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Response to Planning application from Hertfordshire County Council (T and CP GDP Order 2015)

Director of Planning

North Hertfordshire Council
Council Offices
Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

District ref: 24/01434/S73
HCC ref: NH/21517/2024
HCC received: 26 November 2024
Area manager: Manjinder Sehmi
Case officer: Senober Khan

Location

Friends Green Farm, Friends Green, Damask Green Road, Weston, Hitchin, SG4 7BU

Application type

Variation of Condition

Proposal

AMENDED PROPOSAL

Section 73 Application : Removal of condition 2 of planning permission
23/01259/FP granted 25.03.2024 for Use of buildings as (Sui Generis) car sales and
(Use Class B2 general industrial) car servicing (as amended by details submitted
16th January 2024).

Recommendation

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reasons:

The application has failed to demonstrate a satisfactory policy and design-led approach for the above reasons, thereby the proposals would exacerbate existing highway conditions, which are prejudicial to the highway safety of all road users.

Brief description in support of proposed development by the applicant (highways brief response comments in **bold**):

This Highways Response Note dated 26 November 2024 has been prepared in response to the HA's Comments submitted on 18/09/2024 in response to the 1st Highways Response Note.

It is unclear why the reviewing Highway Officer is deviating from normal practice in this instance and not accepting the previously submitted visibility splays.

Firstly, it is unclear what the Highway officer is arguing in the section above. The statement suggests that flexibility in visibility splays cannot be applied because there are no 'natural or man-made' features restricting driver behaviour or the ability to legally drive at 60mph. This interpretation is inconsistent with the principles outlined in both MfS and DMRB.

(the applicant has located the ATC's at locations which (natural and man-made) would result in lower speeds – see highways comments in detail below)

Similarly, DMRB – which is more relevant to the site's access arrangements, given its rural setting and location on a national speed limit road – allows for adjustments in visibility splays based on actual measured speeds (85th percentile speeds) rather than design speed alone. DMRB guidance stresses practicality and acknowledges that overly conservative designs may not align with observed driver behaviour, leading to unnecessary engineering measures. Guidance outlined in DMRB CD185 also states that "all speed measurements (spot and journey speed) shall be undertaken in free flow conditions where vehicles are unlikely to be accelerating or braking".

(for more detailed information see highways comments below - the southern splay is shown as being 67m when it is only 18m as verified in the original application - the plan (drawing no.SK02 rev A) submitted incorrectly shows the splay extending over highway land when it is actually 3rd party land not public highway land as clarified in the highway boundary plan below in highways comments and verified by the applicant in their Transport Statement submission for the application ref no. 23/01259/FP)

Conclusion

The proposed southern access aligns with established highway design principles outlined in MfS and DMRB, emphasizing the use of actual driver behaviour and 85th percentile speeds to determine visibility requirements. Measured vehicle speeds along Damask Green Road demonstrate that the proposed visibility splays are suitable and compliant, as confirmed by both technical guidance and precedent from similar planning applications.

A Stage 1 Road Safety Audit identified only one safety issue related to vegetation impeding visibility, which can be resolved through trimming and maintenance. No other safety concerns were raised.

The applicant intends to follow standard practice by seeking conditional approval of the access, with detailed technical plans to be submitted post-approval to meet local authority requirements.

The applicant has advised that the new southern access point has been constructed to reduce congestion in the northern car park, improve safety by avoiding staff areas, and minimise the risk of damage to vehicles. A turning head near the southern access facilitates efficient vehicle manoeuvring. The second access point redistributes existing traffic without increasing overall vehicle movements, resulting in a neutral impact on traffic levels.

Highways comments:

A retrospective planning application (ref: 23/01259/FP) was sought and approved in March 2024, access to the site from Damask Green Road via the northern access point, was retained, along with an internal driveway and parking area to the north. The previously consented scheme also included a agreed personalised planning condition, which only permits the applicants existing use (Specialised Porsche Restoration Garage and Showroom) on site. This will prevent other applicants from purchasing the site assuming a Sui Generis/B2 use, without the need to complete a full planning application.

The HA raised no objection to the application ref no.23/01259/FP granted 25.03.2024, due to the applicant response letter dated 16 January 2024 in which the following was stated (in italics) and now relevant for consideration as part of this application for background:

Similarly, through the purchase of Highway Boundary Mapping from HCC, it became apparent that only an 18m southern visibility splay could be achieved, ensuring that splays remained wholly within land owned by the applicant or highway authority, depicted within Appendix B. This equates to a northbound 85th percentile speed of 13mph, which falls below the visibility requirements along the site frontage and therefore could not be deemed safe.

For this reason, it is now proposed that the southern unpermitted access will be closed with measures including landscaping/installation of a fence to ensure that the access cannot be used by any vehicular traffic from now on. This will ensure that no development traffic utilises the unpermitted access and any changes from that situation would require a separate planning permit.

Subsequently, it is now proposed that the existing northern access, which formed part of the permitted horse stabling scheme (23/01478/FP), will be used as the sole access point to the site moving forward. As such, the drawing contained at Appendix C shows that visibility splays of 2.4m x 63m to the north and 2.4m x 135m to the south can be achieved to the nearside kerblane. This ensures that splays remain wholly within land owned and maintained by the local highway authority; trimming of highway's hedges that fall within the visibility envelope of the access will need to occur.

The new proposed niche car dealership and associated car garage is expected to generate less trips than the existing stabling use. This specific use has been agreed with the Case Officer to have a condition to remove permitted development rights for a change of use and that the consent will be a personal condition attached only to the current business occupying the site. This further reinforces the viability of the previously consented northern site access as now this access will be in operation supporting less vehicle traffic than before, which will have a positive safety impact on the local road network.

The HA took into account that whilst the visibility splays at the existing northern vehicle access were substandard, nevertheless its use would be acceptable given the assessment carried out in the Transport Statement which showed that the proposed development would not result in an intensification of vehicle trips relative to the existing, furthermore a personal condition was agreed and that the southern vehicle access would not be used for which the applicant gave the following commitment “*with measures including landscaping/installation of a fence to ensure that the access cannot be used by any vehicular traffic from now on*”, the HA raised no objection.

The applicant has now submitted a planning application for the removal of condition 2 of planning permission 23/01259/FP. The applicant has without seeking planning approval built a vehicle access to the south of the site, previously in order to gain approval the applicant agreed the southern vehicle access would be fenced to ensure that the access cannot be used by any vehicular traffic. In breach of the condition the applicant has opened the southern vehicle access and built a vehicle access to link in with and worked on the public highway.

It would be reasonable to conclude given the above actions already undertaken the applicant had no intention of abiding by the conditions set in the application ref no. 23/01259/FP and commitments and agreements were only made to secure approval.

The applicant is entitled to submit as many applications as possible for changes they like, in this case retrospectively at the applicants own risk.

Notwithstanding, the southern visibility splay at the southern vehicle access is substandard as verified by the applicant in application ref. no. 23/01259/FP (conflicting with the current submission) “*only an 18m southern visibility splay could be achieved, ensuring that splays remained wholly within*

land owned by the applicant or highway authority. This equates to a northbound 85th percentile speed of 13mph, which falls below the visibility requirements along the site frontage and therefore could not be deemed safe."

In support of the use of the southern vehicle access the applicant justified its acceptability on the basis "The reason that this condition was required as part of the decision notice was solely in relation to highway safety given the visibility splays of this point of access not meeting the required standards. However, the new highways information that is submitted as part of this application confirms that the retention of the southern access would not cause undue harm to highway safety. This therefore means that this condition is no longer required and the southern access is able to be used by the applicant which is beneficial for the running of the business on the site."

To clarify visibility splay was not the only basis for the reason of the condition, but also because unjustified secondary vehicle access create unnecessary conflict points (potentially all applicants would seek a secondary vehicle access, setting a precedent) especially when the justification is weak and conflicts with the justification given for the extent permission for which it was stated that the development does not generate many vehicle trips (relative to existing) and internal layout is sufficient to operate using the existing northern vehicle access.

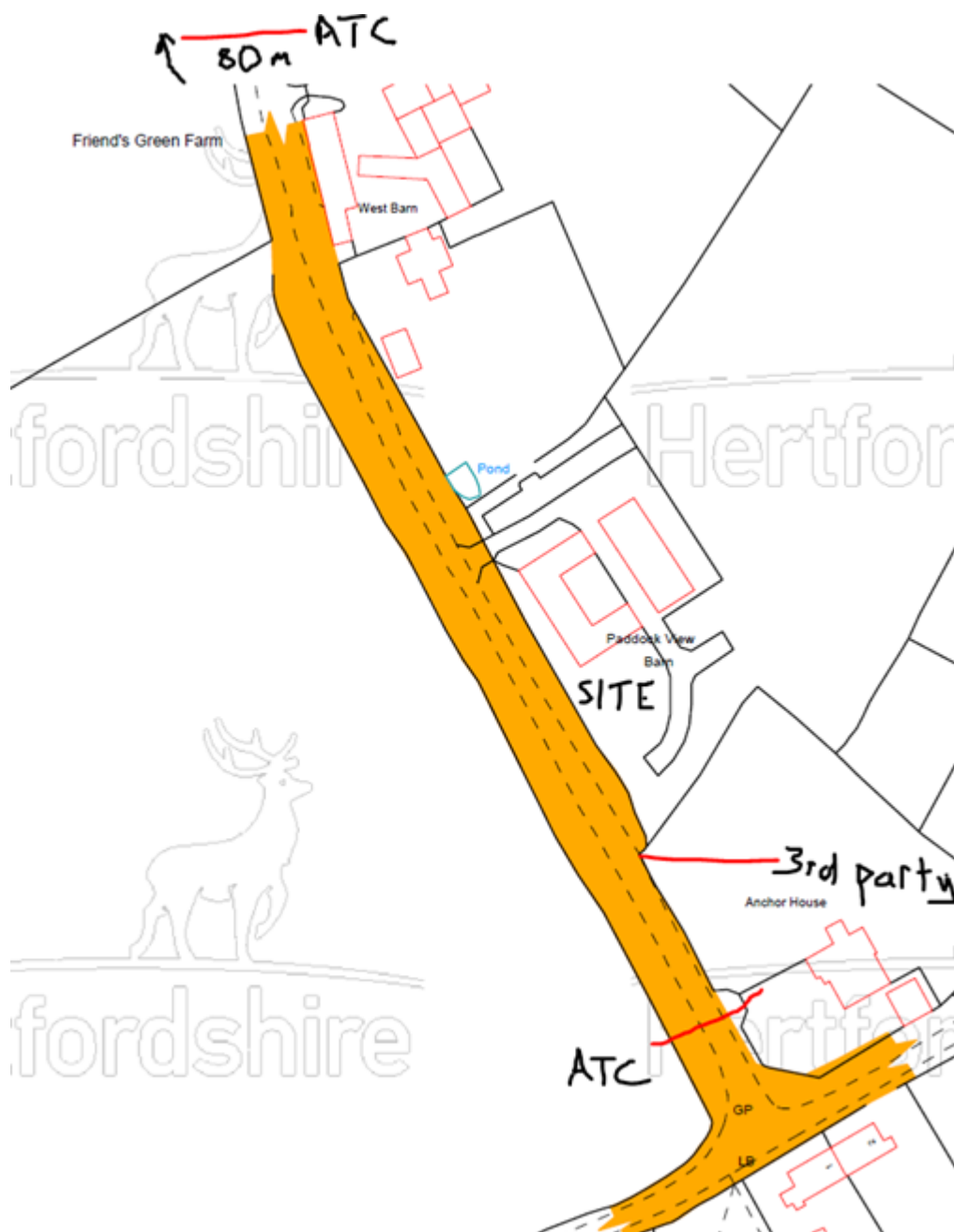
The HA has already in its previous comments clarified why a second vehicle access was not acceptable which the applicant verified in its application 23/01259/FP, that it would not generate any significant trips, the HA resists unjustified secondary vehicle accesses which create unnecessary conflict points, exacerbated in this case by substandard visibility splays.

It should be noted the speed survey ATC's were placed approx 180m north from the northern vehicle access and approx 50m south of the southern vehicle access approx 20m from Damask Green Road/Warrens Green Lane junction. Consequently the recorded speeds are questionable given that vehicles travelling southbound at the northern ATC will be coming from a bend in the road, and at the southern ATC vehicles heading northbound will be turning from Warrens Green Lane into Damask Green Road would be in the early stages of accelerating and only 20m from the junction conversely traffic heading south would be decelerating in approaching the ATC and junction, in both cases the recorded speeds are not representative of traffic speed at the sites frontage. No information or justification has been provided why the ATC's were placed so far away from the site at such locations.

Furthermore, in the TTN 3.8 it states, "As a result of the completed survey, a northbound 85th percentile speed of 31mph was recorded at the southern site, requiring a visibility splay length of 67m; while a southbound 85th percentile speed of 37mph was recorded at the northern site, requiring an 89m visibility splay."

The Highway Boundary Mapping the applicant obtained from HCC shows third party land extends to the back of the carriageway (no verge no highway land), so all vegetation/foliage is on third party land.

To verify the above comments the ATC's have been approx marked on the plan below from information obtained from the applicants Transport Technical Note June 2024, which also shows the highway boundary and third party land/sites boundary/public highway.



Signed
Senober Khan

16 December 2024

A Stage 1 Road Safety Audit (RSA) was undertaken and its recommendation stated was that there was “*vegetation impeding visibility, which can be resolved through trimming and maintenance*”, the RSA makes no mention of the land issue and so it would be correct to assume that the auditors were not made aware that the vegetation is on 3rd party land, as mentioned in the previous HA’s comments the vegetation/required splays are on 3rd party land, and as previously acknowledged by the applicant.

Notwithstanding the above comments, the HA also advised that detailed technical plans will be required to be submitted to the Highway Authority for approval, therefore even though the southern vehicle access is not acceptable, a vehicle access requires the above plans and consultations to

take place. It should be noted the applicant has built and connected the unauthorised vehicle access with the public highway (s278 agreements to allow developers to employ a road works contractor to link and work on the existing public highway - Unnumbered Classified Rd - C).

The proposed second southern vehicle access would be unacceptable in highway safety terms for reasons detailed above, with particular regard to the adequacy of the proposed visibility splays and no substantive justification for a second vehicle access, all of which conflicts with the information provided for the extent permission regarding vehicle movements inside and outside of the site.

Recommendation:

Refuse

Reasons for Refusal:

The application has failed to demonstrate a satisfactory policy and design-led approach for the above reasons, thereby the proposals would exacerbate existing highway conditions, which are prejudicial to the highway safety of all road users.

Signed

Senober Khan

16 December 2024