



## Appeal Decision

Site visit made on 16 August 2023

**by Nichola Robinson BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> September 2023**

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### **Appeal Ref: APP/Z0116/W/23/3316534**

### **Redland Filling Station, Hampton Road, Bristol, BS6 6JA**

- 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 Motor Fuel Group Ltd against the decision of Bristol City Council.
  - The application Ref 22/02168/F, dated 30 April 2022, was refused by notice dated 5 September 2022.
  - The development proposed is installation of vehicle charging points and associated electrical infrastructure and associated works.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The appellant has submitted a 'swept path analysis and visibility' drawing with the appeal submission. This plan does not alter the original scheme. The Council has had the opportunity to comment on this plan. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to the submitted drawings in determining this appeal.
3. At my site visit I observed that works had commenced. The appellant states that this relates to the installation of the electrical infrastructure. Therefore, I have determined the proposal in accordance with the submitted plans.

### **Main Issues**

4. The main issues are the effect of the proposal on:
  - the character and appearance of the surrounding area including the Whiteladies Road Conservation Area and the setting of the Cotham and Redland Conservation Area; and
  - highway safety, with particular regard to the safety of road users accessing the site.

### **Reasons**

#### *Character and appearance*

5. The appeal site, a modern filling station, consists of a petrol forecourt area with canopy, service building and associated parking. The site has a frontage onto Hampton Road and incorporates a totem sign and other signage within the forecourt area.
6. The site is located in the Whiteladies Road Conservation Area (WRCA), the boundary of which covers Whiteladies Road, a principal shopping street, and

the adjoining streets. The buildings which border the site to the north and south are modern in appearance. The Conservation Area Enhancement Statement (1993) acknowledges that the character of the area has been marred by post-war reconstruction, particularly where petrol filling stations, car showrooms and garages have been erected, as well as by unsympathetic alterations to retail units and the introduction of unsympathetic paving materials in front of buildings. Nonetheless the predominant character of the north side of Hampton Road is one of substantial villas and terraced properties which are set back from the road behind individual front gardens. Notwithstanding modern development in the area, including the appeal site and the buildings that border it, this form and appearance of dwellings makes a positive contribution to the character and appearance of the WRCA, which also appears to be a key part of its significance.

7. The appeal site is adjacent to the Cotham and Redland Conservation Area (CRCA) the boundary of which lies on the opposite side of Hampton Road and which covers the inner suburbs of Cotham and Redland. Dwellings on Hampton Road which lie within the CRCA comprise late Victorian terraces and semi-detached dwellings with a small set back from the road. This form and appearance of the rows of dwellings makes a positive contribution to the character and appearance of the CRCA, which also appears to be a key part of its significance as a Victorian suburb.
8. The use of the site as a filling station predates the adoption of the WRCA and the CRCA. Nonetheless there is no dispute that the appeal site is within the WRCA and adjoins the CRCA. As a modern operational service station with extensive canopy, totem signs and other paraphernalia associated with its active use, the site makes a neutral contribution to the character and appearance of the WRCA and the setting of the CRCA.
9. The appeal proposal seeks to install Electric Vehicle (EV) charging points along with the associated electrical infrastructure including substation and Low Voltage (LV) enclosures. It is proposed that the filling station would remain in functional use.
10. The proposal follows the grant of permission for the installation of 3 EV chargers and associated infrastructure including a substation on a different part of the site<sup>1</sup>. It is stated that following detailed investigation it was discovered that the existing permission could not be implemented. Therefore, the current submission seeks to relocate the substation and LV enclosures along the eastern boundary of the site closer to Hampton Road, as well as increasing the number of EV chargers from 3 to 4. The EV charging points would be located along the southern site boundary on an area currently used for car parking. It is proposed that the substation and LV enclosures would be bounded by a 2.1 metre high 'hit and miss' timber fence with beech hedging to the front which would run along the site frontage. The existing bin store enclosure would be retained in the southwest corner of the site.
11. The proposed EV chargers would be set back from the site frontage along the southern boundary of the site. The EV chargers would be seen against the backdrop of the boundary fence and other structures associated with the functional operation of the filling station. Therefore, whilst they would be visible from the surrounding area, they would be read as a functional part of the filling

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<sup>1</sup> Application reference 20/04182/F

- station and, by virtue of their position against the southern site boundary, would result in a neutral impact upon the street scene.
12. The proposed substation and LV cabinet enclosure would be considerable in scale and prominently sited towards the front of the site, where they would be seen above the proposed boundary fencing as dominant features within the street scene. Furthermore, the proposed fence, which would be installed to mitigate the visual impact of the substation and LV cabinet, would be considerable in scale, occupying a substantial part of a prominent location at the front of the appeal site. Boundary landscaping is proposed to soften the visual impact of this fencing, however, the fence would be clearly visible above this landscaping where its height, materials and design would appear as a dominant and incongruous feature within the street scene. This would detract from the character of the surrounding area and would be harmful to the historic character of the WRCA and the setting of the adjoining CRCA.
  13. The appellant states that the proposed substation, LV cabinet and associated electrical infrastructure could be carried out by a Distribution Network Operator (DNO) in any location under Permitted Development rights and that the conversion of parking spaces to EV charging bays could be implemented under PD rights. It is stated that the appeal proposal would represent a betterment by incorporating landscape mitigation which, it is stated, would reduce the visual impact of the proposal. Whilst the Council state that no Certificate of Lawful Development has been issued for these works, the appellant has confirmed that there would be an intention to carry out the works under permitted development rights if this appeal were dismissed. Based on the information before me I see no reason to take a different view. Therefore, there would seem a greater than just a theoretical possibility that this alternative would take place.
  14. Notwithstanding this, I have not been presented with any compelling evidence that works which could be carried out under permitted development rights by the appellant or by the DNO would also incorporate fencing of the scale, design and location proposed. Therefore, proposals carried out under permitted development rights would be less harmful to the character and appearance of the WRCA and the setting of the CRCA. Therefore, I attribute limited weight to the works that could be carried out under permitted development rights.
  15. Furthermore, whilst I acknowledge that the appeal proposal incorporates landscaping, the fencing would be a prominent feature above this. This landscaping would therefore fail to adequately soften the visual impact of the fencing within this prominent location. Therefore, I attribute limited weight to the benefits of this landscaping which would come forward as part of the appeal proposal.
  16. As the appeal site is within and adjoins a Conservation Area, I have therefore had special regard to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that decision makers pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
  17. I have found that the proposal would result in harm to the character and appearance of the WRCA and the setting of the CRCA. The proposal would lead to less than substantial harm, although it would nonetheless be significant. Under such circumstances, paragraph 202 of the National Planning Policy

Framework (the Framework) advises that this harm should be weighed against the public benefits of the proposal.

18. The main parties agree that there is a lack of EV charging points within this part of the City and that there is policy support at a national and local level for the provision of infrastructure which encourages the uptake of more sustainable modes of transport and the reduction in carbon emissions. This, and the appeal proposal's contribution to the improvement of local EV charging provision in an area of acknowledged need at an established service station weighs strongly in favour of the proposal, as do the resultant environmental improvements including to air quality and the improvement to customer experience which would arise through the provision of greater choice in EV charging spaces.
19. Nevertheless, heritage assets are an irreplaceable resource. Overall, I do not consider that collectively the public benefits are sufficient to outweigh the great weight that I must attach to the less than substantial harm caused to the designated heritage assets. Conflict therefore arises with the historic environment protection policies in the Framework.
20. Kingdom Hall, which is identified as a locally listed building by the Council, is located on the opposite side of Hampton Road. I note that this building is identified as a landmark building in the Cotham and Redland Character Appraisal. Whilst the full details of the significance of this building are not before me, this building appears to derive its significance from its architectural interest as a well-preserved example of a building of its type, and in the contribution the appearance of the building makes to the wider streetscape.
21. The Framework requires at Paragraph 203 that the effect of an application on the significance of a non-designated heritage asset (NDHA) should be taken into account in determining an application and requires a balanced judgment having regard to the scale of any harm or loss and the significance of the asset. The appeal site is located on the opposite side of the road from Kingdom Hall and there is no indication that the site has any form of historic significance in association with this building. Given the separation by intervening development and the highway, I find that the proposed development would preserve the setting of this NDHA and would not harm its significance.
22. The proposal would result in harm to the character and appearance of the WRCA and to the setting of the CRCA. Therefore, the proposal would be contrary to those aims of Policies BCS21, BCS22 and DM31 of the Bristol Development Framework Core Strategy (2011) (CS) which, amongst other matters, require that development should be of a high quality design which respects the local area and that proposals should safeguard or enhance heritage assets and the setting of areas of acknowledged importance. I also find conflict with the Framework which requires that great weight should be given to the conservation of heritage assets. In addition, conflict arises with the objectives of the Whiteladies Road Conservation Area Enhancement Statement (1993) and the Cotham and Redland Conservation Area Character Appraisal (2011) which set out broad objectives for the conservation of these areas.

#### *Highway safety*

23. The filling station has a separate entrance, to the south of the site, and exit, to the north of the site, and traffic flows through the site in a south to north

direction. The speed limit on Hampton Road is 20 miles per hour. The appeal site accommodates parking spaces along the site's southern boundary. A bin store is located in the southwest corner of the site.

24. The proposed 4 EV charging units would be located along the southern site boundary on an area which is currently used for parking. The bin store would be retained in its current location.
25. The proposal does not include a dedicated pathway from the sales building to the bin store, nonetheless the appellant has confirmed that staff will take refuse sacks across the forecourt and place them in bins. The route from the sales building to this bin store would be through parts of the garage which would be less frequently used by vehicles, including areas where calor gas is stored. Therefore, the proposal would provide a safe and accessible route to the bin store for staff. The proposed layout would restrict access to the bin store if the charging bay closest to it were in use. However, it would not be inconceivable for staff to gain access to the bin store and move bins from the storage area to the collection point during periods when this charging bay was not in use. Additionally, whilst adequate provision for the collection of bins has not been satisfactorily demonstrated during times when this charging bay is in use, were the appeal to be allowed this detail could be satisfactorily controlled by a condition requiring the approval of a refuse management plan, and I am satisfied that such a condition would meet the tests set down in the Planning Practice Guidance<sup>2</sup> (PPG). Therefore, the proposal could have the capacity to make adequate provision for the storage and collection of refuse.
26. A 2.1 metre high fence would surround the substation enclosure and this would be sited adjacent to the southernmost charging bay. The swept path analysis and visibility plan submitted in support of the appeal indicates that it is possible for vehicles to manoeuvre in and out of these charging spaces and that visibility splays of between 10.1 and 14.5 metres would be achievable for vehicles entering the site from the south, where the visibility restrictions from the fencing would be greatest. Given that vehicles entering and manoeuvring around the site and exiting the charging spaces would likely be driving at slow speeds, this indicates that the fence would not compromise the ability of drivers entering the site to see vehicles exiting the charging bay. I therefore find that the proposal would not result in the potential for conflicts between vehicles entering the site and exiting the bay.
27. The proposal could make satisfactory provision for refuse storage and collection and would not give rise to the potential for conflict between vehicles users within the development. Therefore, I find no conflict with those aims of Bristol Local Plan– Site Allocations and Development Management Policies Local Plan (2014) (LP) Policies DM23 and DM32 or CS Policy BCS15. Collectively these Policies seek to ensure that the location and design of recycling and refuse provision should be integral to the design of the proposed development including providing satisfactory access for collection vehicles and operatives and that developments should not give rise to unacceptable traffic conditions including the provision of, amongst other matters, appropriate level of accessible and usable parking provision. There would be no conflict with Section 9 of the Framework, which seeks to ensure development does not have unacceptable impacts on highway safety.

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<sup>2</sup> Paragraph: 003 Reference ID: 21a-003-20190723

28. Whilst referenced by the Council, I find no conflict with CS Policy BCS10 which relates to improvements to transport infrastructure and the requirement for schemes to be designed to reflect the priorities set out in the Joint Local Transport Plan.

### **Other Matters**

29. The appellant has drawn my attention to an appeal decision<sup>3</sup> for a proposal which, amongst other matters, included a recharge centre for electrically powered vehicles. In that decision the Inspector found that the proposal would deliver numerous benefits, including EV charging facilities and that the substantial benefits would far outweigh the harm arising from minor localised landscape and visual impacts. However, full details of that case are not before me and so I cannot be certain that it is directly comparable to the appeal proposal, which limits the weight that I can attach to it in my Decision. In the particular circumstances of this appeal, I find that the benefit of the proposed EV charging facilities would not outweigh the harm I have found in relation to the main issues and the conflict with the development plan.

### **Planning Balance**

30. The Council raised no objections to the proposal with regard to the effect on the living conditions of the occupiers of neighbouring residential properties, health and safety regulations or the loss of existing car parking on the site. Based on the information before me I see no reason to take a different view. I also note that the site is located in an area at low risk of flooding. Nonetheless, these are neutral matters in this case.

31. I acknowledge the appellant's existing and planned investment into EV infrastructure across the UK network, which it is stated is of national significance. The proposal would facilitate the uptake of more sustainable modes of transport and a reduction in carbon emissions and would meet an identified local need in EV charging provision and these matters weigh in favour of the proposal.

32. I also note the appellants experience operating filling stations and their status as one of the UK's top retailers and independent forecourt operators. Nonetheless, whilst I have found that the proposal could make satisfactory provision for refuse storage and collection and would not give rise to the potential for conflict between vehicle users within the development, the benefits of the proposal would not outweigh the harm I have identified to the character and appearance of the WRCA and harm to the setting of the CRCA.

### **Conclusion**

33. For the reasons given above, I conclude that the appeal should be dismissed.

*Nichola Robinson*

INSPECTOR

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<sup>3</sup> Appeal reference APP/Y9507/W/22/3308885