



Appeal Decisions

Site visit made on 9 December 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2019

Appeal A Ref: APP/R5510/C/19/3228868

Land and buildings on east side of Wallingford Road Uxbridge UB8 2FR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Sean O'Shea (Metroline Travel Ltd) against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice, numbered HS/ENF/015111, was issued on 17 April 2019.
- The breach of planning control as alleged in the notice is the use of land as a bus depot.
- The requirements of the notice are to cease the use of the land and buildings as a bus depot between the hours of 2300 and 0700 on any day.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/R5510/W/19/3227861

Land and buildings on east side of Wallingford Road Uxbridge UB8 2FR

- 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 Mr Sean O'Shea (Metroline Travel Ltd) against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 50677/APP/2017/4537, dated 15 December 2017, was refused by notice dated 23 November 2018.
- The development proposed is the use of the application site as a bus park for 30 buses, the internal brushing down of the buses and the installation of the three temporary containers.

Summary of decision: Appeal B is allowed as set out in the Decision below.

Decision

Appeal A

1. It is directed that the enforcement notice be corrected by: the deletion of the words 'Bus Depot' in paragraph 3 of the notice and its substitution with the words 'bus park'.
2. Subject to the correction, the Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out namely the use of the land as a bus park at the land and buildings on east side of Wallingford Road Uxbridge UB8 2FR as

shown on the plan attached to the notice and subject to the conditions on the attached schedule.

Appeal B

3. The appeal is allowed and planning permission is granted for the use of the application site as a bus park for 30 buses, the internal brushing down of the buses and the installation of the three temporary containers, at Land and buildings on east side of Wallingford Road Uxbridge UB8 2FR in accordance with the terms of the application, Ref 50677/APP/2017/4537, dated 23 November 2018, and subject to the conditions on the attached schedule.

Background

4. These appeals relate to a parcel of land to the east of Wallingford Road in Uxbridge. Appeal A relates to an enforcement notice issued by the Council on 17 April 2019. The requirements of the notice are to cease the use of the land as a bus depot between the hours of 2300 and 0700 on any day. The appeal has been lodged on grounds (a), (b), (f) and (g).
5. The Council's Committee report dated 14 November 2018 sets out the planning history of the site and Appeal B relates to that decision of the Council to refuse planning permission for a bus park for up to 30 buses and the erection of 3 containers to provide staff facilities.

Reasons

Appeal A - ground (b)

6. The appeal is proceeding on ground (b), that the matters alleged in the notice have not occurred. This is known as one of the legal grounds and therefore the onus of proof is on the appellant.
7. The appellant's case on ground (b) is set out in their statement. The gist of their case is that the allegation in the notice relates to the use of the site as a bus depot rather than a bus park. The distinction being that there would be a greater range of maintenance carried out at a depot such as external vehicle washing, refuelling, repair and servicing, administration and canteen and changing facilities for staff.
8. The parties agree that the site is primarily used for the parking of buses when they are not being used operationally. It was clear from my site visit that buses are indeed being parked on the land, although I acknowledge that from the evidence before me the range of facilities available are very limited. There are several storage containers that are understood to be used for staff facilities.
9. I have no evidence before me to suggest that the current use of the site differs from that existing at the time that the notice was issued. I also note that the associated regularising planning application, sought permission primarily for a bus park. This was not corrected by the Council and appears on their formal decision to refuse permission. From the evidence I have I am satisfied that the land was, and still is, used for the parking of buses but this falls short of what might be expected with an operational bus depot. I consider that the notice can be corrected without causing injustice to either party. Accordingly, I shall direct that the allegation in the notice be corrected to the 'use of land as a bus park',

as this more accurately describes the alleged breach. Subject to this correction the appeal on ground (b) fails.

Appeal A - ground (a) - The deemed application and the s78 planning appeal

Main Issue

10. I have had regard to the Council's reasons for issuing the notice and reasons for refusal on the planning application. In summary these both relate to concerns about the noise and disturbance that unrestricted movements of buses to and from the site between 2300 and 0700 would have on the health and amenity of residents in the local area.
11. I therefore consider that the main issue in these appeals are the effect of the development on the living conditions of local residents with reference to noise and disturbance.
12. The appeal under ground (a), can only consider the planning merits of the alleged development that has already taken place. In this case the allegation is for the use of the site as a bus depot, rather than a bus park. However, for the reasons outlined above, I have directed that the notice be corrected to reflect a more accurate description of the alleged breach. I have accordingly considered the appeal on the basis of the revised notice.
13. The site is located towards the southern end of Wallingford Road and forms part of the West London Industrial Park. There are a number of uses within a short distance from the site, including a skip business located almost opposite the site.
14. There are a number of residential properties some 215 metres to the north, opposite the junction of Wallingford Road and Cowley Mill Road where the main access to Wallingford Road lies.
15. I have had regard to the Acoustic Planning Report dated January 2018 and carried out by MZA Acoustics. Surveys were carried out from 2245 on 10 January to 0800 on 11 January 2018, to assess the vehicular activity and associated sound levels impacting on the properties that are most likely to be affected by the development namely 26 to 34 Andover Close. The survey concluded that during the late evening and night vehicle movements were relatively low. In contrast from about 0430 vehicle movements were high with a variety of vehicles leaving and entering the site. The most intrusive were the waste trucks with empty skips. A number of buses were noted using their diesel power rather than electric power. However, these were less intrusive than the other HGV movements and the waste vehicles.
16. My site visit was carried out between 0700 and 0730 on 9 December 2019 and the above is consistent with my own observations. In particular the skip lorries had significantly greater levels of sound than the buses that I witnessed leaving the site and turning onto Cowley Mill Road.
17. There is no evidence to suggest that the individuals that carried out the assessment did not have the appropriate levels of competency. Anderson Acoustics were commissioned by the Council to review the appellant's noise report. Their report is dated October 2019. It identifies a number of matters, including the lack of an assessment to consider the potential for sleep

disturbance, or an assessment of the effect of the development against PPG outcomes. I have not however, been provided with an alternative survey or any evidence to demonstrate that either of these, or any other factors would have any impact on the overall findings of the MZA Acoustics report.

18. For the above reasons and based on the evidence I have before me I find that the development has a low impact upon the noise sensitive properties at 26-34 Andover Close, due to noise associated with Metrolink buses in the context of this location of site. Accordingly, I do not find that there is conflict with saved policies OE1 and OE3 of the London Borough of Hillingdon Local Plan: Part One – Strategic Policies (2012) and policy 7.15 of the London Plan 2016. These policies seek to ensure that development is not detrimental to the amenities, health and quality of life for surrounding properties through noise annoyance or traffic generation.

Other matters and conditions

19. I have carefully considered the concerns from local residents. These include concerns about the manner that the buses are driven and highway signage. These are matters that fall outside the scope of these appeals as there is Highway legislation that would be able to enforce poor or dangerous driving. Concern has also been expressed about the number of vehicles parked on the site. I share the concern that the number of vehicles parked on the site should be restricted and I shall therefore impose a condition to restrict the number and type of buses, in the interests of safeguarding the living conditions of existing residents.
20. A further area of complaint is that buses leave the site during hours of darkness with the internal lights on. I acknowledge that this unnecessary and a potential source of annoyance however this is not a matter that could reasonably be controlled through the imposition of a planning condition. The appellant advises that instructions have been given to their drivers to ensure that interior lights are turned off when travelling between the appeal site and the start of the bus route.
21. I have had regard to the conditions suggested by the Council and assessed them against the advice in Planning Policy Guidance. I have specified the approved plans, as this provides certainty. In the interests of protecting the living conditions of existing residents, I have also imposed a condition that restricts the parking to hybrid buses only, and the total number of buses to 30.
22. I have considered the conditions that relate to landscaping and drainage but have not been provided with compelling evidence to demonstrate why these are necessary to make the development acceptable. Accordingly, there would be no reason to withhold permission without them, and they are therefore not necessary. A further condition has been suggested to control permitted development rights for extensions to the buildings. However, as there are no buildings on the site this condition is unnecessary. I recognise that the requirements of the notice sought to restrict the use of the site between 2300 and 0700. However, I have already found that the development would not cause harm in respect of noise and disturbance and therefore such a condition is not required.

Conclusion

23. I have taken into account all of the other matters raised. However, they do not alter or outweigh the main considerations that have led me to my decisions.

Appeal A

24. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the use as described in the notice as corrected.

25. The appeals on grounds (f) where the requirements of the notice would be considered and (g) the time given for compliance, do not fall to be considered.

Appeal B

26. I conclude that the appeal should be allowed subject to the attached schedule of conditions.

Hilary Orr

INSPECTOR

Schedule of conditions applicable to both Appeals A and B.

1. The development hereby permitted shall be retained and maintained in complete accordance with the details shown on the submitted plans and supporting documents for the duration of the use of the site as a bus park:

Proposed site plan; 17OKE 2000; 17OKE 2001; 17OKE 2002; 5613/008/R01 REV B May 2018; Acoustic Planning Report dated January 2018; Design and Access Statement dated December 2017; Covering letter dated December 2017; Agents email dated 5/7/18; Transport Assessment REF:5613/008/R-01 REV A.

2. The site shall only be used to park hybrid buses which meet the Euro 6 standard and shall not be used to park more than 30 buses.

End of schedule