The Planning Inspectorate

Appeal Decision

Hearing Held on 25 June 2020
Site visit made on 26 June 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2020

Appeal Ref: APP/W1525/W/19/3243304
Telephone Exchange, Main Road, Margaretting, Ingatestone CM4 0ET

- 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 Tomas Stasiulevicius against the decision of Chelmsford City Council.
- The application Ref 19/01282/FUL, dated 19 July 2019, was refused by notice dated 9 September 2019.
- The development proposed is change of use from sui generis former telephone exchange building and associated land to Class B2 (restoration of classic cars) with ancillary parking and outdoor storage.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of this appeal, the Chelmsford Local Plan (May 2020) (the Local Plan) has been adopted by the Council and can now be afforded full weight in decision making. Both the Council and the appellant have had the opportunity to make comments upon the implications of this and I shall consider the appeal accordingly.

3. A revised access drawing[1] accompanied by swept path analysis was submitted on behalf of the appellant during the appeal process. This drawing has the effect of updating and further advancing the originally intended improved vehicular access arrangement depicted within the Transport Statement (the TS), which was submitted at planning application stage. Both the Council and the Highway Authority (the HA) had the opportunity to review the revised access drawing in advance of the Hearing and I am content that no party with an interest in this appeal is prejudiced by me accepting it for consideration.

Main Issue

4. The effect upon highway safety.

Reasons

5. The appeal site contains a single storey building that I understand was last actively used in the 1990s as a telephone exchange/repeater station. The site contains elements of hardstanding including an access track that connects the

[1] KAB/19/C/02

site to the northbound A414. The A414 is a dual carriageway that connects to the strategic trunk road network not far from the site. It is likely that the site's former use would have generated limited trips predominantly related to maintenance duties and it has not been clearly demonstrated otherwise.

6. It is proposed that the site be used for restoring classic cars. A maximum of ten restorations would be intended to be carried out at any point in time and it is proposed that two persons be employed at the site. It was confirmed at the hearing that restoration vehicles would, in most cases, be anticipated to arrive at the site via a vehicle transporter. As also discussed, further trips to and from the site would realistically include employee movements, parts deliveries, some visitor movements and, when required, the transportation of vehicles off-site for respraying.

7. As set out in the TS, it is the appellant's stance that the overall number of vehicle trips generated by the proposal would be of an extremely low order. Indeed, it was suggested at the hearing that, on some occasions, daily flows as low as four movements could realistically occur. However, it is unlikely that, upon any given working day, employee movements would consist solely of their journeys to and from the site. Notwithstanding the existence of a kitchen/restroom facility, it is likely that breaks would be taken off-site (for lunch, for example). Further movements off-site would likely be necessitated by the requirements of the business. Indeed, the potential for collections and viewings to be undertaken by employees were referred to at the hearing.

8. As regards parts deliveries, I see some merit in the suggestion that restoration cars could arrive with the specialist replacement parts already supplied by the owner. I nevertheless remain unconvinced that this would happen on a routine basis and note that requirements (for parts) would likely evolve as any individual restoration project progresses. I consider that the potential for deliveries/collections to occur has been somewhat underplayed/underestimated by the appellant, especially when noting the site's acknowledged capacity to accommodate up to ten restorations and work for up to two full-time employees. I come to this finding even when acknowledging that classic car restorations would not ordinarily be expected to proceed at the same pace as general car repairs.

9. Using worst-case scenario flow forecasts, consistent with as indicated in the TS, the HA has suggested that in excess of 26 vehicle trips per day could be associated with the proposed use of the site. It has been stressed that, from the appellant's perspective, this would be the absolute worst-case scenario. However, having read and listened to all the related evidence put before me, I am unconvinced that total daily trips at or around 26 would be a particularly unusual or irregular occurrence. On this basis the proposed use of the site, when compared to its former use as a telephone exchange, would lead to a material increase in traffic movements to and from the site. This finding applies even when noting the potential to impose a planning condition restricting the site's future use to solely the restoration of classic cars.

10. My inspection took place at a time outside of when peak flows on the northbound A414 would have been anticipated. I nevertheless observed regular and fast-moving traffic travelling past the site's access. This is consistent with the status of the route and with the recorded flow/speed data attached to the HA's appeal statement. I did not witness frequently observable

long gaps between vehicles, and I am unconvinced that the nearest roundabout to the south has a particularly stark influence in terms of interrupting northbound traffic flows.

11. I have been made aware of various collisions that have occurred since 2015 relating to the particular stretch of the A414 in question. A number of these collisions, especially where they occurred at roundabouts, are of limited relevance here. However, it is apparent that collisions relating to turning manoeuvres have occurred[2] that would likely have been caused/influenced, at least to some degree, by (a) vehicle(s) travelling at speed. Notwithstanding the lack of any direct correlation to the appeal proposal and the specific site circumstances to hand, I do not accept the appellant's position that these collisions are of no relevance. They instead assist in highlighting the risks that can exist upon this high-speed route.

12. It is the appellant's intention to primarily use rigid transporters of up to 7m in length and it was explained at the hearing that this would be the most cost-effective option and that it is not anticipated that classic car owners would have access to their own transporter. I have no clear reason to doubt these assertions and, whilst the appellant would not have full control over the type and specification of all vehicles visiting the site, I am content that it would be unlikely for a vehicle of over 10m in length to visit the site.

13. However, although the proposed access would be physically capable of accommodating the movements of all vehicles realistically anticipated to visit the site, I must consider whether such vehicles would be able to diverge and merge safely using the proposed access design at the particular location on the highway network under consideration.

14. Various extracts from a junction design guidance document[3] (CD123), published by Highways England, appear in the written evidence before me and a full copy was submitted at the hearing at my request in the interests of providing full context. I have noted a suggestion that CD123 does not apply in this case due, in part, to the A414 not being recognised as an all-purpose trunk road. However, the document evidently provides advice with respect to major roads where traffic flows are at an equivalent or lower level when compared to the particular stretch of the A414 in question. I consider CD123 to be relevant to this case. The proposed access does not meet CD123's definition of a 'direct access' and thus, to my mind, falls to be defined as a 'priority junction'. Indeed, I am satisfied that a 'Give Way' arrangement would be in place even in the anticipated absence of formal signage to this effect.

15. CD123 offers specific guidance upon the geometric design of priority junctions. With respect to the provision of nearside diverge tapers on major roads where the speed limit exceeds 85 kph, minimum traffic flows on the minor road (the site's access track in this case) apply. Whilst CD123 sets out that diverging tapers can be provided on major roads when minor road flows fall below relevant thresholds, the proposed access would serve a single business and anticipated traffic flows would fall far beneath any relevant specified flow threshold[4]. I thus see no clear justification for a diverge taper to be provided.

[2] Dated 5 August 2015; 25 August 2015; 7 February 2016; 3 June 2017
[3] Design Manual for Roads and Bridges - CD123 Geometric design of at-grade priority and signal-controlled junctions
[4] Table 5.18a of CD123

16. Nevertheless, a relatively tightly dimensioned diverge corner radii of 10m is proposed and it is evident that any motorised vehicle entering the site would have to slow significantly (when compared to recorded/observed traffic speeds on the highway) in order to use the proposed access to diverge. At dual carriageway priority junctions where no diverge taper is to be provided, CD123 guides[5] that diverge corner radii should measure 20m.

17. The intended 5m width of the access would be 1m narrower than the width requested by the HA. Although the proposed access would widen towards its connection point with the highway, its design does not provide robust assurances that vehicles entering and exiting the site simultaneously would be able to pass each other clear of the nearside carriageway. This is a particularly relevant factor when noting that a proportion of the movements anticipated would be expected to be undertaken by sizeable commercial vehicles. There would thus be some potential for vehicles being forced to wait to enter the site.

18. The proposed diverge corner design, when considered in conjunction with the intended width of the access, would promote occurrences of excessively slow-moving traffic (or even of stationary vehicles for brief periods of time) on the northbound approach to the site's access. Whilst the proposed improved access would be more visible in the streetscene when compared to the existing access, it is still the case that northbound motorists would not necessarily expect vehicles to be slowing in order to turn into the site. When noting the high-speed location in question, and that I have found that the proposed use would lead to a material increase in traffic movements to and from the site, the proposal poses an unacceptable risk in highway safety terms.

19. With respect to the intended design of the access to its northern merge side, it is proposed that a taper be provided (albeit of limited 15m length) even though anticipated traffic flows via the access would appear to fall substantially short of the relevant movement threshold[6] set out to guide merge taper provision. Whilst a tightly designed 6m corner radius is proposed at the southern end of the taper, I am sufficiently content that vehicles exiting the site would be able to merge safely. This is particularly when noting the good levels of vehicular visibility that would be available. I also note here that fit-for-purpose turning facilities on-site could be secured via planning condition.

20. There is a bus stop situated not far from the site's access and to its southern side. At the hearing it was accepted by a representative of the appellant that, if a bus was to be waiting at the bus stop at the precise point in time when a vehicle emerges from the site, visibility for approaching and emerging vehicles would be impaired to some degree. However, owing to its somewhat remote location, the bus stop is likely to be used on a very infrequent basis. Even should the stop be occupied at the specific point in time when a vehicle exits the site, it is likely that only a short period of time would need to pass before full visibility would be restored. Furthermore, any instances of the bus stop being used for layovers, or due to breakdowns, would, realistically, be rare and it has not been clearly demonstrated otherwise. Any safety risks for future users of the proposed access brought about by the bus stop's existence would be minimal.

[5] Paragraph 5.6.5 of CD123
[6] Paragraph 5.24 of CD123

21. A 1996 appeal decision[7] at the site has been provided in the evidence before me and its relevance was discussed at the hearing. A significant time period has passed since that decision was made such that the development plan and national policy/guidance has evolved. There are also key differences that distinguish the 1996 scheme from the proposal that is now before me. It was previously intended that the building be converted into a single dwelling (rather than a commercial use) and, perhaps most importantly, it would appear that no improvements to the access were proposed previously. The 1996 decision is thus of limited relevance.

22. I accept that recent collisions have not been recorded at numerous narrowly designed existing access points situated nearby on the A414. Some of these access points serve commercial enterprises, including at Willows Cottage on the southbound track where I observed a narrow single point of access to exist alongside roadside signage to indicate the presence of various businesses. There is also a café located on the southbound track, but separate entry and exit points are in place such that direct comparisons with the appeal site/proposal cannot readily be drawn.

23. The Willows Cottage access clearly does not meet modern expected standards for a shared commercial access point. The absence of any recent recorded collisions at this access does not, to my mind, robustly demonstrate that it is safe, nor that it should be used as a benchmark for providing safe access to the A414. This finding similarly applies to other narrowly designed accesses that have been highlighted within the evidence before me.

24. All matters considered, whilst a severe impact upon the road network would not be anticipated, the proposal would have an unacceptable adverse effect upon highway safety and would thus cause harm. The proposal conflicts with the National Planning Policy Framework (February 2019) (the Framework) in so far as it guards against development having an unacceptable impact on highway safety.

Other Matters

25. The site is located within the Green Belt. Policy DM10 of the Local Plan sets out that, amongst a number of other Green Belt provisions, the use of land within the curtilage of a building shall not result in harm to the openness of the Green Belt and that engineering operations will be permitted where they would preserve openness. These provisions are consistent with the requirements of the Framework.

26. It is common ground between the main parties to this appeal that the proposal would preserve openness and would thus not represent inappropriate development in the Green Belt. Whilst it is the case that some new hard surfacing would be required to create access, turning and parking areas, such works would be limited in extent and would, for the most part, be discreetly sited towards the rear of the site. I am content that a planning condition could be imposed to appropriately control external storage and parking arrangements at the site. This would provide the necessary assurances that harm through loss of openness would be avoided and that compliance with Policy DM10 would be achieved.

[7] T/APP/W1525/A/96/262439/P8

27. The potential for a planning condition to be imposed that would limit the benefits of any planning permission to only the appellant has been raised and was discussed at the hearing. However, as set out in the Planning Practice Guidance, permission usually runs with the land and it is rarely appropriate to provide otherwise. I do not consider that any exceptional circumstances apply, and, in any event, I am unclear as to what assurances a restriction of this type would necessarily provide in this case.

28. I have noted concerns/objections raised by interested parties with respect to potential noise pollution. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to consider this matter any further here.

Planning Balance

29. The proposal involves the reuse of an existing building and the scheme would support the growth and expansion of the rural economy as well as provide a small number of additional jobs. When noting the fairly limited size of both the building and the proposed business, I afford these benefits of the scheme moderate weight. These benefits would not outweigh the significant harm I have identified in highway safety terms.

30. I have not been made aware of a development plan policy that relates specifically to matters of highway safety. However, the Framework is an important material consideration in this case. This is not least because it contains provisions directly related to highway matters. Given that the proposal would have an unacceptable impact upon highway safety, the Framework indicates that the proposal should be determined other than in accordance with the development plan in this case.

Conclusion

31. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Magnus Magnusson BA(Hons) MSc MRTPI	Senior Planner, Parker Planning Services
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FOR THE LOCAL PLANNING AUTHORITY

William Stanley MPLAN MRTPI	Planning Officer
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FOR THE HIGHWAY AUTHORITY

Hilary Gore BA(Hons) MCIT MIHT	Strategic Development Manager
Richard Mackrodt HND Civil Engineering	Strategic Development Officer

DOCUMENT RECEIVED AT THE HEARING

Design Manual for Roads and Bridges - CD123 Geometric design of at-grade priority and signal-controlled junctions Version 0 (August 2019)