



Appeal Decision

Site visit made on 28 April 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th July 2025

Appeal Ref: APP/D1835/W/24/3358145

**Elgar Retail Park, Blackpole Road, Worcester, Worcestershire
WR3 8HP**

- 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 Legal and General Assurance (Pensions Management) Limited against the decision of Worcester City Council.
 - The application Ref is 24/00195/FUL.
 - The development proposed is a drive-thru restaurant with associated car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for a drive-thru restaurant with associated car parking and landscaping at Elgar Retail Park, Blackpole Road, Worcester, Worcestershire, WR3 8HP in accordance with the terms of the application, Ref 24/00195/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development on the application form is described as 'erection of a drive-thru restaurant with associated car parking and landscaping.' I have removed words not in relation to acts of development in the banner heading above.
3. I have used the applicant's details from the appeal form for clarity in the banner heading above.

Main Issue

4. The main issue is the effect of the proposed development on highway safety and the wider road network.

Reasons

5. The appeal site is located within the car park of Elgar Retail Park (the Park). The site is accessed via Blackpole Road. The appeal site currently comprises of hard standing for the car park and includes a number of trees some of which are subject to a Tree Preservation Order (TPO). The Park includes multiple retail units as well as a drive-thru restaurant. The appeal scheme would be located in the existing car park and result in the reduction of the total number of parking spaces at the Park by approximately 30 spaces. It would also provide accessible spaces for those with disabilities.
6. Policy SWDP21 of the South Worcestershire Development Plan 2016 (SWDP) outlines, amongst other things, that the siting and layout of a development should

reflect the characteristics of the site in terms of appearance and function (SWDP21(b)(i)), design and layouts should maximise links, connectivity and access for pedestrians, cyclists and vehicles whilst ensuring highway safety (SWDP21(b)(ix)) and that developments create a safe and secure environment (SWDP21(b)(xiv)).

7. Paragraph 117 of the National Planning Policy Framework (the Framework) establishes, amongst other things, that developments should give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas and minimise the scope for conflicts between pedestrians, cyclists and vehicles.
8. It is likely, in my judgment, that many of the vehicular trips associated with the appeal scheme would already be on the road network whether that be as passers-by of the proposed drive-thru or as a linked trip where the individuals would have multiple destinations on their route including other units at the Park or in the surrounding area.
9. Additionally, the submitted Transport Statement includes a parking survey. The methodology was agreed by the Highways Authority and captured the peak periods of demand over approximately 72 hours. Comments from the Highways Authority highlights as a result of the survey outline that during the peak periods of demand there were approximately 99 parking spaces available. There is limited substantive evidence before me to adequately demonstrate that the entrance of the drive thru route would result in the limited use of some parking spaces due to queuing cars and the overall flow of vehicles. Consequently, considering the comments from the Highways Authority, the overall reduction of around 30 spaces in the Park due to the appeal scheme would not result in an unacceptable overspill of cars and therefore would not result in harm regarding parking provision on the site or in the surrounding area.
10. Therefore, given all of the above, the new demand as a consequence of the appeal scheme would, in my judgement, be relatively low and there is limited substantive evidence to adequately demonstrate that it would result in unacceptable harm to the surrounding local road network such as Blackpole Road and Masons Drive.
11. The Park benefits from a layout in which there are multiple existing site circulation arrangements for vehicles, cyclists and pedestrians to move around the retail park. Additionally, the Highways Authority has not indicated concern regarding significant personal injuries based upon its analysis of personal injury data. Consequently, whilst there is an absence of a dedicated crossing for the appeal scheme, there is limited substantive evidence to adequately demonstrate that the addition of the appeal scheme would unacceptably disrupt the circulation of the Park, distract motorists, prevent safe access to parking spaces nor that it would result in an unacceptable effect upon the safety of pedestrians, motorists and cyclists who would use the Park, the appeal scheme or the surrounding crossings and bus stops.
12. Regarding the removal of hatched areas within the Park as part of the parking provision associated with the appeal scheme, there is limited substantive evidence before me to adequately demonstrate that these parking spaces would be difficult for vehicles to manoeuvre into and out of due to the proximity of the zebra

crossings nor that as a consequence of their removal, pedestrian safety would be unacceptably compromised. Additionally, the Highways Authority has not indicated significant concerns in regard to highways safety grounds in relation to the removal of hatched areas and their replacement with parking spaces. I find no reason to disagree with their conclusion on this matter.

13. In conclusion, the appeal scheme would not result in harm to highway safety and the wider road network. It would therefore comply with Policies SWDP4 and SWDP21(b)(i), SWDP21(b)(ix) and SWDP21(b)(xiv) insofar as they seek to ensure that the siting and layout of developments manage travel demand and provide safe, inclusive and accessible developments.
14. It is for the same reasons that the appeal scheme would accord with the principles of section 7 of the adopted South Worcestershire Design Guide Supplementary Planning Document 2018, as well as the principles of 'Movement' contained within the National Design Guide 2021 (online version) and Paragraph 117 and Section 12 including paragraph 135 of the Framework.

Other Matters

15. Interested parties have raised concerns regarding noise and disturbance as well as odour for nearby residents due to the proximity of residential dwellings to the appeal site. There is limited substantive evidence before me to adequately demonstrate that the appeal scheme would result in an unacceptable level of odour or noise and disturbance at unreasonable hours. Moreover, the Council and Worcester Regulatory Services have not indicated any concerns regarding noise or odour. Whilst I find no reason to disagree, I have included a condition requiring the submission of a noise management plan to ensure the tannoy/order/outdoor speaker system and extractor fans will not result in unacceptable noise.
16. Additionally, there is limited substantive evidence to adequately demonstrate that the appeal scheme would result in unacceptable harm to air quality. Moreover, Worcester Regulatory Services has reviewed evidence in relation to air quality and pollution. It does not indicate any objections on air quality grounds. I find no reason to disagree with its conclusion on this matter.
17. There is limited substantive evidence before me to adequately demonstrate that the appeal scheme would attract vermin or result in an unreasonable level of litter to justify the dismissal of the appeal scheme. I have attached conditions relating to litter and gull management which I consider to be sufficient to prevent unacceptable harm to the site and the surrounding area.
18. A condition regarding the submission of a construction management plan is sufficient to ensure, amongst other things, that the hours of construction will not impact neighbouring residents.
19. The health and wellbeing of future customers of the appeal scheme has been highlighted as a concern by interested parties. There is limited substantive evidence before me to adequately demonstrate that the appeal scheme would result in unacceptable harm to the health and wellbeing of future customers in this case.

20. Whilst there are other coffee shops in the surrounding area, the Council has not raised concerns regarding the need for the appeal scheme given the adequate sequential assessment submitted by the appellant. I find no reason to disagree.
21. The Council has also not raised antisocial behaviour as a reason for refusal. West Mercia Police has referred in its statement to the installed security system at the Park and also raises no concerns in regard to this matter. In addition to the security system, access to the car park is also restricted. I therefore find no reason to disagree with the Council's conclusions on this matter.
22. The application for the appeal scheme was submitted prior to the national requirement for 10% Biodiversity Net Gain. I have imposed conditions regarding the trees on site to ensure they are not harmed in accordance with the submitted Arboricultural Method Statement. I have also required the submission of a landscape maintenance and management plan to ensure the appeal scheme assimilates into the area and enhances biodiversity.
23. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share and do not share a protected characteristic. The appeal scheme would include the removal of hatched areas in the Park which can currently be used for individuals waiting for taxis as well as people who are unable to walk long distances. Therefore, this could affect a person with a protected characteristic.
24. Concerns have also been raised in relation to disabled access to the appeal site. The appeal scheme includes disabled parking spaces and there are numerous disabled spaces located within the Park.
25. Given the above and having regard to my duty, I have concluded that the decision to allow the appeal is proportionate in view of the reasons discussed in my main issues as well as taking into account the accessible design of the appeal scheme which includes disabled parking spaces amongst other things.

Conditions

26. The Council has provided a list of suggested conditions which I have considered against the Framework and advice contained in Planning Practice Guidance. I have ensured both parties have had the chance to comment on the proposed conditions and I have had regard to any comments made. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 57 of the Framework.
27. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2).
28. A pre-commencement condition requiring the submission of a Construction Method Statement as well as a condition requiring the provision of the access, turning area and parking including accessible spaces on the proposed site plan prior to the first use of the development are both necessary in the interest of highway safety and to ensure the provision of adequate on-site facilities (5 and 8).
29. I have imposed a pre-commencement condition requiring an assessment and remediation of any risks of contamination to ensure that risks from land

contamination to the future users of the land and neighbouring land are minimised (3). Additionally, it is necessary to attach a pre-commencement condition regarding an archaeological Written Scheme of Investigation to ensure the appeal scheme would not result in harm to any important archaeological remains (4).

30. To maintain the quality of the environment I have imposed a pre-commencement condition regarding the operation to tie back branch tips on the northern crowns of 4 x London Planes (6) and a condition requiring the protection of any existing trees in accordance with the submitted Arboricultural Method Statement (15). Additionally, a pre-commencement condition requiring the submission of details in relation to a landscape maintenance and management plan is necessary to ensure the appeal scheme will assimilate into the surrounding area and enhance biodiversity (7). It is for the same reason a condition requiring the appeal scheme to be carried out in accordance with the approved landscape scheme is necessary (17).
31. Additionally, the provision of cycle parking as shown on the proposed site plan is necessary to ensure adequate cycle parking provision (9). Also to reduce vehicle movements and promote sustainable access I have imposed a condition requiring a Travel Plan (10).
32. A condition requiring the submission of renewable and low carbon energy details to the Council to ensure the development contributes to the reduction of carbon emissions (11).
33. I have imposed a condition requiring the submission of a noise management plan to ensure the proposal preserves residential amenity and to prevent unacceptable noise pollution to the detriment of neighbouring amenity (12).
34. To ensure the appeal scheme preserves the amenity of the area both visually and environmentally I have attached a condition requiring a litter management plan (13). I have also imposed a condition requiring the submission of details in relation to the management of gulls to ensure the appeal scheme does not impact or harm protected species (14).
35. A condition requiring the submission of details relating to external lighting is necessary to minimise light pollution from the operation of the development (16).
36. Finally, I have imposed a condition restricting the opening hours of the appeal scheme to those requested in the appellant's application form. This is necessary to ensure the appeal scheme does not result in an unacceptable level of noise and disturbance for nearby residents (18).
37. The Council recommended a condition restricting hours of operations including deliveries. However, I have not imposed this condition given that the required submission of a Construction Method Statement would include these details.

Conclusion

38. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be allowed.

B Astley-Serougi

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 drawing nos 22.006 (P)098 1 (Location Plan), 22.006 (P) 116 (Proposed Site Plan), 22.006 (P) 120 1 (Proposed Ground Floor Plan) ,22.006 (P) 121 2 (Proposed Roof Plan), 22.006 (P) 200 2 (Proposed Elevations I) and 22.006 (P) 201 2 (Proposed Elevations II).

Pre-commencement

- 3) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i) i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) ii. the site has been remediated in accordance with the approved measures and timescale; and
 - iii) iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- iv) i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - v) ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until:
 - i) An archaeological Written Scheme of Investigation (WSI) been submitted to and approved in writing by the local planning authority; and
 - ii) Any necessary safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the WSI have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority. The development should be carried out in full accordance with the approved details within the WSI.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i) measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
- ii) the parking of vehicles of site operatives, material storage areas and the location of site operative's facilities as required;
- iii) the arrangements for unloading and manoeuvring delivery vehicles;
- iv) Traffic management measures for construction vehicles to include temporary signage and the use of a banksman to oversee all vehicular manoeuvres;
- v) measures to demonstrate that those immediately affected by the construction works will be kept informed and due consideration and courtesy will be shown to the local community;
- vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- vii) delivery, demolition and construction working hours;
- viii) measures to control the emission of noise, vibration, dust and dirt during construction

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No later than 14 working days before the operation to tie back the branch tips on the northern crowns of 4 x London Planes (known as G2 in the submitted Arboricultural Method Statement by Middlemarch), written notice shall be given to the local planning authority of the date when works shall commence. No works shall commence until the applicant's nominated contractor has discussed the works on site with a representative of the local planning authority.
- 7) No development above ground level, shall commence until details of a landscape maintenance and management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas has been submitted to and approved in writing by the local planning authority.

Prior to use

- 8) Prior to the first use of the development hereby permitted the access, turning area and parking including accessible parking spaces to serve the drive thru, plus the 16 additional spaces on the wider site, shown on drawing no. 22.006 (P)116 (Proposed Site Plan), shall be provided and marked out on the ground. These areas shall thereafter be retained and kept available for their respective approved uses for the lifetime of the development.
- 9) Prior to the first use of the development hereby permitted details of the cycle parking shown on the drawing no. 22.006 (P)116 (Proposed Site Plan) shall be submitted to and approved in writing by the local planning authority. The approved cycle parking shall be implemented before the first use of the development and shall be kept available for the parking of bicycles only. The cycle parking shall be retained thereafter.
- 10) Prior to the first use of the development hereby permitted the Applicant shall submit a Travel Plan using Modeshift STARS Business. They must meet green level accreditation before occupation and bronze level accreditation within 12 months of occupation.

- 11) Prior to the first use of any part of the development hereby permitted details of renewable or low carbon energy generating facilities to be incorporated as part of the development shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities and include full details of the location and orientation of the photovoltaics array within the scheme. The approved facilities shall be provided prior to any part of the development hereby permitted being brought into use or in accordance with a timetable submitted to and approved by the local planning authority.
- 12) Prior to the first use of the development hereby permitted a noise management plan shall be submitted to and approved in writing by the local planning authority. This shall include full details of the proposed tannoy/ order speaker systems including the operation, management and review procedures of the tannoy system/ outdoor speaker system. In addition, the noise management plan shall also provide full details of the procedures in place for addressing and responding to reported noise complaints. The approved measures shall be carried out in accordance with the approved noise management plan and complied with for the lifetime of the development.
- 13) Prior to the first use of the development hereby permitted a litter management plan shall be submitted to and approved in writing by the local planning authority. This shall include details of the management of litter, monitoring of litter, frequency of litter picking and areas of litter monitoring. The approved measures shall be carried out in accordance with the approved litter management plan and complied with for the lifetime of the development.
- 14) Prior to the first use of the development hereby permitted, details for the management of gulls on the roof and within the site shall be submitted to and approved in writing by the local planning authority.

All works shall be carried out in accordance with the agreed details and under the advice/ supervision of a qualified ecologist and outside nesting periods for protected species. The measures approved shall be retained for the lifetime of the development.
- 15) The protection of any existing tree shall be retained in accordance with the approved plans and particulars within the submitted Arboricultural Method Statement (Report Number: RT-MME160212-03-RevC) and the Tree Protection Plan (No.C160212-03-01 Rev C (JAN/24) contained within. The development hereby approved shall also be carried out in accordance with the following measures:
 - i) no equipment, machinery or materials shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with plans and particulars as referenced above which shall have been previously submitted to and approved by the local planning authority in writing;
 - ii) if that fencing is broken or removed during the course of carrying out the development it shall be immediately repaired or replaced to the satisfaction of the local planning authority;

- iii) the fencing shall be maintained in position to the satisfaction of the local planning authority until all equipment, machinery and surplus materials have been moved from the site;
- iv) within any area fenced in accordance with this condition nothing shall be stored placed or disposed of above or below the ground, the ground level shall not be altered, no excavations shall be made, no mixing or use of other contamination materials or substances shall take place, nor shall any fires be lit without the prior written consent of the local planning authority; and
- v) no equipment, machinery or structure shall be attached to or supported by a retained tree

These measures shall apply for the duration of the construction phase and until all equipment; machinery and surplus materials have been removed from the site.

- 16) Prior to their installation details of any external lighting in association with the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The scheme shall include:
- i) layout plans / elevations with luminaire locations annotated.
 - ii) hours and frequency of use, a schedule of equipment in the lighting design (luminaire type / profiles, mounting height, aiming angles / orientation, angle of glare, operational controls) and shall assess artificial light impact in accordance with the Institute of Lighting Professionals "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" or succeeding or replacement guidance.

The approved lighting scheme shall be installed, maintained and operated in accordance with the relevant approved details.

- 17) The development hereby permitted shall be carried out in accordance with the submitted Landscape Scheme (Sheet 1, Drawing No: P01 Rev: B and Sheet 2, Drawing No: P02 Rev B).

If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place as soon as is reasonably practicable.

- 18) The premises shall only be open for customers between the following hours: 07:00 – 20:00 Mondays to Sundays and on Bank or Public Holidays.

=====END OF SCHEDULE=====