

Agenda Item A6	Committee Date 29 May 2013	Application Number 13/00160/CU
Application Site Car Park Butterfield Street Lancaster Lancashire	Proposal Temporary change of use of part of car park to private taxi rank	
Name of Applicant Mr Kevin Chamberlin	Name of Agent Mr Christopher Greer	
Decision Target Date 14 May 2013	Reason For Delay Awaiting Consultation Responses and Committee Cycle	
Case Officer	Mr Mark Cassidy	
Departure	No	
Summary of Recommendation	Refusal	

1.0 The Site and its Surroundings

- 1.1 The parcel of land that is the subject of this application forms part of an existing car park adjoining Butterfield Street, Wood Street and Dye House Lane, close to the City Bus Station.
- 1.2 The site lies within the Lancaster Conservation Area and it is also part of a city-centre land designation, namely the Lancaster Central Parking Area. It is unallocated within the Lancaster District Local Plan (Saved Policies), with the exception of an 'Other Key Frontage' designation which runs along the eastern edge of the site fronting Wood Street.

2.0 The Proposal

- 2.1 The application proposes to temporarily use part of the existing car park as a private taxi rank for the picking up of taxi passengers. The land would be subject to a separate (and private) lease arrangement between the current landowner and the taxi firm known as 'One-a-cab'.
- 2.2 The application initially proposed the siting of a portable building which would have been used as a taxi office. However that element was withdrawn from the plans prior to the formal validation of the application.
- 2.3 Separate email correspondence has indicated that the applicant would not make any physical changes to the car park and would operate from the site between the hours of 0630 and 2330. The applicant's Transport Assessment advises that no more than 3 cars would be present on the site at any time, although this is contradicted by the applicant's plan which suggests that the figure would be 4 cars.

3.0 Site History

- 3.1 The car park has a limited planning history. A 1992 application (Ref: 92/01171/CU) proposed a continuation of the change of use of land to mobile retail meat auctions. This was refused in January 1993 on the grounds of noise nuisance, impact associated with large commercial vehicles, impact

upon the City Centre, and the potential precedent that it may create.

4.0 Consultation Responses

4.1 The following responses have been received from statutory consultees:

Statutory Consultee	Response
County Highways	<p>Recommends refusal – adverse effect on the safety and operation of the public highway. It is not acceptable to encourage any form of development (temporary or otherwise) that would increase the number of vehicles or pedestrians using Dye House Lane and Butterfield Street as a means of access onto Chapel Street.</p> <p>The surfaces of Butterfield Street and Dye House Lane are of substandard construction comprising a combination of patched and uneven macadam surfacing, stone setts and pedestrian footway of little more than 0.8 metres in width.</p> <p>The proposal will increase risks on the public highway, due to a lack of turning facilities within the curtilage, substandard carriageway surfacing which is impractical for the pick-up or setting down of passengers, and increased movements along Chapel Street in an area of inadequate forward visibility at the junction of Butterfield Street and Chapel Street.</p> <p>The access arrangements will also require access over third-party land or a reversing manoeuvre in an area with no turning facilities at the head of the cul-de-sac.</p> <p>The application also fails to record (as part of the Transport Assessment) accident statistics in the locality.</p>
Police (Traffic Management Facilitator)	<p>Recommends refusal – detrimental to highway safety and an unsuitable location for increased vehicular and pedestrian movement along narrow, uneven and poorly-lit roads.</p> <p>The site is located on private land and is difficult for pedestrians to access if approaching from either Butterfield Street or Dye House Lane, both of which are little more than a single vehicle width and (the latter of which) does not have pedestrian footways. This would necessitate pedestrians walking in the carriageway. During the hours of darkness lighting is poor.</p> <p>Historically there has been a problem with cyclists being struck by vehicles exiting Butterfield Street onto Chapel Street where the contraflow cycle lane on Chapel Street passes this junction. This is a popular route used by the taxis/hackneys taking a short cut to Chapel Street and the cycle lane is a very busy route in both directions. Improvements have been made to the cycle lane markings and so far in 2013 there have been no injury collisions at that junction.</p>
Police (Architectural Liaison)	<p>No comments to make.</p>
City Council – Licensing	<p>Has provided the following observations:</p> <ol style="list-style-type: none"> 1. The area was considered during talks about the temporary relocation of the bus station taxi rank and was dismissed out of hand by the Highways Authority and the Road Traffic Policing Unit as it was considered unsafe. Vehicles exiting that area have very limited visibility and have to cross directly over the cycle lane. 2. When a rank is designated by the local authority for use by hackney carriage vehicles, it is not within the scope of the legislation to limit the use to one particular company (as the applicant is proposing here). Whilst One-a-cab probably have a small number of vehicles, once designated the rank would be open for use to 109 hackney carriage vehicles, thus creating a potential build-up of vehicles in the locality. The applicant would have no authorisation to police the

	<p>situation and the only likely recourse they would have against other hackneys using the rank would be civil proceedings for trespass.</p> <p>3. The car park is uneven with potholes and would be potentially dangerous if it were formally designated as a rank.</p> <p>4. Any private rank would undermine the official rank located in Dalton Square for the duration of the United Utilities works. From a licensing perspective, the Council licence all of the vehicles which are then run by independent proprietors. All of the proprietors have the same legitimate expectations from the licensing authority to provide rank spaces and to properly enforce the licensing conditions. A rank for exclusive use would not only be divisive but would be likely to be unlawful.</p>
City Council – Environmental Health	No objections.
City Council – Conservation	No comments.
United Utilities	No comments received within statutory timeframe.

5.0 Neighbour Representations

5.1 There have been 4 objections to the proposal received at the time of compiling this report. The principal reasons for opposition are:

- Poor condition of the surface of the car park;
- Conflict between the taxi rank and the existing car park use;
- Safety considerations, notably visibility on emerging from Butterfield Street onto Chapel Street, narrow width of Dye House Lane and Butterfield Street, poor lighting and the absence of pedestrian footways;
- Increased volume of traffic;
- Impact upon the disabled access to 7 and 9 Chapel Street;
- Enforceability of the private rank;
- Competition (not a planning consideration);
- Liability (not a planning consideration); and,
- Siting of the portable building (this has since been removed from the proposal).

5.2 An email from Dynamo (Lancaster & District Cycle Campaign) raises concerns about the increase in traffic using Butterfield Street. They comment that there have been several accidents involving collisions between motorists leaving Butterfield Street and cyclists legitimately using the cycle contra-flow lane on Chapel Street. Whilst the County Council have redesigned the lane to reduce the risk, the use of part of the car park as a taxi rank would increase the risk statistically. Dynamo would not object if it were used only for the duration of the United Utilities works and that there was an agreement that the use should be discontinued in the event of a collision from a taxi leaving Butterfield Street.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

The NPPF carries a presumption in favour of sustainable development, whereby proposals that accord with Development Plan policies should be approved.

With regard to this particular application, NPPF Paragraph 35 is especially relevant. It highlights five criteria that developments should (where practical) adhere to. These include giving priority to pedestrian and cycle movements, and creating safe and secure layout which “*minimise conflicts between traffic and cyclists or pedestrians*”.

6.2 Development Plan Policies

In the Lancaster District, the Development Plan consists of the Regional Spatial Strategy, the Lancaster District Core Strategy, and the Saved Policies of the Lancaster District Local Plan. However Ministers have advised that an Order to revoke the Regional Spatial Strategy has been laid in Parliament and the Order will come into force on 20 May 2013.

Paragraphs 214 and 215 of the NPPF provide advice on the weight that can be attributed to policies within the authority's Development Plan. Paragraph 214 states that *"For 12 months from the day of publication (the NPPF was published on 27 March 2012), decision-takers may continue to give full weight to relevant policies adopted since 2004, even if there is a limited degree of conflict with this Framework"*. Paragraph 215 continues by stating that, *"In other cases and following this 12-month period, due weight should be given to relevant policies in existing (Development) Plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

6.3 There are no Regional Spatial Strategy Policies that directly affect this proposal.

6.4 The following District Core Strategy policies are relevant:

- Policy **SC1** – Sustainable Development – amongst the principles of development are that any new proposals are convenient in terms of walking or cycling around the site;
- Policy **SC6** – Crime and Community Safety – one of the criteria applicable to this application states that community safety will be enhanced by encouraging high-quality, pedestrian-friendly designs in all new development; and,
- Policy **E2** – Transportation Measures – seeks to minimise the need to travel by car via specific transportation measures and also by focusing developments in sustainable locations and improving walking and cycling networks.

6.5 The following Saved Policy of the Lancaster District Local Plan is relevant:

- Policy **T13** – Car Parking – seeks to protect visitor and shopper car parking within the Lancaster Central Parking Area.

6.6 Emerging Development Plan Policies

The Council has now completed the first Preferred Options consultation on the Development Management Development Plan Document (DPD), which forms part of its Local Plan. Whilst this is an early stage of the plan process, policies in the emerging Local Plan can be a material consideration. The degree of weight that can be afforded to these policies varies depending on the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency with the NPPF. Limited weight can therefore be afforded to the following draft policies that are relevant to this application; that received no significant objections during the Preferred Options stage; and that are considered in conformity with the NPPF:

- Policy **EC6.1** – Enhancing Accessibility and Transport Linkages – seeks to minimise the need to travel by private car and enhance walking, cycling and public transport; and,
- Policy **EC6.2** - Walking and Cycling – this seeks to ensure that there are no adverse impacts for the pedestrian environment, particularly in relation to safety.

7.0 Comment and Analysis

7.1 There are two main issues to consider in assessing this application:

- The principle of the change of use in planning terms; and,
- The highway implications arising from the use of the land.

7.2 Principle of Use

With regard to the principle of use, some of the public comments have focused upon the possibility that this exclusive, private rank would give the applicant's company an unfair competitive advantage, and may be unlawful in terms of licensing and associated legislation. Whilst not disputing these issues, they are not necessarily material to the planning decision. The planning application must consider whether the change of use being proposed is acceptable simply in land-use planning terms.

7.3 The car park is unmade and can accommodate approximately 12-15 vehicles at any one time. It is in a poor condition and does not contribute positively to the Lancaster Conservation Area. The use of part of the site for taxis rather than other car parking would not alter its appearance, and the applicant is not advocating any physical demarcation or the siting of additional buildings on the land.

7.4 The car park is private and is not identified as a Car Park within the Development Plan, although it is within the Lancaster Central Parking Area. That designation seeks to protect existing car parks from development in order to preserve the number of shopper and visitor parking spaces in the city. However existing parking at the site appears to be over longer periods (e.g. commuter parking), and as such the proposal would be unlikely to result in a reduction of shopper/visitor parking spaces.

7.5 It is however possible that the approval of this application could set a precedent for the use of other private parking areas within the city as a rank. The Council's Licensing Officers have advised that in their view, a rank would potentially be available for all hackney carriage vehicles, rather than a single taxi firm. This could lead to a much greater volume of vehicles using the proposed rank.

7.6 Given that the proposal would not affect a shopper and visitor car park, nor materially affect the appearance of the site, the application rests on the issues of highway safety, capacity and efficiency.

7.7 Highway Implications

Dye House Lane and Butterfield Street are unclassified single carriageways, described by County Highways as being "*without the benefit of substantial contiguous lengths of footway*". There are a number of Traffic Regulation Orders (TROs) in existence in the immediate locality, some of which prohibit waiting at any time on the adjacent public highway and waiting restrictions along Chapel Street. County advises that the presence of a number of TROs "*indicates a past history of concern with regard to vehicle movements and parking*".

7.8 Taxi passengers would be picked up from within the parcel of land rather than from the highway. The applicant intends to manage the land via their radio system, to ensure that the number of taxis using the land is limited to 3-4. There would be no practical method of enforcing this through the imposition of planning conditions, and the situation would effectively be left in the hands of the taxi company, who say they would monitor the situation and ensure that there are no 'drive-bys' by vehicles looking for spaces.

7.9 The capacity of the car park is limited. However, it appears from visits to the site that vehicles often park on this land for a considerable length of time. This would be in contrast to the parking of taxis, which by their nature are more transient and operate in relation to passenger demand. It is perfectly conceivable that the formal change of use of land for taxis, even on a temporary basis, would lead to an increase in vehicular movements when compared to the existing situation. The applicant's Transport Assessment fails to assess the current volumes of traffic using either the car park or Dye House Lane, and it makes no assessment of predicted levels arising from the proposed change of use either. County Highways has also been critical of the omission of recorded pedestrian/cycle/vehicular accident statistics from the applicant's submitted literature.

7.10 The applicant's Transport Assessment indicates that taxis will park facing Butterfield Street. This proposed arrangement seems to be reliant on the remainder of the car park (outside the red edged application boundary) being accessible and unobstructed at all times.

7.11 It is true that vehicles, including taxis, currently use the narrow, one-way Dye House Lane and Butterfield Street as a short-cut around the gyratory to exit onto Chapel Street and head south through the city. This brings vehicles into potential conflict with cyclists using the contra-flow cycle lane along Chapel Street. Cars leaving Butterfield Street are first concerned with looking left on exiting simply because Chapel Street is a one-way vehicular street. Visibility to the right is not as good due to the position of 11 Chapel Street, which abuts the pedestrian footway. County Highways agree that forward visibility for drivers here is "*impaired*".

7.12 An increase in the use of Dye House Lane and Butterfield Street has been opposed by the Police's Traffic Management Facilitator on the grounds of highway safety, not just in relation to vehicles emerging across the contra flow cycle lane on Chapel Street, but also due to the likely general increase in vehicular and pedestrian activity in a narrow and poorly lit area of the city.

7.13 Other Matters

Much has been said about the temporary relocation of the bus station taxi rank to Dalton Square, and the applicant has referred to this in his supporting statement. The Dalton Square temporary rank has been provided for the duration of the United Utilities works and it is currently available in a sustainable, city centre location. As such any debate about the operation of that temporary rank does not materially affect the determination of this separate planning application.

7.14 On a procedural issue, if planning permission were granted for this proposal then the City Council (in their separate role as licensing authority) would then consider whether the land in question should be designated as a rank.

8.0 Planning Obligations

8.1 There are no planning obligations to consider.

9.0 Conclusions

9.1 Whilst there are unquestionably licensing implications arising from this proposal, the consideration of the planning application is relatively simple and centres upon whether the proposal is acceptable in terms of highway capacity, efficiency and safety.

9.2 The road network in the area is narrow and is not conducive to a safe pedestrian environment due to the location of the parcel of land within part of an existing car park, the absence of footways in parts of the surrounding area, and the absence of sufficient street lighting. In addition the increased vehicular use of this area and the Butterfield Street/Chapel Street junction in particular, is likely to bring more vehicles into conflict with the contra-flow cycle lane, which has previously witnessed collisions involving vehicles and cyclists.

9.3 The arrangement proposed by the applicant would involve access across land outside the applicant's control, or awkward reversing manoeuvres in an area which does not benefit from turning facilities.

9.4 Due to the adverse impact upon highway safety and efficiency arising from this proposal, the application is recommended for refusal.

Recommendation

That Planning Permission **BE REFUSED** for the following reasons:

1. The proposed change of use of land would be contrary to the provisions of Paragraph 35 of the National Planning Policy Framework, Policies SC1, SC6 and E2 of the Lancaster District Core Strategy, and the emerging Development Management DPD Policy EC6.2, by virtue of the increased vehicular use of Dye House Lane and Butterfield Street, both of which are narrow roads. Increased use would lead to greater potential for conflict with the contra-flow cycle lane on Chapel Street, to the detriment of the safety of cyclists, and would also create greater pedestrian footfall in a location which is not conducive to accommodating waiting passengers.

2. The applicant's proposals involve access over third-party land outside of the red-edged application site to accommodate the forward-parking of their vehicles fronting Butterfield Street. This arrangement appears to rely on the third-party land being unobstructed at all times. There are no guarantees that this would be the case and the applicant's traffic management proposals relating to parking and manoeuvring are unconvincing and fail to reassure the local planning authority that conflicts between taxis, other vehicles and pedestrians would not arise. In the absence of this assurance, the application fails to satisfy National Planning Policy Framework Paragraph 35; Policies SC1 and E2 of the Lancaster District Core Strategy; and the emerging Development Management

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None.