

Report of the Assistant Director (Planning Transportation and Highways) to the meeting of Regulatory and Appeals Committee to be held on 18 May 2020

AL

Subject:

This is a full planning application for the construction of single-storey private hire vehicle booking office on land to rear of 19 Northgate Baildon BD17 6JZ

Summary statement:

As explained below in the Legal Appraisal, this planning application was first approved by the Shipley/Keighley Area Planning Panel at its meeting in July 2019. The applicant acted in good faith on that grant of permission and built the single storey office, though not in full compliance with the approved plans as detailed further below and in the report at Appendix A. The operator has the appropriate private hire operating licence and has been using the office to operate the private hire fleet since September 2019.

Following the grant of planning permission, a 3rd party commenced Judicial Review (JR) proceedings to challenge the Council's decision. In accordance with the Judicial Review Pre Action Protocol the Council agreed that it would quash its decision. A signed order was issued by the High Court in January 2020 putting that into effect. Accordingly, the Area Planning Panel's decision is quashed and planning application 19/01605/FUL is brought to this meeting to be re-considered on its planning merits.

The main planning issues which were debated at the July 2019 Panel meeting concerned the lack of off street car parking at the site and the implications for local highway safety. In addition, the site is in Baildon Conservation Area and the Committee needs to carefully consider its duty under S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 - that with respect to any buildings or land in a conservation area, in the exercise of any planning functions, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The private hire office has now been built and its appearance is slightly different to the plans considered at the Area Planning Panel. Amended plans including those design variations have been received and publicised. The visual appearance of the office and the manner of its operation and implications for local amenity and road safety are now more readily understood than they were in July 2019 given that the development is now built and the use has been operating since September 2019.

Officers are recommending that planning permission be granted.

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Transportation and Highways)
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Portfolio:
Regeneration, Planning and Transport

Overview & Scrutiny Area:
Regeneration and Economy

1. SUMMARY

This is a full planning application for the construction of single-storey private hire vehicle booking office on land to rear of 19 Northgate Baildon BD17 6JZ

2. BACKGROUND

Attached at Appendix 1 is the Technical Report of the Assistant Director (Planning, Transportation and Highways). This identifies the material considerations relevant to the application.

3. OTHER CONSIDERATIONS

All considerations material to the determination of this planning application are as set out in Appendix 1.

4. FINANCIAL & RESOURCE APPRAISAL

The presentation of the proposal is subject to normal budgetary constraints.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

6. LEGAL APPRAISAL

The determination of the application is within the Council's powers as the Local Planning Authority.

This planning application was approved by the Shipley/Keighley Area Planning Panel at its meeting in July 2019. The permission was issued in accordance with the Panel's resolution and the applicant acted (in good faith) on that grant of permission and built the single storey office. The operator has the appropriate private hire operating licence and has been using the office to operate the private hire fleet since about September 2019.

Subsequent to the grant of permission, a 3rd party commenced Judicial Review (JR) proceedings to challenge the Council's decision. Under the Judicial Review Pre Action Protocol the Council agreed that it would quash its decision and in January 2020 a signed court order was issued by the High Court putting that into effect.

Accordingly, the Area Planning Panel's decision is quashed and planning application 19/01605/FUL is brought to this meeting to be re-considered on its planning merits.

An important consideration for members will be the implications of the development in terms of the duty under S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

Consideration of Section 149 of the Equality Act 2010 is set out in the report at Appendix A.

7.2 SUSTAINABILITY IMPLICATIONS

No significant issues are raised by this scheme.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

No implications

7.4 COMMUNITY SAFETY IMPLICATIONS

None, as confirmed in the report attached at Appendix A

7.5 HUMAN RIGHTS ACT

Article 6 - right to a fair and public hearing. The Council must ensure that it has taken into account the views of all those who have an interest in, or whom may be affected by the proposal, which is noted in the report at Appendix A.

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

Ward members have been fully consulted on the proposal, with one raising objections and a referral to the Area Planning Panel (Regulatory and Appeals Committee), which is detailed in the report at Appendix A. There are no significant implications for the Ward itself.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS

None

7.9 IMPLICATIONS FOR CORPORATE PARENTING

None

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

The Committee can approve the application as per the recommendation contained within Appendix 1, or refuse the application. If the Committee decide that planning permission should be refused, they may refuse the application accordingly, in which case reasons for refusal will have to be given based upon development plan policies or other material considerations.

10. RECOMMENDATIONS

The application is recommended for approval subject to the conditions included with Appendix 1.

11. APPENDICES

Appendix 1 Technical Report.

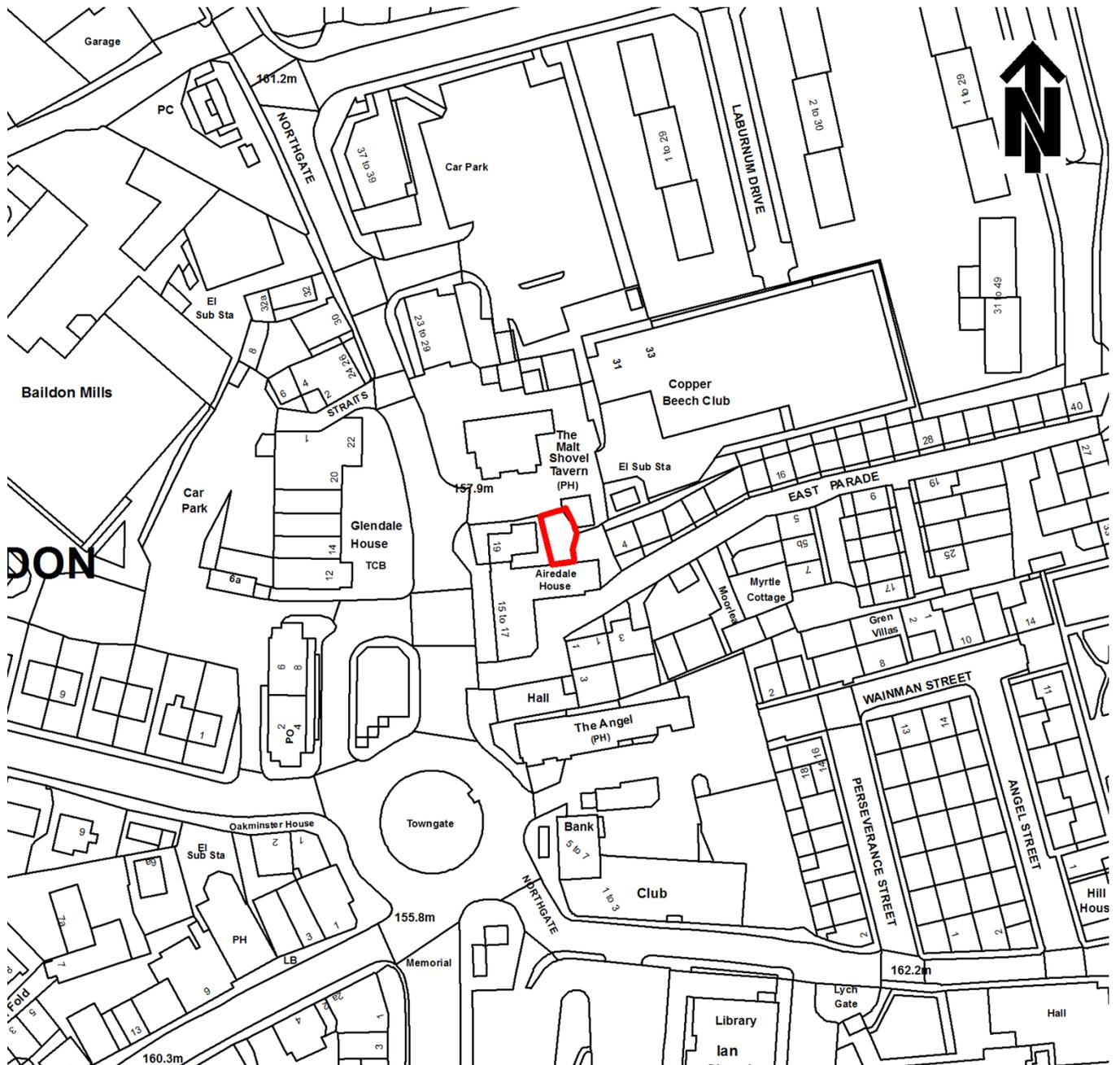
12. BACKGROUND DOCUMENTS

National Planning Policy Framework
Core Strategy Development Plan Document
Replacement Unitary Development Plan

19/01605/FUL



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL



1:1,250

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**Land To Rear Of 19 Northgate
Baidon BD17 6JZ**

Ward: BAILDON
Recommendation:
TO GRANT PLANNING PERMISSION

Application Number:
19/01605/FUL

Type of Application/Proposal and Address:

Construction of a single-storey private hire vehicle booking office on land to the rear of 19 Northgate, Baildon BD17 6JZ.

Applicant:

Miss Louise Hogg trading as Baildon Private Hire

Agent:

Kevin Ratcliffe

Site Description:

The application site formerly comprised a small gravelled area of land to the rear of 19 Northgate within the centre of Baildon; a booking office has now been built on site and is operating (see below). Immediately to the east of the site is a detached lock up garage, and to the west, at a slightly lower level, is 19A Northgate, a ground floor residential flat which has habitable windows which look towards the site. Immediately to the north is a vehicular access which serves the grade II listed Malt Shovel public house opposite as well as acting as the service road to the nearby Baildon Co-Op store. Parking restrictions in the form of a yellow box marking is in place on this access road to prevent indiscriminate parking to ensure that it is clear of obstruction at all times. Northgate, the B6151, is a well-used classified road forming the main route through Baildon with double yellow lines along its route close to the site.

Relevant Site History:

This planning application was considered by the Area Planning Panel on 10 July 2019. It was recommended for refusal on highway and residential amenity grounds although Members voted to grant planning permission for the development. However, the issue of the planning permission was challenged in the High Courts and the decision was voluntarily quashed on 8 January 2020. Essentially the Court found that the Local Planning Authority had not:-

- i) fulfilled its obligations as to S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that insufficient regard had been paid to the impact of the development on the Conservation Area, and
- ii) fulfilled the duty to give reasons for the approval, particularly as the decision was contrary to officer recommendations, and that those reasons were not specified in the decision notice.

The practical effect of quashing the decision is that the application becomes 'live' again and so requires re-determination.

However, following the dispatch of the original decision notice building works commenced on site and the structure is now complete and operational. Having inspected the site, it is apparent that the scheme as built does not accord with the

originally submitted drawings as previously considered by Members last July. Amended plans have therefore been submitted which represent the structure as built. In summary, the main points of difference are that:-

- 1. The building is no longer detached – it is attached to an adjacent garage building**
- 2. The customer booking window has been deleted as has the external covered customer waiting area. The applicant has advised that the majority of bookings are made remotely through dedicated phone lines and/or online.**
- 3. The building has been built with a mono-pitched roof as opposed to the previously shown gabled structure with a dual-pitched roof.**
- 4. The external door to provide access to the toilet facilities has been deleted.**

The revised proposal has been re-publicised accordingly with new site notices posted and further comments invited from all original contributors and relevant consultees.

The Council therefore needs to review and reconsider the application in light of the judicial review decision and the amended scheme that has been submitted.

The National Planning Policy Framework (NPPF):

The NPPF is a material planning consideration on any development proposal. The NPPF highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development, which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;
- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the NPPF suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

Local Plan for Bradford:

The Core Strategy for Bradford was adopted on 18 July 2017 though some of the policies contained within the preceding Replacement Unitary Development Plan (RUDP) are saved for the purposes of formulating the Local Plan for Bradford, and remain applicable until adoption of Allocations and Area Action Plan development plan documents.

Core Strategy Policies

- DS1 Achieving good design
- DS3 Urban Character
- DS4 Streets and Movement
- DS5 Safe and inclusive places
- EN3 Historic Environment
- EN8 Environmental Protection
- TR2 Parking policy

Saved RUDP Policies

The site falls within Baildon Local Centre and Conservation Area

Parish Council:

Baildon Town Council

Publicity and Number of Representations(*on the original scheme considered on 10 July 2019*):

By press and site notice and letters to neighbours. Overall expiry date 10.5.2019

A petition with over 30 signatories has been received against the proposal together with 21 letters of objection.

In support, around 90 representations have been received including one from a local Ward Councillor.

Summary of Representations Received:

In Objection:

1. The proposed Taxi Office is deficient in terms of parking provision. This will result in an increase in demand for on street parking in a location where such on street car parking is under provisioned to the severe detriment of highway safety.
2. This stretch of Northgate is very busy already and the proposal would cause chaos with extra cars accessing the site.
3. Baildon is already well served by taxi firms and there is a lack of need for the proposal.
4. The proposed booking office is situated in the entrance of a busy delivery yard that has wagons and vans being driven in and out, this alongside parked taxis and pedestrians using it would have safety implications that would surely have more risk than benefits to the community
5. Noise and disruption to neighbouring residents from customers of the taxi office especially at the weekends and late into the evening.
6. The proposal would have a negative impact on the conservation area.
7. The site is owned by the brewery.

In Support:

1. Baildon Taxis provide a valued service and residents wish to see this business retained in the village.
2. Previous office was in a dangerous location along the main road and this new base could be safer
3. The applicant is an experienced and well-respected operator
4. Baildon Taxis are being forced to relocate to alternative premises as their lease has expired on their existing site

Several representations give no specific comments.

A Baildon Ward Councillor has stated that the office is simply a relocation of an existing well established and well regarded business and that it should be supported with a provision that there should be no drop-offs or pick-ups on Northgate itself. The building would be in keeping with the conservation area.

A general comment from a nearby business has also been received stating that they presently have an arrangement for the application firm to park on their land as and when necessary and that this could continue.

ADDITIONAL PUBLICITY:

The application has since been re-publicised in view of the Judicial Review outcome and to draw attention to the fact that the scheme under consideration, as built, is different from the originally submitted plan. The expiry date for further comments was 26.2.2020.

One further letter of support has been received stating that they were surprised to receive an e-mail from the planning office stating that the plans for the taxi office were to be reconsidered as they believed that planning permission had already been granted. They re-iterated that application firm is a long standing trusted Baildon company that has served the community for years. The new office is in a far better and safer position than their previous base. Vehicles no longer hold up the flow of traffic through Baildon at one of the narrowest points or cause obstruction to cars coming out of the Co-Op car park.

A further general comment has been made querying whether or not planning consent has been granted as the taxi business is currently in operation.

Consultations:

(Responses on amended scheme)

Highways DC: No objection to the amended scheme. The tabled plan indicates that there would be no walk-in customer booking or waiting nor welfare facilities for vehicle drivers. On that basis the Highways Engineer would support the application.

Design and Conservation Team: As built, the proposal does not cause significant harm to the character of the conservation area.

Summary of Main Issues:

Highway Safety Implications

Impact on amenity of residential neighbours

Visual Amenity

Heritage Impacts

Representations

Appraisal:

The proposal seeks approval to construct a single storey building to be used as a booking office by Baildon Taxis. The business has previously operated for many years from a nearby unit at 28 Northgate but explains that termination of the lease is forcing and urgent relocation to alternative premises within Baildon. The applicant has emphasised the importance of this to both the community and those relying on the business for their livelihoods. The submitted Design and Access Statement confirms the applicant is looking for a base within Baildon that would improve customer safety and alleviate the congestion caused by the boarding and alighting of passengers outside the existing booking office on Northgate.

The building is small and is similar in form and scale to a domestic garage, and positioned so that it adjoins an adjacent garage building with a floor area of about 8sqm. The building is now in situ and has been built in local natural stone with a shallow mono-pitched roof and stone surrounds to doors and windows.

The layout of the building also differs from the previously considered scheme in that it no longer incorporates a covered waiting area to the front or a dedicated booking window. There is an expectation therefore that any customers would not need to wait outside the

premises for their vehicle. The Local Planning Authority is also mindful that a proportion of fares would be booked remotely via telephone or online. The toilet area is now only accessible to office staff.

The application form states that three full-time equivalent staff will be employed from the office on a 24-hour basis. Documentation submitted in support advises that there are 25 drivers currently employed by the business.

Highway Safety Implications

As originally submitted, the proposal raised concerns around highway safety in view of the deficiencies of the proposed parking arrangements and the restricted nature of the existing access road.

Appendix 4 of the Council's Core Strategy sets the parking standard for a private hire booking office as a minimum of five spaces, or 1 space for every 4 cars operating from the site. Notwithstanding this, the proposal provided two parking spaces and fell substantially short of the minimum provision. The Council's Highway Engineer initially objected to the development for this reason as it was considered that any increase in vehicles using the access road could result in overspill parking close to the junction of a busy classified road, Northgate, conflicting with other road users to the detriment of highway and pedestrian safety.

The amended scheme seeks to address this concern by limiting the nature of the business in that by operating as a purely telephone/remote booking facility, customers would no longer need to call in-person to the site and wait for a vehicle. Vehicles would therefore no longer need to park along, manoeuvre or make otherwise use of the restricted access road alongside the unit. The removal of the welfare facility would also serve to discourage vehicle drivers from parking up and making use of the facilities in between fares. The Council's Highway Engineer is satisfied that the implementation of these measures would be sufficient to overcome their previous concerns and on this basis the proposal is considered to accord with Policies DS4 and TR2 of the Core Strategy Development Plan Document.

The Local Planning Authority is aware that the premises have been inspected by the Council's Hackney Carriage and Licencing Enforcement Officers who have confirmed that there are benches within the unit but that on no occasion have customers been seen within the premises. In their view, notwithstanding the assertions put forward by the applicant, this premises would appear to operate as a traditional 'walk-in' base with customers waiting on site for a car to become available. Officers are mindful that whilst the Council's Highway Engineer would not support an application for a conventional private vehicle hire booking office, Baildon Taxis have been operating from the building for about 6 months without any undue highway concerns. This would serve to weaken the previous argument that the development would result in conditions that would be harmful to highway safety and therefore a refusal on highway grounds could be difficult to substantiate.

Impact on Amenity of Residential Neighbours

The amended scheme sufficiently addresses the Council's previous concerns as to the impact of the development on nearby residents. The office no longer includes an external customer waiting area. Previously customers would have congregated outside the building whilst awaiting collection which could have led to an unacceptable level of noise and

disturbance to the neighbouring flat at 19A Northgate at unsociable hours given that the business operates on a 24-hour basis. It is acknowledged that some customers may wait at the premises given that the submitted layout plans include an area of bench seating, however this would have the benefit of restricting noise to within the building. The applicant has advised that the majority of fares now booked in advance over the phone.

The amended proposal is therefore in accordance with the provisions of Policy DS5 of the Core Strategy Development Plan Document.

Visual Amenity

The office building is considered to be acceptable in terms of its design and appearance. It is constructed from local natural stone and incorporates traditional features such as stone surrounds to all windows and doors with the rear elevation having a rendered finish. It is acknowledged that the profile of the slated roof is very shallow however this serves to reduce the overall mass and bulk of the structure as well as its visual prominence. The building therefore appears as a subordinate addition to the neighbouring, larger detached domestic garage and would not appear out of place in this central village location. As submitted the scheme is considered to accord with the provisions of Policies DS1 and DS3 of the Core Strategy Development Plan Document.

Heritage Impacts

The application site is situated within Baildon Conservation Area and in close proximity to the nearby Malt Shovel public house, a Grade II listed building. Paragraph 187 of the NPPF states that local planning authorities should maintain or have access to a Historic Environment Record (HER), and at further goes on to state that, at paragraph 189, that as a minimum the relevant HER should be consulted and the heritage assets assessed using appropriate expertise where necessary.

The HER for West Yorkshire has been consulted and there is no recorded content that relates specifically to the application site. The record does not identify any further heritage assets, other than those identified above, which might be affected by this development proposal. It should be noted that the HER is essentially an index of heritage sites in any given area, there is no indication of the significance of any given asset.

The impact of the development on the identified heritage assets has also been assessed by the Council's Conservation Officer. He has taken into account the Baildon Conservation Area Appraisal, prepared by the Council's Design and Conservation Team, as well as the listed building records.

Paragraph 189 of the NPPF says that, when determining planning applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including a contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. In support of the proposal a Heritage Statement was submitted together with a more detailed report entitled 'A site appraisal, design intent and design aesthetic document'. It is acknowledged that these documents were specifically prepared for the originally submitted scheme and that this has since been amended. However, given that the amended scheme is broadly similar to the original proposal, the submitted information remains pertinent to the revisions now at hand. In any event, the office building has been constructed which allows for a full appreciation of the actual impact of the building on relevant heritage assets.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out a general duty in respect of listed buildings in the exercise of planning function. In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The site is within Baildon Conservation Area. Both the NPPF and Policy EN3 of the Core Strategy Development Plan Document require the Local Planning Authority to consider harm to the setting of such heritage assets. Paragraph 200 of the NPPF advises local planning authorities to look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. This is also reflected in Policy EN3 of the Core Strategy.

Harm to a heritage asset may be identified as being none, less than substantial or substantial. Where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The Conservation Officer's initial consultation response considered that the development would not harm the setting of the grade II listed Malt Shovel public house which is positioned on the opposite side of the shared access way. This opinion is upheld in respect of the amended scheme.

The general scale and form of the proposed building maintains local distinctiveness in that it is to be largely constructed in coursed natural stone, with traditional stone detailing to window and door openings and blue slates to the roof. The use of a rendered finish to the rear, secondary, elevation is considered to be acceptable given that this part of the building is not open to any public vantage points.

Overall, it is considered that the development will enhance the character and appearance of Baildon Conservation Area in that it will effectively screen the adjacent dilapidated garage building and improve wider range views when seen from Northgate. This garage building is of a block work construction with a profiled metal sheeting pitched roof that detracts from the vernacular form of the settlement core. This negative impression is further re-enforced by the condition of the adjacent land which had a rough, gravelled surface. It is noted that the Conservation Officer had a preference for the original pitched roof design however, now the structure has been constructed, the shallow pitch of the lean-to roof has some benefits in that it serves to minimise the mass and bulk of the structure so that it neither appears as a strident feature in the immediate streetscene nor impinges on key views.

The Conservation Officer is satisfied that the development, as amended, would not cause harm to the setting of the conservation area.

In conclusion, Officers are satisfied with the level of detail provided by the applicant and conclude that the amended proposal is acceptable in terms of its impact upon heritage assets, including their setting. The Local Planning Authority's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF have been fulfilled and the proposal is also considered to accord with the requirements of Policy EN3 of the Core Strategy Development Plan Document.

Representations

It is acknowledged that the application has stemmed from the need of an existing long-standing business to relocate within Baildon and that the firm is a well-respected private hire business providing a service to the local community; this is illustrated by the amount of support for the proposal.

The amended scheme satisfactorily deals with the issue of noise and disturbance in that there is no longer an external waiting area for customers or welfare facilities for drivers. This will effectively 'design out' the need for members of the public to congregate outside and around the premises at unsociable hours. A refusal on amenity grounds cannot therefore be substantiated. An under provision of car parking and an intensification in use of the access road was previously a concern but overcome by the change in layout and business model.

The Council's Conservation Officers are satisfied that the proposal will not result in harm to the character and appearance of the conservation area or the setting of the adjacent listed building and note that it will have a beneficial effect on these identified heritage assets in that it would mask a neighbouring, dilapidated structure from important views from Northgate.

With regard to the need for the development, the proposal is for the relocation of an existing business and not for the creation of a new private vehicle hire firm. Consequently, there would be no net increase in the number of such firms operating within the Baildon area should planning permission be granted. In any event, competition is not a material planning consideration.

With regard to land ownership, the Local Planning Authority is satisfied that the relevant certificate has been served on the land owner which is not, as alleged, the brewery. The land owner in question has written in, both in support of this claim and the application.

The additional comments submitted on the revised proposal are noted. The outcome of the Judicial Review meant that the application needed to be re-considered. The Local Planning Authority is aware that the structure has been built and that the business is currently operating from the site however this would not prejudice the ability of the Local Planning Authority to fully assess the submitted proposal against the relevant planning policies.

Community Safety Implications:

None

Equality Act 2010, Section 149:

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance quality of opportunity between different groups and foster good relations between different groups. It is not however considered that any issues with regard thereto are raised in relation to consideration of this application.

Reason for Granting Planning Permission

The amended proposal is considered to be acceptable in that it would not result in harm to local character and would enhance the appearance of the Baildon Conservation Area through improving views along Northgate and the setting of the adjacent grade II listed building, the Malt Shovel public house. The duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 and considerations under paragraphs 189-202 of the NPPF have been fulfilled. The amenities of adjacent neighbouring properties will not be adversely impacted upon given that the external waiting area is no longer shown. The observations of the Highway Engineer are noted and the Local Planning Authority is mindful of the fact that the premises have been operational for the previous six months with no reported parking or safety concerns and that a refusal on purely highway safety grounds would be difficult to substantiate.

The development would also enable a long-standing local business to remain in the centre of Baildon, which is essential if it is to retain its current client base and staff.

Therefore the proposal is considered to accord with the provisions of Policies DS1, DS3, DS4, DS5, EN3, EN8, SC9 and TR2 of the Core Strategy Development Plan.

Conditions of Approval

None are necessary given that the application is retrospective.

Informative:

The applicant should be aware that advertisements and signs are controlled under the separate provisions of the Town and Country Planning (Control of Advertisement) Regulations, 2007. The express consent of the Local Planning Authority may be needed before external signs can be lawfully displayed on the building or site. Further advice should be sought from the Local Planning Authority on 01274 434605 or www.bradford.gov.uk/planning.