance of the area, suitably protect the nearby watercourse, and have a limited impact on the living conditions of adjacent residential occupiers [4, 6, 7, 12, 14 and 17].
31. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [1 and 2].
32. Conditions are necessary to ensure that the development accords with the submitted Flood Risk Assessment and Contaminated land report to satisfy the Council's Environmental Health Officer and the Environment Agency, and to ensure the satisfactory completion of the development for future occupiers of the site [10 and 11]. Furthermore, a condition is required to ensure that the

drainage scheme is provided in accordance with the details agreed by the LLFA and to ensure the provision of a sustainable drainage solution [9]. A condition is required to ensure that the compensation measures for the removal of the bat habitat is secured in accordance with the Habitat Regulations [13].

33. A condition to ensure works are carried outside of bird nesting season are necessary in recognition of the wildlife interests in the site [5]. Conditions are also necessary to ensure the submission of a landscape scheme and details of the canopy colour finish to maintain the character and appearance of the area [3 and 8]. Furthermore, a lighting scheme, and for the development to comply with construction hours, are necessary to ensure the scheme would not affect the living conditions of local residents [15 and 19].
34. It is also necessary for the access and on-site hardstanding provision to be laid out in the interests of the satisfactory completion of the development and highway safety [16]. Furthermore, improved road markings within the highway would be necessary to direct motorists to the petrol station and help navigation through the gyratory in the interests of highway safety [18].
35. Although the proposal would include no fuel filling facility for HGVs, these vehicles could attempt to enter the site, nonetheless. These would exit the site at a low speed, and this manoeuvre would be likely to hamper the free flow of traffic using the A34. To avoid this conflict, signage would be necessary to prevent HGVs from entering the site, other than for delivery purposes. The details of such signage could be specified through the imposition of a suitably worded condition [20].
36. The Council also suggested that a condition be imposed for improved lighting around the gyratory if required following a survey. However, insufficient evidence has been provided to demonstrate that such a condition would be necessary or reasonable. Therefore, this would fail the tests of paragraph 56 of the Framework with regard to the imposition of conditions.

Planning Balance and conclusion

37. The proposed development would reuse previously developed land and would have a reduced effect on the openness of the Green Belt. This would result in a form of development that would enhance the character and appearance of the area. The proposal would also deliver an important roadside service and help motorists to break-up their journeys, encouraging safe driving practices. The site would also include electric charging points which would be a benefit of the proposal as sought by the Framework.
38. Whilst I have found some highway safety conflict it is limited and outweighed by other highway objectives of the Framework. For the above reasons, the appeal is allowed, and planning permission granted subject to the attached conditions.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1578-1 (site location plan), 1578-4k (layout plan), 1578-5d (PFS proposed Plans and elevations), 1578-7b (proposed elevations), 1578-8b (site sections), 1578-9a (Petrol canopy detail), 1578-13 (EV canopy plan and elevations), 1578-14a (Car wash and wash bay details), 3896-01 E (landscape layout plan) and D42847/LKM/B (lighting schedule).
- 3) Notwithstanding any description, details and specifications submitted details for the colour finish of the pump canopy shall be submitted to and approved in writing by the local planning authority prior to its installation.
- 4) Prior to the commencement of development, including demolition works, an Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. This shall include all aspects of development within the root protection areas of retained trees. This shall be implemented and maintained until the completion of all construction related activities.
- 5) Works to hedgerows and trees shall not be undertaken in the bird nesting season (March to August) unless it can be demonstrated through a Method Statement that breeding birds will not be affected. Any Method Statement would need to be submitted and approved in writing by the Local Planning Authority prior to work being undertaken and works only undertaken in full accordance with the agreed Method Statement.
- 6) A Tree Retention and Protection Plan, showing all trees and tree groups which are classified as retained, shall be submitted and agreed in writing with the Local Planning Authority prior to the commencement of any ground works and construction activity. The proposal shall be implemented in accordance with the agreed Tree Protection Plan.
- 7) Prior to the commencement of development, including demolition, a schedule of works for tree pruning and removal shall be agreed in writing with the Local Planning Authority. Thereafter no tree removals or pruning of any kind shall be carried out except as prescribed in the approved schedule of works.
- 8) Notwithstanding the submitted landscape scheme, prior to the commencement of any above ground works, details of the soft and hard landscaping for the site to include all boundary treatments, hardstanding, bat boxes, hedge and tree species and densities shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details. Any hedges, plants or trees that are removed or die or become seriously damaged or diseased within a period of 5 years from the date of planting shall be replaced with others of similar size and species in the next planting season.
- 9) The development hereby permitted shall be brought into use in accordance with the drainage design and detail shown in the 'Revision A of the Drainage Strategy report (P15614)', as appended by Revision B of Drainage Layout Plan P15614-500 (March 22). Thereafter the drainage

scheme shall be retained and maintained in accordance with the Drainage Maintenance Strategy of May 22nd.

- 10) The development shall be carried out in accordance with the submitted Flood Risk Assessment by Nicola Sugg, Issue V1.0, ref. NS_0124_48, dated March 2022 and the following mitigation measures it details:
 - Finished floor levels shall be set no lower than 89.0m above Ordnance Datum (AOD).
 - No ground level raising or built development in the floodplain as shown in Drawing No. 4k, Job ID 1578, dated 11 March 2022 (Appendix 3).These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
- 11) The development hereby approved shall be undertaken in accordance with the recommendations of section 8.2 of the Phase II Environmental Assessment (contamination land report).
- 12) Prior to the commencement of development, details of a scheme to install the underground tanks as specified in the letter - Proposed Petrol Filling Station – Darlaston Inn, Stone ST15 0PX' by EPS, dated 24th May 2022 has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall comprise of the full structural details of the installation, including the excavation; the tanks; tank surround; associated pipework; and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed details.
- 13) Emergence surveys revealed a day roost of Pipistrelle bats. The bat mitigation strategy should be carried out as stated in the report and will include:
 - A suitably qualified ecologist should supervise removal of roof-tiles during demolition,
 - 3x Schwegler 2F bat boxes to be installed in appropriate locations on mature trees prior to demolition works, and
 - 1x Greenwoods Eco Habitat cavity bat box to be installed on the new building in an appropriate location.
- 14) Prior to the commencement of development, a demolition method statement shall be submitted. This shall include: measures to manage any asbestos, site lighting, dust control and noise/vibration control along with proposed working hours; details site lighting (operational and advertising); details of the disposal of waste materials; facilities for damping down of material to prevent excessive dust; for high intensity site lighting to be directed away from nearby residences and for any equipment, which must be left running outside the allowed working hours, to be inaudible at the boundary of adjacent occupied residential dwellings. The demolition method statement shall be adhered to for the duration of the construction phase.

- 15) All construction works including demolition and related deliveries shall only take place between the hours of 8:00 and 18:00 Monday to Friday; 8:00 to 14:00 Saturdays and not at all on Sundays or bank holidays.
- 16) No part of the development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided in accordance with the approved plans. Thereafter, the areas shall be retained.
- 17) Prior to the commencement of development, including demolition, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The construction management plan shall include the routeing and operational characteristics of construction vehicles to and from the site; Parking facilities for vehicles of site personnel, operatives and visitors; Arrangements for the loading and unloading of plant and materials; Areas of storage for plant and materials used during the construction of the proposed development; and Measures to prevent the deposition of deleterious material on the public highway, including wheel wash, during the construction of the proposed development. The construction management plan shall be adhered to for the duration of the construction phase.
- 18) The development hereby permitted shall not be brought into use until details of the enhanced lane markings, road markings and road signs on the roundabout have been submitted to and approved in writing by the local planning authority. Thereafter, the approved signs and line work shall be carried out before the development is brought into use.
- 19) Notwithstanding the submitted lighting schedule, the development hereby permitted shall not be brought into use until a detailed lighting plan has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first operation of the approved use.
- 20) The use shall not commence until details of Heavy Goods Vehicle (HGV) signage has been submitted to and approved by the Local Planning Authority. Such signage would inform drivers of HGVs that they are unable to enter the site, other than for delivery purposes. Once agreed the signage shall be displayed prior to the use commencing and be maintained in perpetuity.

End of conditions