



Appeal Decision

Site visit made on 10 December 2024

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/P4225/W/24/3348915

The Lake Garage (Smithybridge) Ltd, Smithy Bridge Road, Littleborough, Rochdale OL15 0BQ

- 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 Mr A Bangs against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref is 23/00356/FUL.
 - The development proposed was originally described as *demolition of existing building and erection of convenience store (Use Class E) including ATM machine, car parking and access*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form. Section E of the appeal form confirms that the description of development has changed, and the appellant has provided a copy of the LPA's agreement to change. Therefore, the development comprises demolition of car sales/garage and erection of SPAR Convenience store with ATM machine, car parking, external lighting, landscaping and associated works. I have dealt with the proposal on this basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. In the interests of natural justice both main parties have had the opportunity to make representation. In reaching my decision I have had regard to the revised Framework.
4. Since the planning application was determined the Places for Everyone Joint Development Plan Document (DPD) was adopted 21 March 2024, and forms part of the Council's development plan. The main parties have referred to the relevant policies within their evidence, I have therefore taken these into account in the decision.
5. The appellant has provided a revised site plan¹ as part of their appeal submission, which shows revisions to the layout. Overall, this results in a new layout and increase with 2 cycle spaces, a combined EV/mobility space, amendments to landscaping which are all pertinent to highway safety in this case. In considering whether to accept the revised plan and in that the appeal process should not be used to evolve a scheme, I have also had regard to

¹ Drawing No: 21 Rev PP2 B – Site Plan

caselaw². There are several changes which I consider amount to a fundamental change to the proposal and provision of car parking/layout to accommodate the development.

6. The revised plan has not been consulted on within the public realm and thus, causing an unlawful procedural unfairness to anyone involved in the appeal, and has deprived those who were entitled to be consulted on the plan the opportunity to make representation. In addition, there are a considerable number of objections from interested persons relating to highway safety concerns and the Council have stipulated that for consistency in decision making the original plans should be the basis of the decision. I have therefore not accepted the revised plan and have dealt with the appeal on the basis of plans and information which were before the Council at the time of determination.

Main Issue

7. The main issue is the effect of the proposed development on highway safety, with regard to all road users, and vehicles using Smithy Bridge Road.

Reasons

8. The appeal site relates to a vacant site at the former Lake Garage, a previous car sales and repair garage located on Smithy Bridge Road a classified highway. There is an existing building which both main parties accept is in a state of disrepair and 3 existing access points. The site lies within the defined urban area and is predominantly residential with a library sited directly across the site and the village centre is a short distance to the northwest of the site. Smithy Bridge Road itself, is identified as part of the Strategic Highway Network due to the connectivity and close distance to the M62 motorway.
9. I saw at the time of the site visit, there were significant traffic movements along Smithy Bridge Road. There was a considerable number of HGVs using the road, and the road served frequent bus routes including bus stops in close proximity to the site, which led to several delays in vehicles passing along the highway due to the narrow width of the carriageway. The road has parking restrictions along both sides including double yellow lines for a considerable distance where the site adjoins the highway, and there is only on road parking in terms of a bay serving nearby shops.
10. The Council contend that the proposals fail to demonstrate safe access to and from the site and manoeuvres which would be undertaken by service vehicles delivering to the store. They also maintain that there is a shortage in parking provision at the site. The appellant considers that the proposal would rationalise access into and out of the site for pedestrians, cyclists and drivers of motorised vehicles and sufficient parking is provided. The appellant's application, and appeal documentation was accompanied by transport statements and several swept path analysis plans.
11. The appellant contends that the scheme is designed and would be operated based on assumed normality. This includes that an HGV would visit the site, at most, only once a day. Given the goods to be delivered, it would not be practical or feasible for any roadside delivery, thus vehicles would have to

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

enter and exit the site, and measures would be in place for staff to remove vehicles that were blocking delivery access within the car park.

12. The appellant claims that a swept path of a 10metre (m) ridged HGV has been tested by SCP which demonstrates that this commercially available vehicle can service the store safely. The plans show that the proposed service vehicles would enter through a central access point and the vehicle which would be the largest at the site would be some 10.675m. The Council maintain that any larger vehicle including a 16.5m articulated vehicle which would be associated with similar store deliveries would not be able to safely access the site including the proposed service area.
13. Despite the disagreement on sizes of vehicles, given the nature of the contrived site layout and restricted car parking spaces there would be no guarantees that assumed normality would take place 24/7, or consideration given to unexpected events for vehicle occupant behaviour or if a change of service specification vehicle was required for delivery.
14. Even if a vehicle of some 10m were to be delivering there are scenarios where customers could block the delivery access, and although signage maybe available there would be limited mechanisms to secure staff members to be on call to prevent vehicles stopping at the ATM, customers being dropped off or picked up. Furthermore, if at any point the service area was blocked to any degree it would likely result in delivery vehicles stopping up the highway on Smithy Bridge Road to either wait for staff to clear the obstruction or vehicles to exit the car park, which would not be in the best interests of highway safety.
15. Moreover, I am not persuaded that larger vehicle movements driven by skilled and suitably qualified drivers would not be open to error even in low speeds given the constrained layout. Neither that it would not have future potential to lead to a highway safety incident including that vehicles would not mount the footways, or not overrun at times given the tight-knit nature of manoeuvrability and narrow width of the adjoining highway. There would be no guarantee that such events could be ruled out in its entirety for the lifetime of the development which would not create a safe pedestrian or other road user environment. Therefore, I do not consider there is two distinct areas removing that do not tie the service areas and customer parking together and there would not be any conflict with vehicles servicing the store at any time.
16. The site layout indicates there would be a deficit of car parking in line with the maximum requirements of the Council which requires some provision of 18 car parking spaces including 2 staff spaces and the provision for 2/3 disabled parking spaces, motorcycle parking and cycle parking. Despite the accessible location, it would still fall short of the requirements resulting in the potential of overspill parking on the highway which would not be acceptable. This adds to the concerns over the sites layout and suitability to accommodate the proposal.
17. The appellant has referred to infrequent occurrences of motorway diversions, whilst I accept this would be unlikely to be a daily occurrence I cannot rule out that that Smithy Bridge Road would not be used by vehicle disruption and subject to increased vehicle movement when this happens. Given the above, it is likely that the proposal would add to this disruption, and in terms of highway safety it would be expected that all junctions and connecting routes

would be available to operate at maximum capacity. Despite the distance disagreements, the proposal would likely lead to some disruption for other road users with the limited manoeuvrability error due to the road width and nature of the proposed site layout.

18. Therefore, I am not satisfied that the proposal would not cause harm to highway safety, and the imposition of a condition relating to a 'Delivery Management Plan' would mitigate the overall concerns. I acknowledge the appellant's willingness to provide such detail, but this has not been provided and the supporting statements are again based on assumptions, examples and presumptions of how deliveries could be managed.
19. Nevertheless, I agree with the Council that it would place an unnecessary burden on them to control in this instance and would only provide a degree of control and certainty. Thus, it would not meet the tests as set out in the Framework, and the Planning Practice Guidance in particular relating to enforceability. Moreover, conditions are not placed to ensure or burden neighbouring residents to control and report any breaches of planning control.
20. Whilst it is acknowledged that the scheme differs in site layout from the previous appeal decision³ and the emphasis from the appellant is to rely on the material differences. In coming to my decision, I have had due regard to the previous appeal decision at the appeal site as I consider it to be of a similar proposal including the land use of the site. Therefore, I have no reason to disagree with that Inspector's findings in terms of highway safety concerns or that this proposal addresses all concerns which were raised. Nonetheless, I have determined the proposal on the evidence I have before me.
21. For the reasons given above, I conclude that the proposal would cause harm to highway safety for all road users, including vehicles using Smithy Bridge Road. It would be contrary to Policies T2 and DM1 of the Rochdale Adopted Core Strategy, 2016 and Policies JP-C8, JPC-1 of the DPD 2024; together amongst other matters requires development to satisfy the accessibility hierarchy requiring transport user needs to be considered and addressed; provide satisfactory vehicle access with adequate parking, manoeuvring, and servicing arrangements taking into account of the proposed use and location; and prioritise safe convenient access to the site and buildings for all users.
22. It would also be contrary to the aims of the Framework, at paragraphs 115, 116 and 117 which amongst other matters requires development should ensure and create safe and suitable access to the site can be achieved for all users, and development should be refused if there would be an unacceptable impact on the road network.

Other Matters

23. The appellant has referred to a fallback position in relation to the previous use at the site, including that these generated large goods vehicles visiting the site. They suggest that it appears that HGVs were unable to turn within the site and would have been required to reverse onto or from the highway to enter the site. I have no substantive evidence on the exact activities that may have taken place, or that this did indeed take place. The aerial image from

³ APP/P4225/W/18/3217443

google in 2016 in the transport statement only serves to show that vehicles were parked within the site which is a different layout to the one proposed.

24. Whilst there is a greater than theoretical possibility that a similar use could take place, I have no evidence to suggest this would happen if the appeal failed, including that the existing building is in disrepair. Furthermore, even if the previous use were to re-commence it is not for me to establish any previous planning restrictions or the requirement for future planning controls. The relevant regulatory authorities would also have the control on public safety matters relating to any obstructions of the highway if these occurred. Nevertheless, I do not consider in this case that the 2 land uses are comparable, and the proposal before me would be more harmful than the previous use of the site as I have identified. I have therefore afforded little weight to this fallback position.
25. My attention has also been drawn to other appeal decisions, developments including other convenience stores and a SPAR at Middleton. However, I do not have full details of these schemes or precise site specifics, so cannot be certain they are comparable to the proposal including extracts of delivery plans. In addition, it appears the SPAR was determined in line with other development plan policies. In any case, the appeal is determined based on the proposal before me, the available evidence and any site observations.
26. The proposal would be located within a sustainable location and would not unduly impact on the vitality or viability of the nearby local centre, providing access to the community as a local shop, and include energy efficiency technologies. It would generate a social and economic use including new job opportunities in the area and bring a vacant brownfield site into use which weighs in favour of the proposal.
27. The Council have raised no concerns regarding the principle of developing the site, design of the building, noise and disturbance, residential amenity, biodiversity, managing flood risk, contamination. I have no evidence to the contrary, or that the proposal would lead to any anti-social behaviour in the area. Suitably worded conditions could address the above requirements for finer details. The letters of support which were received weigh neither for nor against the proposal. However, these other matters would not outweigh the harm I have found above, and the concerns relating to highway safety at the site for all road users.

Conclusion

28. The proposal conflicts with the development plan taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons give, the appeal is dismissed.

KA Taylor

INSPECTOR