

Appeal Decision

Site visit made on 16 July 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/D4635/W/24/3340020

Former Newbridge Service Station, Tettenhall Road, Wolverhampton, WV6 0JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Bushbury Ltd. against the decision of Wolverhampton City Council.
 - The application Ref is 23/00561/FUL.
 - The development proposed is described as “redevelopment of the site for replacement petrol filling station, including erection of retail store, automatic car wash, jet wash bay and car and cycle parking.”
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the living conditions of nearby residents, with particular regards to noise and disturbance; and the character and appearance of the area.

Reasons

Living Conditions

3. The appeal site is currently a vacant, overgrown lot bound by fencing. To the north of the appeal site is a residential dwelling, Greenroofs, to the east a public house, to the south Tettenhall Road and to the west New Road. The area is characterised by a mix of uses, with the row of buildings opposite the site having commercial uses at ground floor and residential uses at first floor. Tettenhall Road is a busy main route in to the centre of Wolverhampton. The site was previously a petrol station but all buildings and paraphernalia appear to have been removed ten years ago.
4. In respect of noise and disturbance, the main potential source of this is from the car wash area and in particular the use of a high pressure water spray hitting the vehicles, air/water pumps and the general noise and disturbance associated with a petrol station such as car door slams, public announcement system and the manoeuvring of vehicles. The proposed development would provide a fully enclosed car wash bay to the north

western corner of the appeal site, a fairly short distance away from the boundary with Greenroofs.

5. At the time of my visit during the late morning, I observed that Tettenhall Road, where it passes the site, is a busy route with significant traffic flows in both directions including HGV's and buses. The prevailing noise environment that exists for residential properties along Tettenhall and New Road and nearby side streets is, therefore, heavily influenced by traffic noise, which was evident along the frontage of properties close to the appeal site. When taking account of the traffic along Tettenhall Road, it is reasonable that there would be traffic noise for much of the day, including early mornings and late into evenings.
6. A Noise Impact Assessment Report (NIA) has been submitted in support of the proposed development. Measurements were taken at two points, one appears to be from the car park to the west of New Road and the second opposite the junction between Tettenhall and New Road, to the west of the appeal site. From these locations lowest background noise level was between 35 – 45.2 dB LA90, which was measured at the car park west of the site during the nighttime. The reports note that, using a predicted worst-case scenario, that noise levels would be between 41.7 and 47.5 dBLAeq.
7. Whilst this appears to demonstrate that there would only be a small increase in noise over and above background levels, no measurements were taken from within the boundary of Greenroofs located immediately adjoining the northern boundary of the appeal site. The appeal site would run along the entire side boundary of Greenroofs. The jet wash, air/water area, tank vents and access to the automatic car wash would be located in close proximity to this dwelling. Whilst the NIA recommends an acoustic fence along the boundary, Greenroofs has windows at first floor, above the proposed acoustic fence. Noise could travel above the fence to the first-floor windows. In the absence of modelling from the nearest residential dwelling, I am unable to conclude that there would not be a harmful impact on the nearest residential receptor.
8. In order to mitigate the noise impacts the appellant proposes the installation of an enclosure that would reduce the noise levels and the provision of 2 metre acoustic fence. However, no technical information is provided within the reports detailing the assumptions made or calculations on the proposed materials to mitigate the noise levels.
9. The concerns of the Council over the efficacy of report and the noise mitigating measures proposed appear soundly based. I cannot, therefore, be reasonably satisfied that these measures would acceptably mitigate the noise generated by the activity to acceptable levels. The appellant suggests that any concerns in this respect could be addressed by requiring a planning condition. However, as I have insufficient evidence that an acceptable plan could be secured, such a condition would be unreasonable.
10. From the evidence before me, I find that the proposed development would have a harmful effect on the living conditions of occupiers of neighbouring properties in regard to noise. The proposal would be contrary to Policy EP1, EP5 and B5 of the Wolverhampton Unitary Development Plan 2001 – 2011 (UDP) which seek, amongst other things, to ensure that developments do

not result in a material adverse impact on the immediate, medium or long term health, safety or amenity of users of the land or surrounding area. It would also be contrary to paragraph 191 of the National Planning Policy Framework (the Framework) which seeks development that mitigates and reduces to a minimum the potential adverse impacts resulting from noise.

Character and Appearance

11. As noted above the area is predominantly mixed use with both residential and commercial. The area is largely characterised by a mix of building types from short terraces and large detached two storey buildings dwellings set back from the road behind wide pavements. Consistent in the area is the use of landscaping, with mature trees and hedgerows giving the area a verdant character.
12. The appeal site is vacant parcel of land that has become overgrown with trees, shrubs, and other vegetation. In this context, while not subject to any specific designation, the site provides a visual break in the built-up environment and makes a positive contribution to soften the otherwise hard, urban character of this part of Tettenhall Road. Whilst the site was previously used as a petrol station, the appellants submission details that it has been out of use for almost 20 years and cleared of structures for approximately 10 years.
13. In this case, apart from a small section of landscaping to the north western corner, the entire site would be utilised for the proposed development. A hardstanding would cover the entire site along with a forecourt canopy, retail building, car wash building and other associated paraphernalia. The proposed retail building would be approximately 6 metres in height, with the forecourt canopy providing clearance up to 5.2 metres. Nearby commercial buildings largely comprise the conversion of residential buildings and small scale two storey buildings of a similar design to the residential buildings. The Newbridge public house is a large, detached building; however, its use of red brick and render matches the materials in nearby buildings.
14. Whilst there would be an element of red brick the proposed development would largely use glazing, aluminium, rainscreen cladding and timber. This would contrast with the prevailing material palette which combined with its height would appear incongruous and unsympathetic to the character and appearance of the wider area. This would be heightened by the lack of opportunities for landscaping.
15. In the light of the above, on this issue I find that the proposed development would have a detrimental impact on the character and appearance of the area. It would therefore conflict with UDP Policies D1, D4, D6 and D9 and Policy ENV3 of the Black Country Core Strategy (2011) which seek, amongst other things, to ensure that developments demonstrate a high standard of design. It would also be contrary to paragraph 135 of the Framework that seeks to ensure that developments are visually attractive and sympathetic to local character.

Other Matters

16. I have found harm to the living conditions or nearby residents and character and appearance of the area which weights heavily against the development. I have had regards to the appellants submission relating to the previous use of the site, its planning history, and the economic benefits of its redevelopment. However, I am not convinced that the appeal proposal is the only way to commercially redevelop the site. As such, I can only give this limited weight, which does not outweigh the harm I have identified.

Conclusion

17. For the reasons given above the appeal should be dismissed.

Tamsin Law

INSPECTOR