



Appeal Decision

Site visit made on 22 June 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2023

Appeal Ref: APP/K0235/W/22/3309382

103 High Street, Bedford MK40 1NE

- 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 Clapham Cars Limited against the decision of Bedford Borough Council.
 - The application Ref 22/00336/COU, dated 14 February 2022, was refused by notice dated 20 September 2022.
 - The development proposed is change of use of vacant former estate agents offices (Use Class E) to a taxi booking office (Sui Generis).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original application sought a permanent planning permission. During the determination of the application, the appellant suggested a 2-year temporary permission would be acceptable if this would overcome objections to the scheme. The appellant confirms they would not object to the Council's suggested 2-year time limited condition. Having regard to paragraph 21a-014-20140306 in the Planning Practice Guidance, I could grant a temporary planning permission, were I minded. Therefore, I have considered the proposal on the basis it is for either a permanent or a temporary permission.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - the safe and efficient operation of the highway; and,
 - the vitality and viability of the town centre.

Reasons

Highway effects

4. The appeal site is a ground floor unit on Bedford High Street (the HS). In common with other premises on the HS, there is no parking on the appeal site. The Highway Authority (HA) advises that based upon the Parking Standards for Sustainable Communities Supplementary Planning Document (2014) (the PSSPD) 1 parking space per 5 square metres of public area would be

- appropriate. The Council's concerns relate to the absence of on-site designated parking or suitable on-site waiting locations for drivers the site would employ.
5. The site is on a busy single lane one-way part of the HS. It is a 'red route clearway' where no cars can stop, but there is an exemption for hackney carriage or private hire vehicles for passenger boarding or alighting. The HS is a focus for traffic through this part of the town as other roads converge onto it and it provides a through route south across the river. While my visit can only represent a snapshot in time, I saw frequent high traffic flows with variable speeds, stopping and frequent queues. There is nothing before me to suggest this is untypical during much of the day.
 6. Along the HS are some parking lay-bys north of the appeal site with a 15-minute parking limitation and some to the south only for delivery vehicles between 09:00hrs – 21:00hrs. Over duration of my visit the lay-bys were mostly full and when not, bays were quickly occupied. When vehicles were entering or leaving, traffic slowed or stopped for a short period.
 7. The appellant intends the appeal site would not be a driver waiting or customer picking-up location. Between 09:00 – 21:00hrs it is intended pick-ups would be made from a layby on Lurke Street. Between 21:00 – 04:30hrs pick-ups would be from permitted laybys on the HS. The Council is concerned this would not be enforceable. Such a planning condition cannot control the use of the public highway by vehicles outside the appeal site. Therefore, the use as intended, could not be secured by the planning conditions offered to me.
 8. The use would be a clear visible presence, with those looking to book a car being likely to be drawn to it. While the appellant might seek to direct customers to a suitable location, the appellant could not control the actions of prospective customers. Even if drivers would not breach highway regulations, there is nothing to prevent customers who do not wish to walk to suggested pick-up locations on a neighbouring street, waiting or congregating in the vicinity of the appeal site, and/or seeking a taxi of their own volition, causing cars to stop in the area. It would appear to be an inevitable consequence that there will be some increased traffic, incidences of dropping-off and picking up on the HS in the vicinity of the appeal site.
 9. If cars waited or dropped-off in the 15-minute lay-bys this could well lead to congestion from other vehicles giving way and increased manoeuvres on a busy section of the highway inhibiting the free-flow of traffic. Were spaces not free, a vehicle might well need to park on part of the footway to meet customer needs, resulting a temporary barrier for the safe passage of footway users and manoeuvres inhibiting the free flow of traffic. Such activities could occur currently including by the drivers of other operators. However, the presence of a vehicle transport-based use at the appeal site is likely to markedly increase its occurrence in a busy and constrained section of the HS.
 10. The Lurke Street layby is in a well-trafficked location close to a roundabout, supermarket, and multi-storey car park entrances with long sections of double yellow lines. During my visit traffic was frequent and the lay-by was full or had only a single space free. There is no substantive evidence that what I saw was untypical. Even were vehicles and customers to be encouraged to this location, it is by no means certain vehicles could park in the layby or safely nearby. Therefore, the intended arrangement would lead to significant potential to inhibit the free flow of traffic and increase highway conflicts on Lurke Street.

Vehicles may have to resort to parking elsewhere, so the appellant's intention for cars to be available a short walk away might not be safely possible on multiple occasions during a given day.

11. Given the absence of dedicated on-site parking, the HA expresses various concerns having considered the operation of the highway in the vicinity of the appeal site, which I share for the reasons set out. There is no substantive technical evidence presented that would lead me to believe these are not well-founded.
12. There is space at the company's premises south of the town centre for drivers to wait. The use of off-site premises is not secured by planning conditions, and even were drivers to use such space or park-up in the wider area, it is not demonstrated this could adequately mitigate the potential for harmful effects in the vicinity of the appeal site. From my observations, the appellant's premises on Harpur Street is subject to less through traffic, more road space and in the vicinity of some on-street parking. Therefore, its circumstances are different to the appeal site, and its presence does not justify allowing this appeal.
13. There could be some reduction in traffic into the town centre because of being able to use the appellant's cars. However, this is not demonstrated by substantive technical evidence. Even if there were some reductions, I see no reason to believe there would be anything other than a very minor reduction, and this would not outweigh the specific harms identified above. Such is the harm, a temporary planning consent would not adequately mitigate it.
14. For the reasons set out above, the proposed development would be harmful to the safe and efficient operation of the highway. It would conflict with criteria (i) and (iii) and Policy 31 of the Bedford Borough Local Plan (2020) (the BBLP), which expects development should not have any significant adverse impact on access to the public highway, with particular attention paid to highway capacity, parking provision, safety and the suitability of access arrangements for all members of the community. It would also conflict with the expectations of the PSSPD, the relevant provisions of which I have set out above.

Vitality and viability

15. The appeal site is within the designated Town Centre and Primary Shopping Area (PSA). There is an acknowledgement in the Bedford Town Centre Plan (2020-2023) (the BTCP) the town centre needs to diversify from retail uses. Policy 77S of the BBLP allocates Bedford town centre as the strategic centre to focus main town centre uses, where development should contribute positively to the vitality and viability of the centre.
16. Policy 28S of the BBLP expects that development will contribute towards good place-making and have a positive relationship with the surrounding area. Policy 16 of the BBLP states that in considering planning applications in Bedford High Street, weight will be given to (amongst other things) high quality shop fronts, retaining active frontages at ground floor level which maintain the vitality of the street scene, and a reduction in vehicular traffic.
17. The proposed use is not one specifically named as a main town centre use in Policy 77S, however, it does not seek to exclude these. The unit is surrounded by retail, food and drink, leisure and service uses. At my visit the HS had a high ground floor occupancy rate. However, I noted several unoccupied units

in the wider PSA. This does not suggest there is a shortage of such premises available. The loss of this single modest unit would not materially harm the objective focussing town centre uses towards the PSA.

18. In practice, it is likely the use would generate less footfall than a typical Class E use. Those visiting the appeal site would be there for a short duration with the purpose of leaving the town centre, rather than visiting the appeal site with interaction and onward further trips to other units. However, it would facilitate movements into and out of the town centre, including later in the evening when there are likely to be less bus services. Therefore, it would provide some limited support to the existing uses, and the functioning of the town centre uses the Council aspires to encourage.
19. It would utilise a unit that I am informed has been vacant for over 3 years making little active contribution to the centre. On-balance, it is likely to make an overall limited positive contribution to vitality and viability. Were a suitably worded planning condition imposed, I see no reason why it could not create a high-quality active frontage providing information and interest about services offered to be viewed by passers-by. On this basis it could be designed make a positive contribution to street scene, place-making, and the surrounding area.
20. Therefore, for the reasons set out above, the proposed development would not be harmful to the vitality and viability of Bedford town centre. It would not conflict with Policies 16 and 77S of the BBLP, the relevant provisions of which I have set out above.
21. Reason for refusal No 2 refers to a conflict with the BTCP. However, this is a plan of high-level objectives and projects for the town centre rather than a specific set of policies. In the absence of a specific reference and in-light of my findings above, I do not find a direct conflict with the BTCP in relation to this main issue. Reason for refusal No 2 also refers to the Transporting Bedford programme and the Bedford High Street Heritage Action Zone (2020) about which I am provided with some broad information. While I note their objectives in respect of making the town centre a more attractive place to be, in-light of my findings above and below in respect of heritage matters, I do not find an overall conflict with these, in respect of this main issue.
22. The Council has referred to Policy 15 of the BBLP in reason for refusal No 2. However, both parties agree that the appeal site is not within a primary or secondary shopping frontage, so it is not relevant to the appeal proposal. Therefore, I have not concluded against Policy 15.

Other Matters

23. The appeal site is located within the Bedford Conservation Area (the BCA). Under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the BCA. The BCA comprises a broad mix of high quality historic and period buildings interspersed with some more modern examples and green spaces centred around the River Great Ouse and the historic commercial/town centre.
24. In the vicinity of the appeal site its character and appearance primarily derive from the mix of well-preserved and restored historic and period buildings. These incorporate a range of materials, architectural features and frontages

retaining a bustling traditional high street character along a historic thoroughfare. The contribution of the appeal site to this is as a ground floor unit with a sympathetically restored shopfront with a vertical emphasis within a stone surround. It is in keeping with and makes a positive contribution to the character and appearance of the BCA.

25. The proposed development does not propose to change the configuration of the shopfront door and glazing. Subject to the imposition of a suitably worded planning condition the proposed development could ensure high-quality active frontage within the façade. On this basis the proposed development would be in keeping with the character and appearance of the BCA. Therefore, it would preserve the character and appearance of the BCA.

Planning Balance

26. The proposed development would result in a small economic benefit during the fitting out of the appeal and would result in a modest on-going benefit to the local economy and the vitality and viability of Bedford Town Centre, supported by paragraph 81 of the National Planning Policy Framework (2021) (the Framework). While it is not demonstrated with substantive evidence there is a shortage of such transport, there would be some social benefits through making it more convenient for town centre users wishing to find a safe way to their future destinations. There might be some limited benefits in reducing overall anti-social behaviour and a minor reduction in vehicles in the town centre. Overall, the benefits of the development attract limited weight in favour of the scheme.
27. Compliance with policies in respect of the BCA are a neutral matter in the planning balance. Were I to agree the proposed development is or could be made compliant with policies in respect of matters such as the living conditions of neighbouring occupiers, these would also be neutral matters. However, the proposed development would be harmful to the safe and efficient operation of the highway. This attracts significant weight against the scheme. Therefore, the harm from the proposed development would significantly outweigh the policy compliance and benefits of the development.

Conclusion

28. The proposed development conflicts with the development plan read as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR