
November 2020



Town and Country Planning Act 1990 (As Amended)
Appeal by Euro Garages Ltd

Statement of Case

Appeal against Cherwell District Council's refusal of planning application 20/002498/F comprising single storey rear extension.

@ Banbury Service Station, Oxford Road, Bodicote, OX15 4AB

Planning Inspectorate Ref: APP/tbc

LPA Reference: 20/002498/F

Prepared by EG Group Ltd

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1.0 Introduction and Scope of Evidence

- 1.1 My name is Rob Buffham, and I am National Planning Manager for EG Group Ltd. I hold a Masters Degree in Town Planning and I am a Chartered Town Planner, being a member of the Royal Town Planning Institute. I have over 20 years experience in both the public and private sectors.
- 1.2 I am familiar with the site the subject of this appeal, and the immediate surroundings and I have taken into account in the preparation of this evidence, the site characteristics, surrounding land uses, relevant planning history, central government guidance and the appropriate local planning policy background.
- 1.3 The planning application responds to the refusal by Cherwell District Council for the retention of a storage container (ref: 20/00167/F) and subsequent dismissal of appeal by the Planning Inspectorate (ref: APP/C3105/W/20/3253999). The appeal proposal seeks full planning permission for a rear extension which consists of the retention of the container and cladding of that container in brick to match the existing petrol station kiosk, with GRP flat roof. The development will be located to the rear of the petrol filling station kiosk building at Banbury Service Station, Oxford Road, Bodicote, OX15 4AB.
- 1.4 The application was refused under delegated powers by officers on 6th November 2020. There is one reason for refusal relating to harm to the character and appearance of the area together with reference to lack of other options considered for its siting:
- 1.5 There are no other grounds for refusal.
- 1.6 This appeal statement sets out the nature of the proposal, national and local planning policy context of the development and deals with the relevant policy aspects.
- 1.7 This appeal statement will therefore seek to demonstrate there are no other suitable locations within the site for the extension, that its design / siting is not visually intrusive within the site and wider streetscene and as such it is not harmful to the character and appearance of the area.

2.0 Site Location

- 2.1 The Banbury Service Station is located to the south east of the town centre on Oxford Road (A4260) just to the south of its junction with Bankside (flyover). To the north of the site is a car sales garage with housing to the south and east. The A4260 forms the western boundary of the site.
- 2.2 Given the use of the site and presence of existing signage, the character of the site is clearly commercial. Whilst there is a dwelling to the south and new build to the east, the nature of the site and its roadside location is such that the character and appearance of the area is more commercial than residential.
- 2.3 The site itself is an established roadside services with petrol forecourt, canopy and kiosk.
- 2.4 Within the forecourt is a converted car wash structure that is now operating as a Greggs (LPA ref 17/00572). This has been finished in grey cladding similar to that of the storage container. The Greggs unit can be seen below.



- 2.5 The kiosk building has been extended (LPA ref 16/02272/F) with parking and bin store to the side whilst the extension subject to this appeal is located to the rear of the kiosk.
- 2.6 The photos below shows the kiosk with bin store to the side, the first photo is taken across the forecourt and includes the above Greggs unit.



- 2.7 The extension itself is located to the rear of the kiosk building and will envelope the existing storage container in situ. It is joined to the main kiosk by a door way and is used to store dry goods. The photos below show the siting of the container to the rear of the kiosk including fencing to adjacent dwelling.
- 2.8 Floor Plans and elevations are submitted with the appeal papers. The extension will be set back approximately 2.5m from the end wall of the kiosk building.



- 2.9 Whilst the site is adjacent to an existing dwelling (as shown in the photo above), the open nature of the boundaries and frontage to the dwellings results in the petrol station with its associated buildings, canopy and signage being a prominent feature in the streetscene.
- 2.10 The site is not subject to any landscape, heritage or ecology designations and there are no trees affected by the proposal.

3.0 Relevant Planning History

- 3.1 There are a couple of relevant planning permissions on site.
- 3.2 The first is the approval for the side extension to the kiosk – LPA ref 16/01622/F – this included the existing container with a condition that it would be removed after 3 years. The kiosk has however remained on site in the absence of an alternative location for the required storage space. Consequently, the current retrospective application was lodged to retain the kiosk.
- 3.3 The relevant second application relates to the Greggs kiosk – LPA reference 17/00572. The officer's report relating to this application raises no objection to the siting and design of the kiosk and considers the use of grey cladding to be appropriate to the site setting.
- 3.4 The third application – LPA ref 20/00167/F - sought planning consent for retention of the storage container, being refused and dismissed on appeal on visual impact grounds.

4.0 Appeal Proposal

The Proposed Development

- 4.1 This Appeal Statement has been prepared in support of the appeal against the decision of Cherwell District Council (hereafter referred to as "the LPA") to refuse the full planning application for an extension to the rear of the petrol filling station kiosk building.
- 4.2 The extension is linked to the rear of the kiosk by a doorway and provides storage for dry goods sold in the retail unit. The proposed development is shown on drawing PLN.065.A3, PLN.066.A3 – copy lodged with the appeal papers.

The Planning Application

- 4.3 The planning application was submitted via the Planning Portal, being validated by the Council on 11th September 2020 and included the following:
- i. Completed application forms, with all certificates signed and dated;
 - ii. Site Location plan
 - iii. Proposed plans
- 4.4 Copies of all the above information is submitted with the appeal forms.
- 4.5 The application was refused by Officers under delegated powers on 6th November 2020.

The decision

- 4.6 The decision notice (dated 19 March 2020) sets out one reason for refusal as set out below. A copy of the Officer's Report is enclosed at **Appendix 2** and a copy of the decision notice can be found at **Appendix 3**.
- 4.7 This Appeal Statement sets out the general appeal proposal details assessing it against the relevant planning policies. The merits of the appeal proposal and relevance of aforementioned policies as set out in the reason for refusal is set out in detail in Section 7 of this Statement.
- 4.8 Copy of Reason for Refusal set out below:

By virtue of its utilitarian design and its siting, height and proximity to the main kiosk building and without sufficient justification for the discounting of alternative, less harmful options, the existing shipping container being clad in brick would result in harm to the character and appearance of the area. The development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2031, saved Policies C28 of the Cherwell Local Plan 1996 and relevant paragraphs of the National Planning Policy Framework.

5.0 National Planning Policy Framework (NPPF)

- 5.1 This section provides a summary and assessment of those policies contained in the NPPF considered to be of particular relevance to the determination of this appeal, namely those relating to design.
- 5.2 As is demonstrated below, the proposal complies with the relevant sections of the NPPF.
- 5.3 The National Planning Policy Framework (revised July 2018) sets out the government's planning policies for England and how these are expected to be applied. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 5.4 Set out below is a summary of the relevant sections of the NPPF.
- 5.5 The National Planning Policy Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. The guidance advises that the policies in paragraphs 1-211 taken as a whole constitute the government's view on what sustainable development in England means in practice for the planning system.

Achieving Sustainable Development

- 5.6 Paragraphs 7, 8 and 11 of the NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 5.7 Paragraph 11 sets up the presumption in favour of sustainable development stating:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Design

- 5.8 Chapter 12 of the NPPF refers to Design and advises that good design is a key aspect of sustainable development. Paragraph 127 sets out a number of design criteria to be considered in terms of design of development stating:

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

6.0 Development Plan Context

- 6.1 The Decision Notice sets out a single reason for refusal stating the proposed scheme fails to accord with Cherwell Local Plan Policy ESD15 and saved Cherwell Local Plan policy C28.
- 6.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan.
- 6.3 A summary of these policies is set out below.

Cherwell Local Plan 2011-2031 (2015)

- 6.4 ESD15 – The Character of the Built and Historic Environment – this is a criteria based policy which seeks to ensure new development complements and enhances the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.

Saved Policies - Cherwell Local Plan 1996

- 6.5 Policy C28 – Layout, design and external appearance of new development – this policy seeks to ensure that new developments, by virtue of layout, design, external appearance and materials, are sympathetic to the context of the development.
- 6.6 Supporting text set out at para 9.66 advises that the standard of design acceptable to the District Council will be influenced by the environmental context of the site and its surroundings, and the nature, size and prominence of the development proposed.

7.0 Case for the Appellant

- 7.1 This section of my evidence deals with the Case in Support of the appeal proposal. This appeal statement seeks to demonstrate how the proposal complies with relevant planning policy, in this case NPPF and stated Local Plan policies.
- 7.2 The reason for refusal relates to design / siting and the alleged significant harm to character and appearance of the area with reference also to the applicant having not identified any alternative locations for the storage use.
- 7.3 I consider the following points are relevant to the appellant's case in relation to the stated reasons for refusal in this instance:-
- **There are no alternative options for the extension.**
 - **The extension by virtue of its siting, scale and design (materials / colour) is not unduly prominent and will not result in significant harm to the character and appearance of the area**
 - **Compliance with NPPF and Local Plan Policies**
- 7.4 These points are addressed in turn below.
- 1. There are no alternative options for the extension.**
- 7.5 The reason for refusal references the lack of sufficient justification for the discounting of alternative, less harmful solutions to site the extension. Whilst it may be the case that the appellant did not submit any justification with the planning application, it is clear from the layout of the existing site that there are no alternative options.
- 7.6 Land to the eastern boundary next to the kiosk extension is used for bin / crate storage together with staff parking whilst land adjacent to the Greggs unit is used for bins and contains an electricity pole. These locations are not therefore suitable or available.
- 7.7 In addition, if bins from next to the extension were displaced to facilitate the extension, then the only alternative option would be for them to go to the rear of the kiosk (where the container is now). Bins in this location would have a greater effect than the container due to their bright colour, they are less tidy than a simple building and more importantly this location would have a greater effect on the adjacent resident by virtue of potential noise (associated with filling / emptying) and smell associated with their use. Any access to the bins would be external and so the effect of such activity would be greater on the adjacent resident. The extension would be a sealed unit with all activity being internal – there are therefore no residential amenity issues arising from the appeal proposal.
- 7.8 Similarly, the siting of an extension to the rear utilises vacant space and minimises opportunity for public / staff activity. This space does not benefit from any natural surveillance and as such in the

absence of it having a dedicated use (i.e., extension proposed), it could become appealing for anti-social behaviour or overgrown and unkempt. As such, the relocation of the extension would open up this space with potential residential amenity issues arising from increased activity along the boundary.

- 7.9 The only other possible location for the extension is the western / roadside facing elevation of the kiosk. However, this is a more prominent location to the road frontage and would again result in loss of car parking space. It would also bring the building line of the kiosk closer to the road and create a larger area of unusable / un-protected space along the boundary with the adjacent boundary. The creation of such a long, thin area of unusable land would exacerbate issues raised above in terms of potential harm to living conditions of the adjacent neighbour.
- 7.10 In summary, the proposed location of the extension (and its use) makes best use of a narrow strip of land adjacent to the dwelling with its presence on site ensuring this area does not become an area for anti-social behaviour or bin storage or a litter trap, all of which would be more harmful to living conditions of adjacent residents. Similarly, other locations on site would be more prominent (west elevation) or involve loss of parking (east and west elevation) which is at a premium already on this site.
- 7.11 In light of the above, and as will be seen on site, there are no alternative options for the extension proposed.

2. The extension by virtue of its siting, scale and design (materials / colour) is not unduly prominent and will not result in significant harm to the character and appearance of the area

- 7.12 The Council have raised concerns over the design and siting of the extension and consider it results in significant harm to the character and appearance of the area.
- 7.13 The three issues here to consider relate to the character of the area, the siting of the extension and its design / appearance. These are addressed in turn below.
- 7.14 The site itself comprises a forecourt, canopy, signage, Greggs outlet, retail kiosk and parking, it is clearly commercial in terms of character and appearance. To the north is a car sales operation which is also commercial in character and appearance. Oxford Road forms the western boundary with housing to the south. The housing to the south is however set back from Oxford Road behind a service road with reasonably open frontages. Due to limited parking space, cars are often parked on the verge between service road and Oxford Road. Whilst these dwellings are residential in appearance it is not considered they create a strong residential character; the dominant feature is still Oxford Road and the commercial operations at the garage and car sales. Oxford Road is a busy route into / out of Banbury and, in the vicinity of the appeal site, the character is informed by the garage, car sales and

indeed flyover junction to the north of the appeal site. This is not a quiet residential area; its a busy, urban roadside location where commercial and residential uses sit next to one another. As such the existence of an extension is not in itself out of character.

- 7.15 With regards to siting of the extension, it has been shown above to be the most suitable location on the site. Furthermore, it is located behind the main kiosk building and set back from the western elevation by circa 2.5m. As such the extension is not visible from the forecourt or those travelling south on Oxford Road. Similarly, for those travelling north along Oxford Road, it will be viewed behind boundary fencing and also against the backdrop of the larger (taller) kiosk building. The appeal proposal is clearly subservient to the larger kiosk against which it sits.
- 7.16 The image below shows the existing container located to the rear of the kiosk. It can be seen that the kiosk is set back from western elevation of the kiosk and below the roof of the kiosk. The existing fence line also assists in screening the container when viewed from the south. The image does illustrate the contrast of colour between the existing container and the brick built kiosk. The proposed extension will have a brick skin to match the main kiosk, ensuring that the extension harmonises with the kiosk and positively connecting the scheme to the wider commercial development.



- 7.17 The image above also demonstrates the commercial character of the area and the more dominant features within the streetscene, namely the signage, car parking and canopy structure.
- 7.18 The extension would in no way be a dominant or prominent feature in the streetscene, especially given its location to the rear of the kiosk.
- 7.19 With regards design and scale, the appeal proposal is a simple flat roof structure which reflects the design of the kiosk and side

extension as well as the horizontal emphasis of the canopy over the petrol forecourt.

- 7.20 The scheme replicates the scale and visual appearance of the previously approved side extension on the site. The Council have previously determined that a flat roof extension design of the kiosk is acceptable, and this determination must form a precedence for the acceptability of other similar extensions of the kiosk. Given this previous acceptance by the Council, it is odd therefore that objection has been made to the visual appearance of the current scheme. This evidences an inconsistency in the Council's assessment of planning applications on this particular site.
- 7.21 In light of the above, the revised design of the extension is considered acceptable in terms of its location and function as a simple storage unit associated with an established commercial operation.
- 7.22 The Council state in the reason for refusal that the extension, by virtue of its design and siting results in significant harm to the character and appearance of the area. For the reasons set out above, this is completely without justification.

3 Compliance with NPPF and Local Plan Policies

- 7.23 Chapter 12 of the NPPF refers to Design and advises that good design is a key aspect of sustainable development. Paragraph 127 sets out a number of design criteria to be considered in terms of design of development.
- 7.24 Local Plan policy ESD15 together with saved policy C28. Strategic Policy ESD15 reflects NPPF guidance on desire to achieve high quality design whilst saved Local Plan policy C28 acknowledges the need for development to be sympathetic to its context. This is explained further at para 9.66 of the Local Plan which advises that the standard of design acceptable to the District Council will be influenced by the environmental context of the site and its surroundings, and the nature, size and prominence of the development proposed.
- 7.25 As has been set out above, the site is commercial in character and whilst there are houses to the south of the site, they sit within the context of a busy road and the more prominent commercial uses associated with the PFS and car sales operation. As such, the extent to which the surrounding area can be said to be residential in character is limited.
- 7.26 Policy C28 seeks to ensure design of development is influenced by its surroundings and the assessment of whether it is acceptable should relate to nature, size and prominence.
- 7.27 The site is in commercial use whilst the appeal proposal is a simple structure for storage use designed to reflect the existing extension of the kiosk, and located to the rear of (and inset from the front / west elevation fronting Oxford Road) the kiosk building.

- 7.28 It is therefore appropriately designed and sited to ensure it is not prominent and is in-keeping with the context of the site and its surrounds. It will not cause significant harm to the character and appearance of the area as set out in the reason for refusal.
- 7.29 The proposal therefore complies with the requirements of Local Plan policies ESD15 and C28.

8.0 Concluding Statement and Summary

- 8.1 This Appeal Statement has been prepared in support of the appeal against the decision of Cherwell District Council (hereafter referred to as "the LPA") to refuse the full planning application for an extension to the rear of kiosk building at Banbury Service Station, Oxford Road, Bodicote.
- 8.2 The application was refused by Officers under delegated powers on 6th November 2020 for a single reason relating to design / siting with reference to no discounting of alternative options for storage.
- 8.3 A copy of the Officer's delegated report is enclosed at **Appendix 2** and a copy of the decision notice can be found at **Appendix 3**.

Summary of Case in Support of the Proposal

- 8.4 The reason for refusal relates to design / siting and the alleged significant harm to character and appearance of the area with reference also to the applicant having not identified any alternative locations for the storage use.
- 8.5 I consider the following points are relevant to the appellant's case in relation to the stated reasons for refusal in this instance:-
- **There are no alternative options for the extension.**
 - **The extension by virtue of its siting, scale and design (materials / colour) is not unduly prominent and will not result in significant harm to the character and appearance of the area.**
 - **Compliance with NPPF and Local Plan Policies.**
- 8.6 These points are addressed in turn below.

1. **There are no alternative options for the storage unit.**

- 8.7 The reason for refusal references the lack of sufficient justification for the discounting of alternative, less harmful solutions. This could involve options for the alternative siting of the extension. It is clear from the layout of the existing site that there are no alternative options available on the site.
- 8.8 Land to the eastern boundary next to the kiosk extension is used for bin / crate storage together with staff parking whilst land adjacent to the Greggs unit is used for bins and contains an electricity pole. These locations are not therefore suitable or available.
- 8.9 In addition, if bins were displaced to facilitate the extension, then the only alternative option would be for them to go to the rear of the kiosk (where the container is now). It is considered that bins stored in this location would have a greater effect than the extension on the adjacent resident by virtue of potential noise (associated with filling / emptying) and smell associated with their use. Any access to the bins would be external and so the effect of

such activity would be greater on the adjacent resident. The appeal proposal is a sealed unit with all activity being internal – there are therefore no residential amenity issues arising from the extension.

- 8.10 Similarly, the space at rear of the kiosk does not benefit from any natural surveillance and as such in the absence of it having a dedicated use it could become appealing for anti-social behaviour or overgrown and unkempt. As such, relocation of the extension would open up this space with potential residential amenity issues arising from increased activity along the boundary.
- 8.11 The only other possible location for the extension is the western / roadside facing elevation of the kiosk. However, this is a more prominent location to the road frontage and would again result in loss of car parking space. It would also bring the building line of the kiosk closer to the road and create a larger area of unusable / un-protected space along the boundary with the adjacent boundary. The creation of such a long, thin area of unusable land would exacerbate issues raised above in terms of potential harm to living conditions of the adjacent neighbour.
- 8.12 In summary, the location of the appeal proposal (and its use) makes best use of a narrow strip of land adjacent to the dwelling. Similarly, other locations on site would be more prominent (west elevation) or involve loss of parking (east and west elevation) which is at a premium already on this site.
- 8.13 In light of the above, and as will be seen on site, there are no alternative options for storage or siting of the extension.

2. The extension by virtue of its siting, scale and design (materials / colour) is not unduly prominent and will not result in significant harm to the character and appearance of the area

- 8.14 The Council have raised concerns over the design and siting of the appeal proposal and consider it results in significant harm to the character and appearance of the area.
- 8.15 The three issues here to consider relate to the character of the area, the siting of the structure and its design / appearance. These are addressed in turn below.
- 8.16 The site itself is with forecourt, canopy, signage, Greggs outlet, retail kiosk and parking is clearly commercial in terms of character and appearance. To the north is a car sales operation which is also commercial in character and appearance. Oxford Road forms the western boundary with housing to the south. The housing to the south is however set back from Oxford Road behind a service road with reasonably open frontages. Due to limited parking space, cars are often parked on the verge between service road and Oxford Road. Whilst these dwellings are residential in appearance they do not form a strong residential character; the dominant feature is still Oxford Road and the commercial operations at the garage and car sales sites. Oxford

Road is a busy route into / out of Banbury and, in the vicinity of the appeal site, the character is informed by the garage, car sales and indeed flyover junction to the north of the appeal site. This is not a quiet residential area; it's a busy, urban roadside location where commercial and residential uses sit next to one another. As such the existence of the structure is not in itself out of character.

- 8.17 With regards to siting of the extension, it has been shown above to be the most suitable location on the site. Furthermore, it is located behind the main kiosk building and set back from the western elevation by circa 2.5m. As such, it would not be visible from the forecourt or those travelling south on Oxford Road. Similarly, for those travelling north along Oxford Road, the structure would be viewed behind boundary fencing and also against the backdrop of the larger (taller) kiosk building. The appeal proposal is clearly subservient to the larger kiosk against which it sits. The extension would not therefore be a dominant or prominent feature in the streetscene.
- 8.18 With regards design and scale, the structure is a simple flat roof brick built design that mimics the scale and appearance of a previously approved extension on the site. This design provides a holistic connection to the horizontal emphasis of the main kiosk and canopy over the petrol forecourt.
- 8.19 In light of the above, it is considered the design and siting of the extension is acceptable and will not result in significant harm to the character and appearance of the area.

3 Compliance with NPPF and Local Plan Policies

- 8.20 Chapter 12 of the NPPF refers to Design and advises that good design is a key aspect of sustainable development. Paragraph 127 sets out a number of design criteria to be considered in terms of design of development. Local Plan policy ESD15 together with saved policy C28 relate to design.
- 8.21 Strategic Policy ESD15 reflects NPPF guidance on desire to achieve high quality design whilst saved Local Plan policy C28 acknowledges the need for development to be sympathetic to its context. This is explained further at para 9.66 of the Local Plan which advises that the standard of design acceptable to the District Council will be influenced by the environmental context of the site and its surroundings, and the nature, size and prominence of the development proposed.
- 8.22 The character of the site is considered to be commercial given the established PFS use, the adjacent car sales business and the busy nature of Oxford Road together with the proximity to the Bankside flyover junction. As such, the extent to which the surrounding area can be said to be residential in character is limited. Policy C28 seeks to ensure design of development is influenced by its surroundings and the assessment of whether it is acceptable should relate to nature, size and prominence.

- 8.23 The site is in commercial use whilst the appeal proposal is appropriately designed and sited to ensure it is not prominent and is in-keeping with the context of the site and its surrounds. It will not, therefore, cause significant harm to the character and appearance of the area as set out in the reason for refusal. The proposal therefore complies with the requirements of Local Plan policies ESD15 and C28.
- 8.24 In conclusion, I contend that the appeal proposal is an appropriate form of development on this site and is consistent with national and local planning policy.
- 8.25 In this context, I would respectfully request that the appeal be allowed.

APPENDIX 1

Delegated Officer Report – 3rd November 2020

APPENDIX 2

Decision Notice (dated 6th November 2020 2020)