



Appeal Decision

Site visit made on 19 August 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 September 2025.

Appeal Ref: APP/U3935/W/25/3366187

Unit 6, Bush House, Marlborough Road, Chiseldon, Swindon SN4 0HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Richard Walker against the decision of Swindon Borough Council.
 - The application Ref is S/24/1412/JP.
 - The development proposed is 'Addition of steel frame building to house MOT testing facilities'.
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Decision

1. The appeal is allowed and planning permission is granted for 'addition of steel frame building to house MOT testing facilities' at Unit 6, Bush House, Marlborough Road, Chiseldon, Swindon SN4 0HS, in accordance with the terms of the application, Ref S/24/1412/JP and subject to the conditions in the attached schedule.

Preliminary Matters

2. An amended proposed elevations and site plan¹ was submitted with the appeal. The changes relate to the inclusion of formal parking arrangements following the refusal of planning permission. I have been asked to consider this plan to address those concerns.
3. The Planning Appeals: Procedural Guide (PG) sets out that the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Local Planning Authority (the LPA) and by interested parties at the application stage. The PG goes on to state that in deciding whether to, exceptionally, accept the proposed amendment, as per the judgement in Holborn², which refined the 'Wheatcroft principles'³, consideration must be given to the following two tests which must be assessed separately: 1) substantive test; and 2) procedural test.
4. The substantive test is whether the proposed amendment involves a 'substantial difference' or a 'fundamental change' to the application that would ultimately result in a 'different application.' A 'substantial difference' or a 'fundamental change' could also be as a result of a series of small, incremental changes to a scheme. If it is concluded that the amendment would result in a 'different application', then it is unlikely that it could be considered as part of the appeal. The procedural test is whether, if accepted, the proposed amendment would cause unlawful procedural

¹ Drawing Number: 0483-02 Rev D

² Holborn Studios Ltd v The Council of the London Borough of Hackney (2018)

³ Bernard Wheatcroft v Secretary of State for the Environment (1982)

unfairness to anyone involved in the appeal and, if so, whether such unfairness could be cured, for example by re-consultation.

5. On substantive grounds, the formalisation of parking spaces does not fundamentally change the scheme which is itself otherwise unaltered. Moreover, the changes would not create a different application. As such the amended plan passes the substantive test.
6. In terms of the procedural test, the changes were included to address the concerns of the Local Highways Authority (LHA), who were the key consultee on this matter and have commented on the amended plan which I have been presented with in the appeal submissions of the Council. I therefore do not consider that accepting the amended plan would constitute procedural unfairness. I have determined the appeal including the amended site plan above for the avoidance of doubt.
7. I note that the LHA consultation response to the appeal submissions of the appellant advises that if the amended plan is to be accepted, this would resolve the potential parking issues created by the expanded offering at the appeal site. the Council's second reason for refusal is thereby resolved.

Main Issue

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

Reasons

9. The appeal site comprises an industrial estate which hosts several businesses including the appellant's vehicle repair facility. The main vehicular access to the site is taken from The Ridgeway to the south. The appeal site is located broadly to the northwest of the estate and includes part of a larger building and circulation space which I observed on my site visit is also used for the parking of vehicles. The proposal seeks to erect a steel frame building for MOT testing.
10. The appeal site includes an existing agricultural style metal gate with a 'bellmouth' type access to and from the A346 road, which runs north to south to the west of the site. Satellite imagery provided by the Council shows that the access was used as of May 2009 for access to the site from the road prior to the establishment of the appellant's business. Other images from June 2017, April 2021 and September 2023 show the gate blocked by parked vehicles. The appellant advises that the access has never been used in their time at the property, and the MOT building would effectively block this access while it is in situ. I am also informed that the access is outside of the appeal site on third party land.
11. I observed on my site visit that the A346 is heavily trafficked with a consistent flow of vehicles even at the mid-afternoon hour. The gated access is located before the junction of the A346 and The Ridgeway when travelling south. It appears somewhat suddenly due to the presence of mature trees to the north and is not immediately obvious to drivers who are not familiar with the area.
12. I understand at present that existing customers who use the garage for MOTs leave their vehicles at the appeal site and any work required is undertaken at the appeal site before they are driven to an off-site location for the actual test to be carried out. Existing customers would be aware of the access arrangements from The Ridgeway to the south. However, new customers may not be aware and were

they to attempt to enter the site from the existing access, this could increase the risk of collision were they to brake suddenly upon realising access is not possible due to the building blocking this entrance. Moreover, the satellite navigation software I was using to journey to the site advised me to enter through this entrance and were this to occur, any vehicle would have little room to manoeuvre to attempt to exit the small area of hardstanding in forward gear. As such, I share the concern of the LHA that this could necessitate a dangerous attempt to reverse out into the busy road, further increasing the risk of collision between drivers.

13. I note the Council, and its LHA, conclude that a condition to permanently close the access from the A346 could be attached to a grant of permission which would resolve this issue. The Planning Practice Guidance (PPG) advises⁴ on the use of a 'Grampian' condition and given it would be negatively worded and on land not controlled by the appellant, this could resolve the matter of the existing access and potential use by the existing business or future occupiers of the site.
14. However, the PPG also advises that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. There is nothing before me to indicate who owns the land upon which the junction sits, or anything to suggest that there are no prospects of the closure being carried out. As such, the imposition of the condition to agree to a scheme which would permanently remove the access could achieve the desired outcome, and with the closing of the access required before the MOT testing building is brought into use, this offers certainty to the Council. If the access cannot be closed, the building could not be brought into use.
15. I consider this an acceptable outcome and with no objections to the building itself or other outstanding issues, the proposal would not harm highway safety subject to the measures outlined above. This would accord with policy TR2 of the Swindon Borough Local Plan 2026 (adopted March 2015) which states that development shall provide appropriate mitigating measures to offset any adverse impacts on the transport network at both the construction and operational stages.

Conditions

16. The Council has suggested some conditions should the appeal be allowed. I have also considered these against advice in the National Planning Policy Framework and the PPG. As a result, I have made amendments to the wording of some conditions for consistency, conciseness, clarity and to avoid unnecessary repetition.
17. The standard time limit and plans conditions has been attached for certainty. Further conditions relating to details of materials of the new building and landscaping measures are necessary to preserve and enhance the character and appearance of the area. A further condition to secure cycle storage is not considered necessary given the nature of the business would dictate that people drive to and from the site.
18. A condition to permanently close the access from the A346 was suggested by the Council prior to any works commencing on the proposal. As this was a pre-commencement condition, the appellant was invited to comment on this matter, and I have taken their views on board with regards to the financial viability of this

⁴ Paragraph: 009 Reference ID: 21a-009-20140306

approach. While these are noted, without measures being taken to close the access, the only other option would have been to dismiss the appeal. As such, I have reworded the condition to ensure a suitable scheme for the closure of the access is agreed with the local authority prior to the first use of the building. Alongside a condition to agree details to ensure the parking and turning facilities are safe and suitable, these are necessary in the interests of highway safety.

Conclusion

19. The proposal would comply with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

C McDonagh

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 drawing numbers: Existing Plans and Elevations drawing 1483-01/ Rev A; Proposed Plans and Elevations drawing number 1483-02/ Rev D.
3. No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the proposed building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
4. The development hereby permitted shall not be brought into use until a scheme to permanently close the vehicular access from the A346 road has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development permitted shall not be brought into use until the agreed scheme of works has been completed.
5. The development hereby permitted shall not be brought into use until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The agreed scheme shall then be implemented in the first planting season thereafter.
6. The development hereby permitted shall not be brought into use until details regarding the parking and turning facilities for at least 6 vehicles have been submitted to and approved in writing by the local planning authority and then implemented. The approved parking and turning facilities shall then be maintained thereafter in association with the approved development.