



Appeal Decision

Site visit made on 26 September 2023

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

Appeal Ref: APP/C1570/W/23/3315940

Land adjacent Taylor's Service Centre, 1-3 Chelmsford Road Industrial Estate, Great Dunmow, Essex CM6 1XG

- 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 Taylor's Service Centre against the decision of Uttlesford District Council.
- The application Ref UTT/22/2909/FUL, dated 21 October 2022, was refused by notice dated 21 December 2022.
- The development proposed is the change of use of highway land to showroom forecourt.

Decision

1. The appeal is allowed and planning permission is granted for change of use of highway land to showroom forecourt at Land adjacent Taylor's Service Centre, 1-3 Chelmsford Road Industrial Estate, Great Dunmow, Essex CM6 1XG in accordance with the terms of the application, Ref UTT/22/2909/FUL, dated 21 October 2022, and the plans submitted with it.

Applications for costs

2. An application for an award of costs was made by the appellant against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The site address differs between the application forms, the decision notice and other correspondence. I have used the address above as this describes the land in question with least ambiguity.

Main Issue

4. The main issue is whether the development encroaches onto the highway so as to cause an obstruction.

Reasons

5. The existing site comprises a small sliver of land which is set between large glazing panels to a car showroom and the public footway. It is laid to resin bonded gravel at a slight incline up towards the showroom.
6. The sliver of land, in its current format, came into existence following the implementation of a planning permission for an extension to the car showroom which was granted on appeal¹. Prior to this, it is noted in the evidence as being occupied by a hedgerow.

¹ refs. UTT/16/0228/FUL and APP/C1570/W/16/3148076

7. The piece of land forms part of the adopted highway, however it was not formerly used by pedestrians or vehicles. It was planted out with a hedge, the existence of which would have prevented persons from passing and repassing over the land. The new surface treatment is not compatible with its use by pedestrians, due to its incline and the installation of guardrails to protect the showroom glass. However, this is no less of an obstacle than when the area was planted out with a hedge.
8. Accordingly, there is no encroachment or obstruction to the public highway in a manner which is greater than that which would have been caused by a hedge. The adjacent footway provides the primary means for pedestrians to pass and repass in front of the appeal premises and this is completely unaffected by the development.
9. For these reasons I conclude that the development would not encroach on the public highway or create an obstruction. The development complies with policy GEN1 of the Uttlesford Local Plan 2005 (ULP) insofar as it does not compromise road safety as is required by this policy. It follows that there is no conflict with the provision of paragraph 111 of the National Planning Policy Framework that permission should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
10. Policy GEN8 of the ULP was cited by the Council in its reason for refusal. This policy is not of relevance however as it relates to vehicle parking. It is apparent from the dimensions of the site that such parking provision could not be accommodated, nor was it ever in prospect.

Other Matters

11. The appellant has been clear in their intent for seeking this change of use. This was to regularise the function of this piece of land following the implementation of the new car showroom area. This is shown in the original covering letter to the planning application that explained the development as being necessary to support an application to the Department for Transport for a Stopping Up Order. It is this mechanism that would formally change the piece of land from its present inclusion as part of the highway. This is a separate process which has no bearing on my determination of this appeal.
12. I note the Highway Authority's concerns over potential slip hazards for pedestrians, due to surface water runoff in wet and icy weather. Whilst the incline on the land directs rainwater back towards the footway, it is unlikely to give rise to a significant volume of runoff, given its modest surface area. Furthermore, there is no substantive evidence to demonstrate that a private drainage system, which has allegedly constructed under the highway, has led to unacceptable public safety risk.

Conditions

13. The development in hand has been undertaken and no further works are proposed. No conditions are necessary.

Conclusion

14. For the reasons given above I conclude that the proposal would not encroach onto the highway, nor would it cause an obstruction. The development

complies with the provisions of policy GEN1 of the ULP and the appeal should be allowed.

Nick Bowden

INSPECTOR