



Appeal Decision

Site visit made on 18 March 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd MARCH 2024

Appeal Ref: APP/P4225/C/23/3329801

**Land known as Castleton Service Station, Manchester Road, Rochdale
OL11 3AD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Suleman Yousaf (Global Tyre Recycling Limited) against an enforcement notice issued by Rochdale Metropolitan Borough Council.
- The enforcement notice was issued on 31 August 2023.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, a material change of use of the land from the sale of motor vehicles (Sui Generis) to a mixed use comprising tyre storage, processing (including shredding and baling), and export, and tyre sales and fitting (Sui Generis) facilitated by operational development consisting of the erection of a single storey rear extension to house a baling machine (shown hatched in red on the Plan).
- The requirements of the notice are (a) cease the unauthorised mixed use of the land comprising tyre storage, processing (including shredding and baling), and export, and tyre sales and fitting, (b) remove the baling machine from the land, (c) demolish the single storey rear extension shown hatched red on the Plan, (d) remove all other items from the land that have been brought onto it to facilitate the unauthorised mixed use comprising tyre storage, processing (including shredding and baling), and export, and tyre sales and fitting, including: (i) all new and all used tyres, (ii) all signage relating to the use of the land for tyre processing, storage and retail, and (iii) all equipment relating to the use of the land for tyre storage processing, storage and retail, and (e) remove all materials and items resulting from compliance with requirements (a) to (d) from the land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Application for costs

2. An application for costs was made by Rochdale Metropolitan Borough Council against Global Tyre Recycling Limited. This application is the subject of a separate Decision.

Ground (a) appeal and the deemed planning application

Main Issues

3. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issues are the effect of the development on (i) highway safety and the free flow of traffic, (ii) the living conditions of the occupiers of neighbouring properties in respect of noise and disturbance and (iii) the character and appearance of the area.

Highway safety and the free flow of traffic

4. As part of the appeal, Transport for Greater Manchester and the Council's Highway Authority have made representations which I have considered in reaching my decision. Manchester Road is a classified highway and is part of the 'Bee Network' which includes the provision of new cycle lanes including to the front of the appeal site.
5. I have no reason to doubt the conclusion reached by the Highway Authority that there is inadequate internal turning space to accommodate a 16.5 metre long articulated vehicle. Furthermore, it is noteworthy that appeal representations have been received from other interested parties who state that lorries have had to manoeuvre within Manchester Road to facilitate reversing into the site as part of dropping off and collecting tyres. This arrangement can be seen in the Council's photograph dated 30 November 2022. Furthermore, the dated photographs thereafter and up to August 2023 show a gradual increase in the number of tyres stored outside and in a haphazard manner.
6. While it may be possible to service the site using smaller heavy goods vehicles and with the provision of an on-site turning facility, this would likely require a reduction in the number of tyres being stored outside and a dedicated area for the parking of vehicles used/owned by staff and visitors. The appellant has not provided me with details (e.g., a plan) showing how this might work. In the absence of any details showing acceptable on-site turning facilities for heavy goods vehicles, it is necessary that I determine the appeal based on the way that the site was functioning when the notice was issued. In this regard, I have considered the Council's submitted photographs.
7. In the context of the above, owing to the location of the tyres and the lack of on-site turning facilities to enable all heavy goods vehicles to enter and leave in forward gear, I conclude that the unauthorised development has caused unacceptable harm to highway safety arising from the likely conflicts between reversing heavy goods vehicles and oncoming motor vehicles, bicycles, and pedestrians. In addition, such manoeuvring has the potential to severely interrupt the free flow of traffic on Manchester Road which I noticed on my site visit was heavily trafficked.
8. For the above reasons, I conclude that the development does not accord with the highway safety and traffic management requirements of policies DM1, T1 and T2 of the Rochdale Core Strategy 2016 (CS), the Council's Castleton Station Area SPD 2022 (SPD), and paragraph 115 of the National Planning Policy Framework 2023 (the Framework).

Noise and disturbance

9. The appeal site is adjacent to flats. The evidence is that the extension to the building, which has facilitated the material change of use of the land, has been used to house the tyre baling machine. The appellant has not disputed the Council's claim that noise emanates from the use of the tyre baling machine. Furthermore, the appellant has not disputed the Council's claim that forklift trucks move and load/unload tyres throughout the site and that a reversing alarm can be heard. Indeed, at the time of my site visit a forklift truck was in operation in association with the unloading of a heavy goods vehicle which had been reversed into the site. A reversing alarm was audible for a prolonged period. I do not doubt that reversing alarms would also be likely from heavy goods vehicles visiting the site.
10. I find that the nature of the business activity on the site has the potential to cause unacceptable levels of noise and disturbance for occupiers of neighbouring properties. While it may be possible to impose a condition relating to the hours of use of the site, in the absence of a noise impact assessment from the appellant I am unable to conclude that the movements and activity associated with the use of the site as a whole, and the operation of the tyre baling machine in the extension, does not cause unacceptable levels of noise and disturbance to the occupiers of neighbouring properties in the day time. It is not appropriate to impose a condition requiring the submission of a noise impact assessment (including possible noise attenuation measures). This is because it is a matter that goes to the heart of the acceptability of the development in land use principle terms.
11. For the above reasons, I am unable to conclude that the development accords with the amenity requirements of policies G9 and DM1 of the CS and paragraphs 135(f) and 191 of the Framework.

Character and appearance

12. I have considered the photographs submitted by the Council. The evidence is that the site has been used in a manner where tyres are stored across most of the site and in a haphazard manner. Some of the tyres are stored in a prominent position when experienced from Manchester Road.
13. Overall, the unauthorised development gives the area a more industrial and unplanned appearance. This is materially at odds with the otherwise mainly residential and planned environment. I have considered whether it would be possible to impose a condition relating to how and where tyres may be stored. I do not find that it would be acceptable to impose such a condition. This is because I have no certainty in terms of what impact this may have on the operation of the business, or indeed what impact this may have on the ability to provide on-site turning facilities for heavy goods vehicles. In reaching this finding, I am also cognisant of the fact that the appellant has not provided a statement of case or final comments as part of this appeal.
14. The extension to the building is not prominent in the street-scene albeit that it can be seen from the car park adjacent to the site. It is acceptable in terms of its appearance and building material. However, owing to its open aspect and its use to house a tyre baling machine, it constitutes poor design in so far that it has the potential to cause unacceptable harm to the living conditions of the occupiers of the adjacent flats from a noise and disturbance point of view.

Furthermore, the extension has facilitated the material change of use of the land.

15. I do not disagree with the Council that owing to the number, colours, and position of the advertisements, they materially detract from the character and appearance of this part of Manchester Road where there is generally an absence of advertisements. The advertisements detract from the more muted tones and colours in the area and are seen as cluttered and unplanned additions in the street-scene.
16. For the above reasons, I conclude that the development does not accord with the design, character, and appearance requirements of policies DM1, C2, P1, P3 of the CS, the SPD and chapter 12 of the Framework.

Ground (a) appeal conclusion

17. For the reasons given above, I conclude that the breach of planning control does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Ground (g) appeal

18. The appeal on ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.
19. The appellant does not outline why he considers the time for compliance with the steps in the notice to be unreasonable. Instead, the appellant states that he needs more time to submit a planning application. As an appeal has been made under ground (a) of section 174(2) of the Act, I have considered a deemed planning application. Therefore, the appellant's ground (g) claim does not justify allowing more time for compliance with the requirements of the notice.
20. On the evidence that is before me, I find that three months is reasonable to ensure compliance with the requirements of the notice. Therefore, the ground (g) appeal fails.

Conclusion

21. For the reasons given above, I consider that the appeal should not succeed.

D Hartley

INSPECTOR