



Appeal Decision

Site visit made on 24 September 2024

by S. Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 09 October 2024

Appeal Ref: APP/W4325/W/24/3345072

Motorworld, 357 Pensby Road, Pensby, Wirral, CH61 9NF

- 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 Ozgur Gulasik against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is APP/23/01849.
 - The development proposed is an external flue and a canopy to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for an external flue and canopy at Motorworld, 357 Pensby Road, Pensby, Wirral, CH61 9NF in accordance with the terms of the application ref: APP/23/01849 subject to the following conditions: -
 - (1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following plans: 23/61/02/Rev D (proposed plans and elevations); site location plan (ref 20/06/2023,12:33) and the Technical Specification for the proposed flue, submitted with the planning application.

Procedural Matters

1. On 30 July 2024 the Government began consultations upon reforms to the National Planning Policy Framework (the Framework) which closed on 24 September 2024. The reforms are draft and may be subject to change and therefore I afford the draft changes only limited weight in the decision-making process. As there are no proposed reforms which are pertinent to the main issues in this appeal, it has not been necessary for me to consult the main parties upon it.
2. The local planning authority (LPA) has referred to its emerging Wirral Local Plan 2021-2037, but which has not yet been formally adopted. Consequently, I can afford it only limited weight in the decision-making process.
3. On my site visit, I was able to see that a flue has already been erected on the building, though the LPA considers that this is not in accordance with the plans that are the subject of this appeal. I cannot be certain about any such differences and their extent, though I note that the Council's Environmental Health officer, while objecting to what has been installed, has no objections to the submitted plans. For the avoidance of doubt, I have considered the

proposal upon the basis of the submitted plans only, and not as a retrospective planning application.

Main Issue

4. The main issue is the effect of the development upon the character and appearance of the area.

Reasons

5. The appeal site is a two-storey, end of terrace property within a predominantly residential area at the junction of Pensby Road and Laurelhurst Avenue. The proposed flue would be located towards the corner of the side and rear elevations.
6. The appeal proposals are associated with the use of the premises as a restaurant, though the appeal is not concerned with the use.
7. The LPA has no objection to the canopy, and I have no reason to disagree.
8. The appellant has referred to other flues on Pensby Road in close proximity to the appeal property, though I have no knowledge of their planning histories. In any event, I have determined the appeal based upon its planning merits.
9. The proposed flue would be clearly visible, especially from Laurelhurst Avenue. It would introduce, by its appearance, a commercial/industrial element into what is essentially a residential area. Nevertheless, such flues are not an uncommon feature where similar commercial businesses exist. In this case, I consider that the proposed flue's location on the building at the corner of the side and rear elevations, is reasonably discreet, and by its scale, height and overall impact, it would not be so apparent as to detract significantly from the character and appearance of the area.
10. Therefore, I conclude that the development would accord with policy HS15 of the adopted Wirral Unitary Development Plan 2000 which aims to retain the character of the area, and with the design requirements of chapter 12 of the Framework.

Other Matters

11. Third parties object on the basis that the submitted plans have omissions, that the rear yard would be used for storage and waste products from the restaurant, that it contains two large air condition unit belonging to occupiers of the adjoining property, and that the yard area provides an emergency exit. However, these matters are not part of the appeal proposals before me, and in any event, I do not consider that the proposed flue or canopy would unduly or adversely affect such other matters.
12. An objection is made with regard to possible land ownership, though the LPA has not sought to challenge the certificate accompanying the planning application and I have no good reason to do so. Even if this were otherwise, land ownership rights are unaffected by my decision.
13. There is a third party objection that revised plans were only submitted on the last day during which neighbour consultations were sought upon the planning application. However, the appeal process has allowed time for any such comments or objections to be made, as they have been.

14. An objection is made with regard to the possible presence of a nesting bird. However, I have no information before me as to its permanence or whether the bird is, or is not, a protected species.
15. The above objections, neither individually nor cumulatively, outweigh my conclusions upon the main issue.

Conditions

16. As I have considered the proposal upon the basis of the submitted plans only and not as a retrospective planning application, it is necessary to impose a 3 year commencement of development condition. It is also necessary to impose a drawings condition in the interests of certainty.

Conclusion

17. For the above reasons, I conclude that the appeal should be allowed.

S. Hartley

INSPECTOR