



Appeal Decision

Site visit made on 12 April 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th April 2021

Appeal Ref: APP/A5270/W/20/3264196
109-111 Uxbridge Road, Ealing W5 5TL

- 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 Chart Forte Court (UK) Ltd against the decision of the Council of the London Borough of Ealing.
 - The application Ref 202398FUL, dated 23 June 2020, was refused by notice dated 21 August 2020.
 - The development proposed is the creation of a taxi drop off lay-by to frontage.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a taxi drop off lay-by to frontage at 109-111 Uxbridge Road, Ealing, W5 5TL, in accordance with the terms of the application Ref 202398FUL, dated 23 June 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Since planning permission was refused the London Plan 2021 (LP) been published. This post-dates the date of the Council's refusal notice and now forms part of the development plan for the area. It replaces the London Plan 2016 as referred to in the Council's refusal notice. The main parties were afforded an opportunity to comment on the LP in respect of the determination of this appeal.
3. As part of my site visit, I was able to see that the adjacent Hampton by Hilton hotel had been built including the planting of trees and the inclusion of hard landscaping and cycle stands to the front forecourt.

Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the area and (ii) highway safety.

Reasons

Character and appearance

5. The appeal site falls within Ealing Town Centre and until very recently included a multi-storey office building with frontage car parking accessed off Uxbridge Road. The office development has now been demolished following the approval of planning permission for the erection of a multi-storey hotel building¹.

¹ Planning permission Ref Nos PP/2013/5688 and PP/2015/1031

6. The hotel is now built and the evidence before me indicates that the planning permission permitted the land fronting Uxbridge Road to include seating, bicycle storage, decorative hard paving and the provision of a number of trees. The proposal would represent a change to the frontage of the proposed hotel in so far that part of this land would be used as a taxi drop off lay-by utilising the accesses / dropped kerbs associated with the previous use of the site for office purposes. The proposal would also result in the loss of some trees which have been approved as part of the permitted hotel development.
7. I acknowledge that the proposal would seek to introduce vehicle movements in front of the hotel. However, it is proposed that the lay-by would be used by only taxis on an intermittent basis. Consequently, there would not be any permanent parking to the front of the hotel. In this respect, the proposal would not lead to a dominating presence of vehicles to the front of the hotel in stark contrast to the situation that existed on the site when in use as offices. While the lay-by would in relative terms reduce the amount of pedestrian hard paving to the front of the approved hotel, this would not be by a significant amount. There would still be a lot of space to the front of the hotel for use by pedestrians and this would include benches, cycle storage areas and decorative block paving.
8. The lay-by would be separately delineated from the pedestrian area by means of tactile paving and a transition kerb and the public footpath would be re-paved with tactile paving either side of the crossovers. Contrary to the views expressed by the Council, I consider that the lay-by would add interest to the frontage of the hotel in so far that it would break up what would otherwise be a significant expanse of hard landscaped pedestrian area.
9. In reaching the above view, I am also cognisant of the fact that whilst there would be some slight change to the existing crossovers, the proposal would not actually include an increase in the number of crossovers in relative terms. Overall, the proposal would result in a much improved hard/soft landscaped frontage along Uxbridge Road when compared to the previous use of the site. I do not consider that it would be reasonable to disregard the historic use and appearance of the site when assessing the appeal proposal.
10. I accept that the development would result in the loss of trees as part of the approved hotel development, but in this part of Uxbridge Road there are fewer trees than to the east. In this context, I do not consider that it would be reasonable to justify refusing planning permission solely on this ground. The Council has referred to 'boulevard aspirations' for this part of Uxbridge Road. I am not certain of the planning status of these aspirations, but nonetheless the proposal would include two trees ('Liquidambar styraciflua') and the approval of planning permission would not prohibit the Council's ability to require the planting of other trees in the street in association with other development proposals.
11. I note the Council's comment that it would be possible for the drivers of taxis to pick up and drop off in the approved car park at the rear of the hotel. However, I have no reason to doubt that there are operational reasons for wanting a taxi lay-by to the front of the hotel and, in any event, it has been necessary for me to determine this appeal on its individual planning merits. Furthermore, I have not been referred to any development plan policies which

indicate that I should consider need as part of the planning assessment process.

12. I conclude that the proposal would be of an acceptable design and that it would not cause harm to the character and appearance of the area. Consequently, and subject to the inclusion of planning conditions, the development would accord with the design, character and appearance requirements of policies 7.4 and 7B of the Ealing Development Management DPD 2013; Ealing's Transport Strategy 2019 and Chapter 12 of the National Planning Policy Framework (the Framework).

Highway safety

13. I have no reason to doubt the appellant's taxi movement figures per day into and out of the site when compared to the former use of the site for office purposes. This demonstrates that the proposal would result in a marked net reduction in the number of vehicular movements over the crossovers. The lay-by would operate on the basis of a one way system and there would be no right turn into or out of the site. Subject to no right turns, a one way system and the implementation of the signage scheme, I do not consider that the proposal would cause any significant disruption to the free flow of traffic on Uxbridge Road, or that it would lead to unacceptable conflicts between vehicles.
14. I accept that there is a cycle route along Uxbridge Road. Subject to the one way system, and taking into account the fact that vehicular sightlines would be acceptable for taxi drivers, I am satisfied that the development would not lead to any material conflicts between vehicles, pedestrians and cyclists.
15. I have been referred to historic accident data in Uxbridge Road. However, the evidence does not indicate that any of the accidents were associated with use of the crossovers associated with the appeal site and, furthermore, the majority of the recorded accidents were not serious and were related to the junctions with Uxbridge Road. In this context, coupled with the fact that the proposal would result in a net reduction in traffic movements into and out of the crossovers, I do not consider that there is any credible evidence before me to support the Council's claim that the proposal would lead to any unacceptable impacts on highway safety including the safe operation of the nearby junctions of St Leonard's Road and Culmington Road.
16. The safe use and operation of the lay-by could be secured by planning condition. On this basis, I conclude that the proposal would not cause unacceptable harm to highway or pedestrian safety. It would therefore accord with the highway, pedestrian and cyclist safety and permeability requirements of policy T2 of the LP and paragraph 109 of the Framework.

Other Matters

17. In response to my request to provide suggested conditions, the Council also commented that if it were minded to grant consent, this would have been subject to the completion of a Section 106 agreement requiring the applicant to pay a £15,000 financial contribution towards mitigating the impacts of the proposal on the local transport network including the introduction of waiting and loading restrictions and a review of the road markings (hatch and arrow marking) on Uxbridge Road in front of the application site.

18. I have found that the proposal would not result in any unacceptable highway safety impacts and to that extent there is not a requirement for a commuted sum payment to address highway safety matters or any other harm. I would add that my site observations also revealed that there were existing roadside waiting and loading restrictions outside the appeal site. Furthermore, the appellant's proposed one way entry and exit system would not permit the crossing of the ghost central reserve markings.
19. Based on the evidence that is before me, I do not therefore consider that the Council's requested £15,000 meets the tests for planning obligations as outlined in paragraph 56 of the Framework. In other words, there is no evidence that in itself the proposal would necessitate a change to the existing waiting and loading restrictions or necessitate a review of existing road markings.

Conditions

20. The majority of the conditions listed in the attached schedule have been suggested by the Council. In the interests of precision and clarity, I have made slight alterations to these conditions so that they accord with advice in the Planning Practice Guidance.
21. Planning permission is granted subject to the standard three year time limit condition. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
22. In the interests of highway safety, and the character and appearance of the area, it is necessary to impose a condition requiring the approval of details of the external surfaces of the development and a scheme of signage relating to the one way in and one way out arrangement for the lay-by.
23. In the interests of the character and appearance of the area, a landscaping condition is necessary. While the proposed trees are already in situ in connection with the approved hotel, a condition is necessary in respect of their replacement should they die, be removed/damaged or become diseased.

Conclusion

24. For the reasons outlined above, I conclude that the proposal accords with the development plan for the area. Therefore, the appeal should be allowed.

D Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: A-000-001 Rev P1 (Site Location Plan); A-000-002 Rev P1 (existing Site Plan); A-200-004 Rev P1 (Site Plan Entrance) and A-200-005 Rev P1 (Ground Floor Plan Entrance) and P2303/AS/05 dated October 2020 (Site Context with Additional Road Signs (No Right Turns)).
3. Notwithstanding any information submitted with this application, details of the materials to be used for the external surfaces and details of signage restricting the access of the hereby approved taxi drop off lay-by to a one way in, one way out arrangement, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved. The details shall be fully implemented as approved and thereafter retained.
4. Notwithstanding any information submitted with this application, raised tables shall be installed at the entry and exit points of the hereby approved taxi drop Off lay-by. Details of these raised tables shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved. The details shall be fully implemented as approved and thereafter retained.
5. Any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

---End of Conditions---