

**Town and Country Planning Act 1990
Section 78 Appeal**

**Appeal at vacant site adjacent to Unit 34, Five Crosses
Industrial Estate, Minera, LL11 3RD.**

COUNCIL'S STATEMENT OF CASE

PINS Ref: APP/H6955/A/20/3250780

LPA Ref: P/2019/0793

1 INTRODUCTION

- 1.1 The Council will primarily rely on the Case Officer Report appended to this document as Appendix 1 for the appeal. The Council request that the appeal be dismissed for the reasons set out on the planning decision notice.
- 1.2 Please note, the name of the roads referred to within the Delegated Officer Report and this Appeal Statement are based on the submitted plans which accompanied the planning application.
- 1.3 A plan is attached as Appendix 3 to this Appeal Statement. The plan is labelled Dwg No. 1714-05 Rev A2 and is titled 'Levels 1 & 3 Plans as Proposed'. The plan was submitted as part of the original planning application, however was not included in the list of determined plans in the Council's Questionnaire when this was sent over to the Planning Inspectorate. It forms part of the planning application and appeal.
- 1.4 The response to the appellants appeal statement is focused solely on the reasons for refusal.

2 RESPONSE TO THE APELLANTS APPEAL STATEMENT

Reason for Refusal 1

- 2.1 At paragraph 5.8 it is stated that the Council has attributed inappropriate weight to the fact that the appellant would have to rely on Lower Access Road to gain access into the site. The paragraph goes on to state that the development does not rely on Lower Access Road for access to the new unit.
- 2.2 The submitted Plan (Dwg No. 1714-04 Rev A2) is unclear in demonstrating the way in which the proposed access would serve the site. Furthermore, the submitted Design and Access Statement which accompanied the planning application stated in Section 3 that the proposal had been designed so that outbound vehicles could leave the site without having to utilise the inbound route. To this effect and based on the submitted plan referred to above, inbound vehicles would have to use Lower Access Road to gain access into the site. Whilst an access is shown off Upper Road, this appears to be one way, with vehicles exiting the site from this access. If this is the case, the appellant has to rely on Lower Access Road to gain access into the site.
- 2.3 As outlined in the officer report under the 'Highway Safety' section, it is not clear whether this is within the appellants' ownership given the submitted Site Location Plan does not show Lower Access Road edged in blue.
- 2.4 If Lower Access Road is not within ownership or control of the appellant, then a legal agreement would be required between the appellant and the owners to ensure the proposed development could be sufficiently accessed. In the absence of any legal agreement, if Lower Access Road cannot be accessed by the appellant, then the only way into the site would be via Upper Road.

- 2.5 In this respect, if the site is accessed both ways (entry and exit) via Upper Road, this has the potential to cause highway safety impacts and traffic congestion along Upper Road which could then lead to potential highway safety issues along this road.
- 2.6 The access into the site via Upper Road can only accommodate one vehicle at a time (as shown on Dwg No. 1714-04 Rev A2). If vehicles are exiting the site simultaneously to vehicles entering, this would result in vehicular conflict, with either or vehicle having to reverse back either along the access road within the site or back out onto Upper Road.
- 2.7 This could result in collision with other vehicles as well as traffic congestion along Upper Road, as well as ultimately, the road leading into the site from the highway (the A525), as a result of vehicles waiting to turn right into the site access.
- 2.8 Whilst it is acknowledged that Upper Road is un-adopted, nevertheless, the potential impacts which may arise as a result of the proposed access is considered would be detrimental to the overall service and operation of the roads and existing uses within the Industrial Estate.
- 2.9 The Appellants' Appeal Statement states at paragraph 5.10 that notice was served on the Council regarding the provision of the proposed layby along Upper Road.
- 2.10 The Highway Authority, in their consultation response to the planning application dated 13th December 2019, advised that given staff from other units park along Upper Road, this would have the potential to impact on visibility and manoeuvrability of vehicles exiting the proposed site access. As such, provision of a layby was suggested along Upper Road, which would allow vehicles to be parked off the road.
- 2.11 Whilst a plan showing provision of a layby was provided (Dwg No. 1714-04 Rev A2), the actual design and layout of the layby was inadequate and required to be re-designed.
- 2.12 Furthermore, the land in question is not within the applicants ownership, therefore to ensure the layby could be secured, would require a legal agreement with the owner of the land in which the layby would be located. No agreement was submitted as part of the planning application and it has not therefore been demonstrated that the layby is therefore achievable.
- 2.13 As such, it has not been demonstrated that adequate visibility and manoeuvrability could be achieved for vehicles exiting the proposed site access onto Upper Road in this respect.
- 2.14 It has already been outlined in this Appeal Statement the potential impact the proposed site access would have on Upper Road, as well as the overall operation of the surrounding roads and existing uses within the Industrial Estate. The proposed site access is considered would exacerbate any

existing vehicular conflict, traffic congestion and parking problems within the Industrial Estate given if vehicles are having to reverse out of the access onto Upper Road, they are then also having to navigate around parked cars along Upper Road.

- 2.15 At paragraph 5.12 the appellants' Appeal Statement states that the proposal improves the current parking situation. Whilst the proposed parking provision to serve the development itself may be considered favourable by the Highway Authority, this is solely in connection with the new building and the appellant's business. It has not improved the current parking situation within the Industrial Estate, this remains as existing. If anything, given the proposed layby for parking which has been suggested by the Highway Authority has not been demonstrated is achievable, the proposal by virtue of the site access off Upper Road is considered would worsen the impacts arising as a result of the indiscriminate parking currently within the Estate by the increased risk of vehicular conflict, traffic congestion and visibility and manouverability issues when exiting the site via Upper Road.
- 2.16 It should also be noted that at paragraph 5.17 of the appellants' Appeal Statement, it is stated that two of the companies' fleet of delivery vehicles occupy external parking spaces. It is ambiguous as to whether the external parking spaces form part of the companies designated spaces. If not, the proposal would not be considered to improve the parking situation within the Estate.

Reason for Refusal 2

- 2.17 At paragraph 5.16 the appellants' Appeal Statement states that information was provided in Section 3 of the Design and Access Statement submitted with the planning application regarding HGV's.
- 2.18 The only information that was provided was the delivery times to the Industrial Estate and that 5 HGV's per week would visit the site. Further information was requested regarding location of parking for the HGV's and that any HGV's visiting the site as a result of the proposal would not result in any increased detrimental impact to existing uses within the Estate. The requested size of HGV's visiting the site was also required and not provided.
- 2.19 It should also be noted that the Design and Access Statement submitted with the application appears to outline the anticipated proposed HGV deliveries and movements to and from the site in connection with the proposed development.
- 2.20 The appellants' Appeal Statement outlines the existing HGV traffic associated with the existing business on the site. This would suggest that there is no change to the existing HGV traffic associated with the existing business on site. At paragraph 5.20 the appellant's Appeal Statement confirms that there is no increased traffic flow as a result of the proposal.

- 2.21 On this basis, the comments provided in the Design and Access Statement regarding HGV movements were incorrect and insufficient information was submitted with the application to demonstrate otherwise.
- 2.22 The Local Planning Authority has no comment to make on the additional plan (Dwg No. 1714-04 Rev A3) submitted after the decision was made.

Conclusion

- 2.23 For the reasons set out above, the Council respectfully requests that the appeal be dismissed.

3 SUGGESTED CONDITIONS

- 3.1 Should the appeal be allowed, a list of suggested conditions is attached at Appendix 2.