

## Decision Notice and Statement of Reasons

Site visit made on 10 October 2024

**By Jonathan Edwards BSc(Hons) DipTP MRTPI**

**A person appointed by the Secretary of State**

**Decision date: 24 October 2024**

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**Application Reference: S62A/2024/0059**

**Site address: Redland Filling Station, Hampton Road, Redland, Bristol BS6 6JA**

- The application is made under section 62A of the Town and Country Planning Act 1990.
  - The site is located within the administrative area of Bristol City Council.
  - The application dated 20 August 2024 is made by Motor Fuel Group and was validated on 5 September 2024.
  - The development proposed is installation of vehicle charging points and associated electrical infrastructure and associated works.
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### Decision

1. Planning permission is granted for installation of vehicle charging points and associated electrical infrastructure and associated works in accordance with the terms of the application dated 20 August 2024, subject to the conditions set out in the attached schedule.

### Statement of Reasons

#### Procedural matters

2. Section 62A of the Town and Country Planning Act 1990 (the Act) allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Bristol City Council (BCC) has been designated for non-major applications since 6 March 2024.
3. Consultation was undertaken on 12 September 2024 which allowed for responses by 10 October 2024. A response from Network Rail raised no objections to the development. Representations were also received from other interested parties and BCC has submitted a questionnaire with attachments as well as an assessment statement. I made an unaccompanied site visit on 10 October 2024. My observations and all the representations have been considered in reaching my decision.

4. Comments from an interested party suggest that work may have started on the installation of the electric vehicle charging points (EVCPs). However, the photographic evidence provided is inconclusive. On my visit, I saw no signs of commencement of the development subject of this application. Also, the applicant's agent has confirmed that the development has not started. I find no reason to disagree with the agent on this point.

### **Main Issues**

5. Having regard to the application, the consultation responses, comments from interested parties, BCC's statement, together with what I saw on site, I consider the main issues for this application are:
  - whether the development is acceptable in principle;
  - its effects on the character and appearance of the area, in particular whether it would preserve or enhance the character or appearance of the Whiteladies Road Conservation Area (WRCA) and the setting of Cotham and Redland Conservation Area (CRCA);
  - whether the development would prejudice the acceptable layout of the site;
  - the effect on living conditions at nearby residences; and
  - the effects on highway and traffic safety.

### **Reasons**

#### *Planning History and Background.*

6. The application subject of this decision is described by the applicant as the resubmission of an application with a reference number 2023/00579/F. This previous application proposed the installation of vehicle charging points with associated electrical infrastructure and works (sub-station to be installed by DNO). BCC refused planning permission on 27 February 2024 for the following reasons:-
  1. *There is insufficient justification to demonstrate that the additional EV charging space within the proposed development would not prejudice the implementation of an acceptable layout of the site in design, character and heritage terms and subsequently lead to the addition of incongruous plant equipment being added adjacent to the highway causing harm to street scape to the detriment of the established street scene and Whiteladies Road and Cotham and Redland conservation areas. This runs contrary to the conclusions of an Inspector under appeal decision APP/Z0116/W/23/3316534 as well as Sections 12 and 16 of the National Planning Policy Framework, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Local Plan Policies BCS21, BCS22 and DM31 as well as the Whiteladies Road Conservation Area Enhancement Statement (1993) and Cotham and Redland Conservation Area Character Appraisal (2011).*
7. I am also referred to planning application reference number 22/02168 that proposed the installation of vehicle charging points and associated electrical

infrastructure and associated works (retrospective). This was refused by the Council and an appeal against that decision (reference number APP/Z0116/W/23/3316534) was dismissed (hereafter referred to as the previous appeal). The Inspector for the previous appeal found the development then proposed would be harmful to the character and appearance of the area, including the WRCA and CRCA.

8. I am referred to other planning applications for developments at the site. These include planning application reference number 20/04182/F that resulted in planning permission being granted on 14 January 2021 for the installation of vehicle charging points and associated enclosures and electrical infrastructure. The current application explains it is not possible to lay out the site in the manner granted due to underground services and tanks. An application for a non-material amendment to this permission (reference number 21/05029/NMA) was not agreed to by BCC. Also, an application under section 73 of the Act (reference number 21/05586/X) that sought in effect to amend the layout of the vehicle charging facilities allowed under planning permission 20/04182/F was refused by BCC.
9. I have taken the planning history of the site into account in my determination of this planning application.

*The Proposed Development.*

10. My assessment is based on the description of development as set out on the application form and repeated in the header above. The drawings submitted with the planning application also inform my decision. These show the installation of 4 EVCPs close to the southern boundary of the site with Melville Court. The plans also show the installation of a LV Panel GRP enclosure towards the rear of the site as well as new timber fencing with sliding door to a bin store area.
11. The application explains that a substation is required to serve the EVCPs. However, the applicant is clear in stating that a substation is not included as part of the proposed development. On my visit I saw a metal building on the part of the application site between the road and the proposed location for the EVCPs. I understand that this is either a substation or is intended to be used for such purposes. This building is not shown on the submitted drawings and so while I have noted its existence, the effects of this building do not form part of my assessment of the planning application.

*Principle of the development.*

12. BCC raise no objection in principle to the addition of EVCPs on the site. Only 4 EVCPs are proposed but nonetheless the development would help address a under-provision of such facilities within this part of the city. Also, it would facilitate and encourage the use of electric vehicles within Bristol and so reduce carbon emissions and promote cleaner air. Therefore, I conclude the proposal would be acceptable in principle. It would accord with policies BCS11, BCS13, BCS14 and BCS15 of the Bristol Development Framework Core Strategy 2011 (the CS). Amongst other things, these

policies seek to ensure there is adequate infrastructure to support growth in Bristol whilst mitigating and adapting to climate change.

*Effects on character and appearance of the area.*

13. The application site is a petrol filling station with a forecourt, shop, canopy over petrol pumps and associated signage. It lies in an urban area on a fairly straight road where most properties are in residential use.
14. The site is within but on the edge of the WRCA. This is based around Whiteladies Road and the surrounding residential streets. The significance of the area lies with the historic, architectural and aesthetic interest of the terraces of dwellings and detached villas. More modern infill development tends to detract from the qualities of the WRCA. This includes the petrol filling station on the application site.
15. The provision of the EVCPs and associated features would be noticeable from the road as the application site is open to the front. However, the new structures would be set back from the highway. Also, they would be seen against a close-boarded fence on the side and rear boundaries of the site and in the same context as the petrol pumps, overhead canopy, lighting columns and signage. As such, the development would be in keeping with the appearance and character of the application site and it would have a fairly low-key visual effect. The provision of new beech hedging to the front and side of the EVCP bays as shown on the drawings would also soften the visual impact of the development. It would be reasonable to impose a condition that requires this new planting. Therefore, I find the proposal would have a neutral effect on the character and appearance of the area and so it would cause no harm to the qualities of the WRCA.
16. The properties on the other side of the road lie within the CRCA. The CRCA Character Appraisal and Management Proposals document dated 2011 highlights the leafy suburbs and high quality townscape as key features of the area. The development would have only a minor effect on the setting of the CRCA given its set back position away from the road frontage. Moreover, it would not detract from the qualities of the houses on the opposite side of the road. As such, no harm would be caused to the CRCA's significance.
17. The previous appeal Inspector found the development then being considered would cause harm to the character of the WRCA and the setting of the CRCA. However, from the previous appeal decision notice, it is apparent that the scheme then under consideration included a substation and LV cabinet along with new fencing towards the front of the site. The substation is not part of the proposal currently being considered and the LV cabinet is now proposed towards the rear of the site. Therefore, the development before me would have less of an impact on the street scene than the previous appeal scheme. Accordingly, it would not be inconsistent with the previous appeal decision to arrive at a different view on the effect of the proposal on the visual qualities of the area.

18. As the site is within the WRCA, I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and I have paid special attention to the desirability of preserving or enhancing the character and appearance of the area. However, for the above reasons, I conclude the development would preserve or enhance the character and appearance of the WRCA. Moreover, it would cause no harm to the setting or significance of the CRCA and it would have an acceptable effect on the character and appearance of the locality in general. In all of these respects, the development would accord with CS policies BCS21 and BCS22 as well as policy DM31 of BCC's Local Plan – Site Allocations and Development Management Policies 2014 (the LP). Also, I find no conflict with the relevant provisions of the National Planning Policy Framework (the Framework), the WRCA Enhancement Statement nor the CRCA Character Appraisal and Management Proposals document.
19. It is suggested by BCC that the already approved scheme for EVCPs on the application site would be far less prominent as the current proposal. Details of the approved development have not been provided and so I am unable to conduct a comparison. Even so, I have found the current proposal would have an acceptable effect on the character and appearance of the area. Refusal of planning permission would not be justified simply on the grounds that another development may have fewer visual effects.

*Whether the development would prejudice the acceptable layout of the site.*

20. BCC raises concern that the substation to support the EVCPs would need to be located in a prominent location to the front of the application site if the proposed development is implemented. There is a concern that this prominent positioning of the substation would result in harm to the character and appearance of the locality as well as the WRCA and the setting of the CRCA.
21. The applicant accepts the need for a substation to be provided to serve the EVCPs and indeed the shelter for such a facility has already been provided to the front of the site. The applicant claims the installation of a substation represents permitted development. If this is accepted, then the substation could be installed regardless of its effects on the visual qualities of the area. However, BCC do not accept this contention and instead suggest the applicant should apply for a certificate of lawful development in order to establish whether the installation of the substation is indeed lawful.
22. I note the Inspector for the previous appeal found there to be a greater than theoretical possibility of a substation being provided under permitted development rights. However, it is not my role in the determination of this application to arrive at a firm view on the lawfulness of the provision of the substation. Moreover, there are no grounds to insist on the submission of an application for a certificate of lawful development. As the local planning authority, BCC has the right to initiate planning enforcement action if it considers the substation building represents a breach of planning control. In considering whether it is expedient to take out such action, BCC should have regard to the visual effects of the substation. There is no indication that any such action has been taken or has been considered.

23. Also, in the event that BCC concludes the installation of the substation does not represent permitted development, then an application could be made for retrospective planning permission as an alternative to enforcement action. In the assessment of any such application, the effect of the substation on the character and appearance of the WRCA and the setting of the CRCA would need to be considered. It would be open to BCC to refuse planning permission if it found there were harmful effects that were not outweighed by any benefits. Granting planning permission for the current proposal would not negate the legal duty to have special regard to preserving or enhancing the character and appearance of the WRCA when considering any planning application for the substation.
24. As such, I favour the applicant's contention that the effect of any substation associated with the proposed EVCPs is not relevant in my assessment of this application. Granting planning permission would not prejudice the future layout of the site and its overall effect on the character and appearance of the area as well as the WRCA and CRCA. As such, I conclude BCC's concerns in these regards are unfounded and that there would be no conflict with CS policies BCS21 and BCS22 as well as LP policy DM31 in these regards.

*Effects on living conditions.*

25. The part of the forecourt where the proposed EVCPs would be located is already used as parking spaces for visitors to the petrol filling station. As such, noise from parking and movement of vehicles associated with the proposal would not have unusual effects on the living conditions of adjacent residences. There is little information on whether the proposed chargers and associated electrical infrastructure would generate noise in themselves. However, BCC has suggested a planning condition that would require the rating level of noise generated by the plant and equipment to be at least 5 dB below background noise levels. This would ensure the development avoids unacceptable disturbance to any nearby residents.
26. The proposal would not lead to any other effects on nearby dwellings. As such, I conclude the development would not harm living conditions at any residence. In these respects, it would accord with CS policy BCS21 and LP policy DM35. Amongst other things, these seek to ensure development safeguards the amenity of existing premises, particularly with regards to noise.

*Highway and traffic safety.*

27. The Inspector for the previous appeal found that the position of 4 EVCPs along the southern boundary of the site would not lead to conflict with vehicles entering the petrol filling station. Similarly, I also find the position of the parking spaces set back from the entrance would ensure sufficient intervisibility so as to avoid significant delay in drivers leaving the highway to enter onto the site. Therefore, I conclude the development would avoid any harmful effects on highway and traffic safety. In these regards, it would accord with CS policy BCS10 and LP policy DM23. Amongst other

things these look to ensure development provides safe and useable parking.

#### *Other matters*

28. The EVCPs would be near to the bin store enclosure. As such, the disposal of waste in the bins and the movement of waste on days of collection may be compromised when vehicles are at the EVCPs. The previous appeal Inspector found that this matter could be addressed through a planning condition requiring the submission and approval of a waste management plan. BCC has suggested such a condition. Therefore, I conclude the development would be acceptable in these respects.
29. As a petrol filling station there is potential for the development to disturb existing ground contamination. A planning condition could be reasonably imposed to ensure that this is effectively managed so as to avoid pollution and risk to health.
30. Reference is made by BCC to section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This relates to development that affects a listed building or its setting. However, from the information provided it would seem that there is no nearby listed buildings and so the referred to legislation is irrelevant. Mention is made in the submissions to Kingdom Hall which is a nearby locally listed building and a non-designated heritage asset. However, the development would have no meaningful effect on the setting of this building and so it would preserve its significance.
31. Concern is raised that the development would lead to additional demand for extra customer facilities at the site. I consider this unlikely given that only 4 EVCPs are proposed. In any case, future planning applications for additional development would need to be considered on their own merits. Therefore, this concern fails to affect my overall conclusion.
32. The application form states the biodiversity gain condition as set out in paragraph 13 of Schedule 7A of the Act would not apply as the proposed development would be subject to the de minimis exemption. I have no reason to disagree. However, in light of Article 24 of the Town and Country Planning (Section 62A Applications)(Procedure and Consequential Amendments) Order 2013, I have included a note on this decision that refers to the relevant regulatory provisions on the biodiversity gain condition.

#### **Conclusion**

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I find the proposed development would comply with the aforementioned CS and LP policies and so it would accord with the development plan when read as a whole. There are no considerations that justify making a decision contrary to the development plan. Therefore, I conclude that planning permission should be granted.

## **Conditions**

34. I have considered the planning conditions suggested by BCC and I have imposed those that meet the tests for conditions as set out in the Framework at paragraph 56. I have amended the wording where appropriate in the interests of clarity and to prevent the use of unnecessary pre-commencement conditions.
35. While not suggested by BCC, I have included in the interests of clarity a condition that lists the approved drawings that show the proposed development. I have not imposed the suggested condition that requires the provision of the EVCPs and circulation space as, in effect, this simply requires the proposed development to be provided and retained. Therefore, the condition is unnecessary. BCC also suggests 2 conditions that cover the issue of noise from plant. I see no reason why both conditions are needed and so I have imposed the one that simply sets a maximum noise generation level.

*Jonathan Edwards*

Inspector and Appointed Person



## Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.  
Reason: As required by section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: location plan reference 13664-LP1-144, block plan reference 13664-BP1-144, proposed site layout reference 13664-202-144 revision B, LV panel elevations reference 13664-204-144 and proposed elevations reference 13664-205-144 revision B.  
Reason: To provide certainty.
3. In the event that ground contamination is found at any time when carrying out the development hereby permitted, it must be reported immediately to the local planning authority. In such circumstances, an investigation and risk assessment shall be undertaken in accordance with the Environment Agency's 'Land Contamination: risk management' guidance and BS 10175:2011 + A2:2017: Investigation of Potentially Contaminated Sites - Code of Practice. Where remediation is necessary, development works shall not recommence until a remediation scheme has been submitted to and approved by the local planning authority. The remediation scheme shall ensure the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Following completion of measures identified in the approved remediation scheme and prior to the first use of the vehicle charging points hereby permitted, a verification report shall be submitted to and approved in writing by the local planning authority.  
Reason: To ensure that risks from land contamination to the future users of the development and neighbouring properties are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in line with policy DM34 of the Bristol City Council's Local Plan - Site Allocation and Development Management Policies (2014).
4. The vehicle charging points hereby permitted shall not be first used until a waste management plan setting out how waste will be stored and collected, particularly in relation to the operation of the adjacent charging point, has been submitted to and approved in writing by the local planning authority. Thereafter, waste shall be stored and managed in accordance with the approved management plan.  
Reason: To safeguard the amenity of the occupiers of adjoining premises; protect the general environment; prevent any obstruction to pedestrian and vehicular movement and to ensure that there are adequate facilities for the storage and recycling of recoverable materials, in line with policies DM23 and DM32 of the Bristol City Council's Local Plan - Site Allocation and Development Management Policies (2014).
5. The soft landscape works as shown on the approved drawings shall be

carried out no later than during the first planting season following the date when the development hereby permitted is first used. All planted materials shall be maintained for five years and any plants or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.

Reason: To ensure the development preserves or enhances the character or appearance of the Whiteladies Road Conservation Area and the Cotham and Redland Conservation Area in line with policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy adopted June 2011 as well as policy DM31 of the Bristol City Council's Local Plan - Site Allocation and Development Management Policies (2014)

6. The rating level of any noise generated by plant and equipment forming part of the development hereby permitted shall be at least 5 dB below the background level as determined by BS4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: In the interests of preserving the amenity of surrounding residences in line with Policy BCS21 of the Bristol Development Framework Core Strategy adopted June 2011 and Policy DM35 of the Bristol City Council's Local Plan - Site Allocation and Development Management Policies (2014).

#### **Informatives:**

- i. In determining this application no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.
- ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision.
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>.
- iv. Responsibility for ensuring compliance with this Decision Notice rests with Bristol City Council.
- v. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition

(biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority,  
and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Bristol City Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply – in this case the exemption below:

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).