



Appeal Decision

Site visit made on 18 August 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 August 2025.

Appeal Ref: APP/F1610/W/25/3360893

Joe Gilder Metal Recycling, Fosseway, Lower Slaughter, Gloucestershire GL54 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Peter Gilder against the decision of Cotswold District Council.
 - The application Ref is 23/02305/FUL.
 - The application sought planning permission for the redevelopment of existing scrap yard and haulage depot to create electric car charging service station and associated works without complying with a condition attached to planning permission Ref 18/01681/FUL, dated 9 December 2020.
 - The condition in dispute is No 24 which states that: *The parking spaces approved as part of the development hereby permitted shall be used for electric vehicle charging only and shall not be used for general parking purposes or parking by internal combustion engine vehicles.*
 - The reason given for the condition is to: *provide and appropriate control of the development and avoid an adverse effect and so it is used only as a vehicle charging station and not as a long-stay car park or destination in its own right.*
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Peter Gilder against Cotswold District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The original permission was approved by appeal on 9 December 2020 (reference APP/F1610/W/20/3248674, hereon known as 3248674) and condition 1 of that decision required development to begin not later than 3 years from the date of issue. The application forming the case before me was submitted 21 August 2023 and the application form states that works had not begun on site. Although not specified when, it is inferred by the main parties that the development started within the time limit set by 3248674, as evidenced by the Council issuing its decision notice on 26 November 2024.
4. The appellant has submitted an updated Car Park Management Plan (CPMP)¹, as a direct response to the Council's reason for refusal. The main change is updating the Parking Charge Notice details. Although an appeal should not be used to evolve a proposal, this does not materially alter the appellant's position in relation to the removal of condition 24. They have also submitted a Transport Appeal

¹ Produced by rappor, dated January 2025, Issue 02.

Statement (TAS)² and legal opinion³ but these simply extend the appellant's existing case. As all relevant parties have had opportunity to comment on these documents, they have been taken into consideration in this decision.

Background and Main Issue

5. The appeal site has been used for commercial purposes for some time, and permission was granted (3248674) for its redevelopment as an electric car charging service station (ECCSS). Condition 24 limits the vehicles that could use the development to electric vehicles (EVs) being charged and not for general parking of EVs or for use by internal combustion engine vehicles (ICEVs).
6. This is to prevent the appeal site becoming a destination or used as a public car park. So, negate any potential harm to highway safety such uses would have in this location. Specifically relating to user of the proposal then walking or cycling to the nearby villages along and the potential increase in vehicle-trips such a proposal in this location could attract.
7. I am satisfied condition 24 meets the relevant tests in Paragraph 55 of the National Planning Policy Framework (the Framework) and so a robust evidential base would be needed to ensure its removal would not cause harm. This accords with the view of the Inspector from the previously refused appeal which also sought to remove condition 24 (reference APP/F1610/W/23/3315125, hereon known as 3315125).
8. It is recognised that the Council consider the removal of Condition 24 to alter the operative function of the approved ECCSS. Taking into consideration the case law⁴ evidence submitted by both parties, there is nothing before me which would lead me to conclude differently to the Inspector in 3315125 on this matter. Specifically, that the removal of condition 24 itself would not by default prevent the proposal from being an ECCSS. However, it is recognised, again via the case law, were it proposed to vary the condition, there is potential this would cause an inconsistency with the operative part of the permission.
9. Therefore, the main issue is the effect that removing condition 24 would have on highway safety.

Reasons

10. From the information before me the most relevant Cotswold District Local Plan (LP) policies in relation to condition 24 are INF4 and INF5. Policy INF4 requires, amongst other things, new development to create safe and secure layouts. This should minimise conflicts between traffic, cyclists, and pedestrians, and avoid locations where the cumulative impact of congestion and other undesirable impacts would affect the transport network. Whilst LP Policy INF5, amongst other things, requires clear and compelling evidence that the proposed parking provision is necessary to manage the local road network.

² Produced by rappor, dated January 2025, Issue 01

³ By Piers Riley-Smith of Kings Chambers, dated 4 February 2025

⁴ Finney v Welsh Ministers [2019] EWCA Civ 1868; Freddie Reid v SSLUHC [2022] EWHC 3116 (Admin); Armstrong v SSLUHC [2023] EWHC 176 (Admin); Atwill v New Forest National Park Authority [2023] EWHC 625 (Admin); and Test Valley BC v Fiske [2024] EWCA Civ 1541 (including reference to Lambeth LBC v SSHCLG [2019] UKSC 33)

11. In approving 3248675 the Inspector noted⁵ that within the supporting transport assessment the impact of the ECCSS was not considered to be similar to a non-motorway roadside service station, due to the innovative nature of that proposed (it being specifically for the charging of EVs). It is also recognised that the Inspector⁶ considered that should EV charging take only 30 – 40 minutes then it is unlikely people would be inclined to walk or cycle to nearby villages.
12. The appellant has confirmed that there are no changes to the proposed layout or number of parking spaces. The submitted TAS confirms the suitability of a CPMP to limit use of the ECCSS by ICEVs to 45 minutes and there is nothing before me to conclude otherwise. However, condition 24 does not only prevent the parking of ICEVs. It also prevents the use of the parking spaces for any general parking of EVs when not being charged.
13. The TAS and CPMP are silent on this element of condition 24 and no other mechanism has been put forward to prevent the general parking of EVs at the ECCSS for any length of time. As such the requirement for condition 24 has not been fully negated.
14. Further to this there is no compelling evidence to support a requirement for ICEV parking provision at the appeal site location, that it would not have an undesirable impact on the transport network, and that EV users would not use the ECCSS as a general parking location for the wider area. Consequently, I am unconvinced that the removal of condition 24 would not cause harm to highway safety.
15. Nevertheless, it is evident the appellant's position relies heavily on the CPMP to control the use of the ECCSS. This would require some form of mechanism to secure its implementation and nothing has been specified. Notwithstanding the afore mentioned case law relating to the varying of conditions⁷, conditioning compliance with the submitted CPMP would not be reasonable, precise, or enforceable.
16. This is because the CPMP is heavily reliant on an unnamed third-party operator and their compliance with this document has not been secured. It also defines a specific penalty of £75.00. Yet how this figure has been reached and whether it would be sufficient as a deterrent both currently and over the life of the ECCSS, has not been substantively justified.
17. The TAS sets out the walking times to the nearby villages and that there is parking within some of them which would be more attractive for those wishing to visit them. However, the TAS remains silent on the bus stop it has identified as 200m away from the site⁸, and whether it contribute to the convenience for those accessing the villages should they park at the ECCSS. The TAS also relies on the transport assessment undertaken in support of the original approval, which expressly looked at the proposal as an EV charging location only, and not for general EV parking with time limited ICEV parking.
18. It is noted that the Local Highway Authority (LHA) has not expressly objected to the removal of the condition on highway safety grounds. This is not the same as

⁵ Paragraphs 55 - 60 of decision 3248675

⁶ Paragraphs 66 – 67 of decision 3248675

⁷ Footnote 4 of this decision letter

⁸ Paragraph 3.7 of the TAS

support for the proposal and the LHA has raise concerns relating to the control of the site should condition 24 be removed.

19. In conclusion, therefore, by removing condition 24 there is an unacceptable risk the ECCSS would harm highway safety, contrary to LP Policies INF4 and INF5, and the Framework. And there is no substantive evidence that the risk no longer exists or can be fully mitigated against by other means.

Other Matters

20. It is recognised that the enforceability of condition 25 could be effect by the removal of condition 24 and that the appeal site is in the Cotswold National Landscape. However, as I am refusing the appeal for other reasons, I have not found it necessary to consider these matters further. This is also the case for the various concerns of interested parties relating to the ECCSS more generally.

Conclusion

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

RJ Redford

INSPECTOR