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## Appeal Decision

Site visit made on 17 February 2021

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 May 2021**

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**Appeal Ref: APP/B2002/W/20/3263129**

**36 Bargate, Grimsby DN34 4SW**

- 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 Langdale Capital against the decision of North East Lincolnshire Council.
  - The application Ref DM/0130/20/FUL, dated 14 January 2020, was refused by notice dated 23 July 2020.
  - The development proposed is change of use from social club (Sui Generis) to shop (A1), demolish existing outbuildings, erect single storey rear/side extension to create new entrance to side elevation, associated works to form additional accesses, car parking, landscaping and servicing facilities and various other alterations.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.

### Main Issue

3. The main issue is the effect of the proposal on highway safety.

### Reasons

4. The appeal site is a former social club which consists of a substantial building set in its own grounds. It is proposed to convert the building to a retail use, with an area for parking, manoeuvring and deliveries created within the grounds. Outbuildings to the rear would be demolished and a single storey extension erected. The site is located in a predominantly residential area, although there are commercial and community uses nearby including a veterinary surgery on the opposite side of Augusta Street. The Council also refers to facilities in the wider area, including St James School and the Grimsby Institute.
5. At the time of my visit, Bargate was well-trafficked, commensurate with its classification as an A road which is one of the main routes into the town centre.

- Traffic speeds were not excessive, as reflected by the 85th percentile speed of approximately 30mph as submitted by the appellants.
6. The proposed retail use would serve the local area as well as passing traffic. It is common ground between the main parties that the proposal would not be likely to generate significant additional traffic.
  7. A new vehicular and pedestrian access would be created from Bargate, which would be entrance-only for vehicles. An exit-only point would be created onto Augusta Street. A new service only exit point would be created onto Augusta Street to the rear of the main building. This would in effect create a one-way vehicular circulation route through the site, with vehicles entering the site from Bargate, and exiting onto Augusta Street.
  8. The site is located in close proximity to 3 existing junctions with Bargate. Namely the junctions with Brighowgate, Abbey Road and Augusta Street. Brighowgate also leads to Grimsby Town Centre and I saw that there were frequent vehicle movements through this junction. The Council also submits that Abbey Road is also used as a secondary access to the town centre and this reflects the number of traffic movements I observed passing through this junction. Augusta Street is of a predominantly residential character, with a more limited flow of traffic. The evidence indicates that vehicles turning right off Bargate through these junctions currently restrict the free-flow of traffic.
  9. To the north of the junctions is a signalised pedestrian crossing. There were a number of pedestrians passing through this area with many using the pedestrian crossing at the time of my visit, and I am mindful that there is a school located further to the north and an associated playing field to the south. I also saw that Bargate and Brighowgate were used by a number of cyclists. Bargate is a bus route, and there are bus stops located to the south of the appeal site. The highways context of the appeal site is therefore of a number of roads and junctions located in close proximity to each other, as well as other sensitive highway features.
  10. There is a history of collisions in this area, with various figures being referred to in respect of different periods, including the 5-year period up to 2019 where 4 collisions occurred in the vicinity of the site, including 2 classed as serious. The appellants submit that this level of accidents is not unusual or significant and does not indicate high or severe safety risks. The appellants place particular emphasis on the annual average accident rate and contend that this is not unusual for an A Road such as Bargate. Nevertheless, I am mindful of the number of serious collisions. Reference has also been made to a risk matrix which indicates that it is likely that a slight or serious collision may occur in the future in this location. While this may represent a green-amber rating in terms of the matrix, I consider the likelihood of a serious collision occurring is an important factor when considering the potential effects of the appeal proposal.
  11. Over the course of the application, the appellants have considered a number of options for access to the site in response to concerns expressed by the Council. A Road Safety Assessment<sup>1</sup> (RS Assessment) recommended that the scheme progress on the basis of right turn provision provided on Bargate serving both the proposed development and Abbey Road. This is the appellants' preferred option.

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<sup>1</sup> RSA Response and enclosures, Curtins, 29 April 2020.

12. The proposed right turn lanes are only of sufficient length to contain a single vehicle each. The appellants have referred to average queues and right turn delays at peak times, and consider that this would generate negligible levels of queuing. However, the number and timing of vehicles accessing Bargate at peak times would not be evenly spaced. It would not be uncommon for more than one vehicle to turn right to enter the site at any one time, which would result in vehicles waiting to enter the right turn lane. This would lead to queuing vehicles on Bargate affecting the flow of traffic, and increase the likelihood of shunt collisions.
13. The Council also refer to the risk of head-on collisions due to the limited length of the proposed right turn lanes, and conflict between vehicles turning right into the appeal site and onto Brighowgate and Abbey Road. The Council also refers to avoidance action being taken at the last moment, with resultant harm to the safety of other highways users. The reduction in lane widths resulting from the provision of the right turn lanes would also leave little margin for error. Due to the complex arrangement of the junctions that would result from the proposal as well as the nature of traffic in this area, I share the Council's concerns.
14. With regards to deliveries, the appellants have provided a swept path analysis which shows that a HGV could be accommodated in the right turn lane without holding up passing traffic. However, due to the constraints of the right turn lane, HGV's would need to be carefully manoeuvred to be fully contained within the right turn provision. Given the well-trafficked nature of Bargate and the number of conflicting traffic movements in this area of junctions, I do not consider that such manoeuvres are realistic. HGV's turning right into the site would therefore be likely to overhang the right turn lane and conflict with passing traffic. I acknowledge that the timing of deliveries will vary, that they will be limited in number, and that deliveries may approach from different directions. However, the consideration of HGV movements into the site adds to my concerns in respect of the new access from Bargate.
15. The Council indicates that Bargate forms a key route into the town centre for cyclists. The appeal proposal would also generate a degree of cycle traffic, although not all of this would be on Bargate. The provision of the right turn lane would narrow the lanes on either side on Bargate, resulting in cyclists being 'squeezed' to the kerb by passing vehicles (including buses and HGV's) or being placed under undue pressure by impatient drivers. The provision of further right turn movements in an already complex environment could also lead to conflict between vehicles and cyclists. Even allowing for the distance of the lane width reduction, I consider that these matters would lead to significant harm to the safety of cyclists passing along Bargate, as well as discouraging cycling.
16. The appellants submit that the resulting carriageway widths would accord with the guidance of LTN 1/20<sup>2</sup> (the LTN). However, the quoted guidance<sup>3</sup> is taken from a chapter of the LTN relating to "Quiet mixed traffic streets and lanes" which does not reflect the circumstances of Bargate. The appellants' evidence in respect of the LTN does not therefore lead me to a different conclusion in respect of the effect of the proposal on cyclists.

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<sup>2</sup> Cycle Infrastructure Design, Local Transport Note 1/20, Department for Transport, July 2020.

<sup>3</sup> Included in Transport Technical Note, Curtins, 06 November 2020

17. The Council also contends that footpaths in the vicinity of the site along Bargate are of a substandard width for urban roads, and this reflects my own observations where extents of the footpaths adjacent to this busy road appeared to be relatively narrow. The narrowing of the lanes on either side of the right turn lanes would bring vehicles and cyclists on this busy road closer to pedestrians on a constrained footway. Mindful of the existing pedestrian movements through this area and the pedestrian movements generated by the proposal, this adds to my concerns on the harm arising from the scheme.
18. I have considered the other options for the proposed access from Bargate. The appellants consider that the existing layout with no changes to road markings along Bargate would be suitable in road safety terms. However, the appellants' RS Assessment identifies a risk of side swipe collisions as well as potential kerb strikes and conflict with traffic waiting to turn out of the Abbey Road junction. The Council also refers to a right-turning rigid HGV which could lead to traffic backing up behind it, or straddling the centre-line bringing it into conflict with on-coming traffic. The alignment taken by vehicles turning from Bargate may also conflict with passing traffic, and I am mindful of the evidence regarding right turning vehicles off Bargate currently restricting the free-flow of traffic. For these reasons, and due to the complex nature of traffic movements in this area, I do not consider that providing a new vehicular access based on the existing layout of Bargate would be acceptable.
19. A further option was the provision of a longer right turn lane into the appeal site, with traffic turning right into Abbey Road waiting in an area of hatch markings. However, the RS Assessment indicates that drivers may be reluctant to use this arrangement, thereby increasing the risk of collisions. The concerns expressed previously in relation to the effect of a right turn lane on the lane widths for passing traffic would also apply to this option. For these reasons, as well as the complex highway character of this area, I do not consider that this option would be acceptable with regards to highway safety.
20. The right-turn provision and associated narrowing of the vehicle lanes would be likely to reduce vehicle speeds in the area. However, even if that was the case, I do not consider that it follows that this would lead to a reduction in the frequency or severity of collisions. The proposal including ghost right-turn lanes would introduce a change in the nature of traffic movements associated with vehicles turning right from Bargate into the site, as well as a narrowing of the carriageway on either side. For the reasons stated previously, I consider that this would lead to an increase in the likelihood of collisions even with reduced traffic speeds.
21. The customer vehicular exit onto Augusta Street would replace the existing two-way access which served the social club. The new exit would be set further away from the junction with Bargate than the existing access. It is also proposed to reduce the height of boundary walls to improve visibility at this exit as well as implement a Traffic Regulation Order to restrict parking on Augusta Street. These would represent improvements compared to the current access layout. However, due to the proximity of the exit to the junction with Bargate, vehicles leaving the appeal site may conflict with queuing vehicles at the junction, thereby straddling the carriageway. Drivers turning right from Bargate would have little time to react to this situation or to vehicles emerging from the site, particularly right turning vehicles from Bargate which may have accelerated into the junction in response to a gap in passing traffic. The Council

- also refer to reduced views from Augusta Street northwards up Bargate which would further add to the complexity for drivers, and this reflects my observations on my site visit. Therefore, given the nature of traffic movements at peak times and the location of the exit point, I consider that this would increase the likelihood of vehicle collisions.
22. Reference has been made to traffic movements associated with the use of the social club. However, I consider that the nature of traffic generated by the club would be materially different from the appeal proposal, particularly at network peak times when the number of movements associated with a social club would be lower.
23. The appellants have provided extensive and detailed evidence which they consider addresses the highways issues raised by the scheme. This includes a Road Safety Audit (RS Audit)<sup>4</sup> which the appellants' highways consultant considers contains nothing to suggest that all 4 right turns cannot exist safely. However, as set out in the RS Audit, its sole purpose was to identify features of the scheme that could be removed or modified to improve safety. Although the RS Audit does refer to matters relating to the road safety implications of the scheme and consideration of collision data, my overall assessment is that it does not represent as robust a consideration of the relationship between the proposal and existing junctions as is contended by the appellants. Reference is made to a low rate of annual collisions in the vicinity of the appeal site and that highway safety risks described by the Council currently exist. While that may be so, that is not a justification for increasing potential conflicts between vehicles as well as other highways users in the vicinity of the appeal site.
24. In comparison to the detailed evidence provided by the appellants, the Council's concerns are expressed in more general terms. However, when considered objectively and in context, it is my judgement that the Council's concerns are well-founded.
25. In its reason for refusal, the Council refers to a 'severe' adverse impact on highway safety. However, paragraph 109 of the National Planning Policy Framework (the Framework) refers to considerations of whether the residual cumulative impacts on the road network would be severe. Although the proposal may lead to traffic backing up at peak times, based on the evidence in respect of extra trips generated by the proposal and the capacity of the network including junctions, I do not consider that the impact on the highway network would be severe. However, the Framework also refers to an unacceptable impact on highway safety. Based on what I have seen and read, it has not been demonstrated that the proposal would not have an unacceptable impact on highway safety.
26. For the reasons given above, I conclude that the proposal would have an unacceptable impact on highway safety. The proposal would therefore conflict with Policies 5 and 36 of the North East Lincolnshire Local Plan 2018 with regards to the provision of suitable access and promoting sustainable transport. The proposal would also conflict with the Framework with regards to providing safe and suitable access which would not have an unacceptable impact on highway safety.

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<sup>4</sup> Stage 1 Road Safety Audit Report, RKS Associates, June 2020 & RSA Response 2, Curtins, 24 June 2020.

### **Other Matters**

27. I am mindful of the benefits of the proposal. It would result in the restoration and refurbishment of a locally listed building in a prominent location in the Wellow Conservation Area (CA). The proposal would therefore enhance the character and appearance of the CA. The development would also provide convenient retail facilities for the local community, as has been reflected in comments raised in support of the proposal. The scheme would also generate new employment. However, these benefits would not outweigh the unacceptable harm that I have identified regarding highway safety.
28. The appellants refer to an arrangement made with the land owner and leaseholder to redevelop the site. Due to the terms of this agreement, it is submitted that a convenience store of the type proposed is the only viable option. However, no substantive evidence has been provided in support of this. In any event, this would not outweigh the identified harm to highway safety.

### **Conclusion**

29. For the reasons given above, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR