



TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006

PROVIDE 17 OUTDOOR STALLS AND 5 INDOOR STALLS FOR WEEKLY (SUNDAY)
CAR BOOT SALE AT TRANSITION TOWN FORRES, BOGTON ROAD, FORRES

WRITTEN STATEMENT BY KEN AITKEN
TRANSPORT SCOTLAND
NETWORK OPERATIONS: TRUNK ROAD AND BUS OPERATIONS
DEVELOPMENT MANAGEMENT

Local Review Ref: LR122
LA Ref: 14/01905/APP
TS Ref: NE/230/2014B

This statement is submitted by Transport Scotland in response to the notification, on the 23 April 2015, from the Council that an application for a Notice of Review for the above application had been submitted by the applicant.

Transport Scotland were originally consulted on this site for a monthly farmers market in 18 September 2009. The proposal was for 8 Market stalls within the site and accessed from the A96.

Transport Scotland responded on the 25 September with the following condition
“The access road shall be widened to a minimum width of 5.5 metres from the junction with the trunk road to the gate.”

In February 2010, the applicant requested that the implementation of the access improvements be delayed until funding was available and Transport Scotland replied that as the improvements were safety based, the improvement would need to be completed prior to opening.

The works to improve the access were carried out in May and June of 2010.

There was a further pre-application consultation in March 2013 for a larger Farmer's Market or Car Boot Sale which would be held most weeks. This proposed about a 50% increase in size to the existing and a fourfold increase in use due to the change from monthly to weekly.

Transport Scotland advised the applicant that while the access was appropriate for the current use the increase in use would require further alterations to the access. Nothing further was heard from the applicant regarding this proposed increased use.

The next contact Transport Scotland had regarding this site was when we were contacted in July 2014, by the Council Planning Enforcement Team investigating a possible breach of planning consent in that the market was operating weekly.

Transport Scotland responded in August 2014 that action was necessary and advised that this may be resolved by conditions, rather than refusal.

A planning application was subsequently submitted on the 5 December 2014 for 17 outdoor stalls and 5 indoor stalls for a Sunday Car Boot Sale. Transport Scotland responded on the 12 December 2014 with the following condition.

"Prior to the market opening a traffic management system should be submitted for approval of the Planning Authority in consultation with the Trunk Roads Authority showing access being taken from Bogton Road and the egress only onto the A96."

In making this response Transport Scotland were addressing the concerns relating to significant increase in turning traffic which would be accessing the site and the subsequent adverse impact that this would have on road safety at the location.

It was considered that to reduce the impact of this turning traffic a traffic management scheme could be implemented which would create a one way flow using the trunk road access and the Bogton Road access to the site. This would remove conflicts between traffic turning in and out the site which would in turn reduce delays for turning traffic and consequently have a less serious impact on road safety than the situation where traffic was entering and exiting the site by means of the same access on the A96.

The A96 here is subject to the national speed limit and experiences traffic moving at high speed. The effect of traffic turning or waiting to turn here would introduce a higher risk of collisions occurring. While this was considered acceptable for low use the increase in size and frequency of the market / car boot sale would significantly increase this risk to an unacceptable level.

This was discussed at some length with the Council's planning officers and on 22 January 2015 Transport Scotland confirmed these points in an email.

"Our main concern is that, while we were willing to accept the occasional disruption to trunk road traffic caused by a monthly market (as per 09/01722/APP (NE/176/2009)) we are more concerned about this occurring weekly. However, even a monthly market would have been unacceptable without the access being widened to minimise the delays to traffic turning into the site from the trunk road (hence the suggested condition in 2009).

With regards to the application for a weekly market, Transport Scotland is, as previously stated, concerned about the frequency disruption is likely to occur to traffic on the trunk road but is willing to work with the Applicant to find a mutually acceptable solution. This may be a one-way system as suggested in my early response or perhaps a “left turn in” only system whereby traffic from the west would pass the site, turn around at the nearby roundabout and enter the site by turning left. This would remove the possibility of a right turn queue forming on the trunk road and its associated risk to traffic”

As a solution to implement this traffic management could not be agreed Transport Scotland changed the advice to the Council with a revised response on the 29 January 2015, worded as follows.

“The proposed access shall join the trunk road at a new junction which shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TD 41/95 (Vehicular Access to All-Purpose Trunk Roads) (as amended in Scotland) complying with Layout 4. The junction shall be constructed in accordance with details that shall be submitted and approved by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority, before any part of the development is commenced.”

This recommendation was to allow the sole use of the trunk road access and permit access to and from the A96. This was to be achieved by the introduction of an access layout which removed the possibility of turning traffic by only permitting traffic to make left turns in and out of the site. This self-enforcing measure removes traffic turning across the trunk road and also removes traffic waiting on the trunk road to turn right into the site. Turning traffic would enter or exit the site from the left and turn using the roundabouts at either end of this section of the trunk road.

Further discussion followed between Transport Scotland, Council planning officers and the applicant when it was identified that the applicant was not prepared to implement this alteration to the junction. This was confirmed in an email to the Council’s planning officers on the 17 March 2015.

“Transport Scotland is of the opinion that, if a “left-in / left-out” junction arrangement cannot be implemented we would recommend refusal of the application.

If the applicant had informed us of his/her final plan when initially notified this situation would not have arisen as we would have asked for this arrangement at the start instead of the access widening originally sought.

As an aside, it is noted that the route via Bogton Road is still apparently being used (from comments on your website). Transport Scotland has obviously no objection to this this arrangement.

Consequently, Transport Scotland changed the advice to the Council with a revised response on the 18 March 2015, worded as follows.

“The proposal would result in an increase in waiting and turning manoeuvres, on this section of trunk road, which would be to the detriment of the safety and free flow of traffic on this length of trunk road where vehicle speeds are high.”

Conclusion

Transport Scotland have been involved in discussions with the applicant over some time with this proposal where advice was given relating to the information supplied by the applicant.

In retrospect, it appears that this advice was at best incomplete or misleading and as such it has not been possible to give full and proper advice to the applicant. Even where this advice has been given, it is apparent that the advice has been ignored or only partially implemented.

It is unfortunate that the applicant was not clear on the full extent of the proposals right from the start to allow an appropriate access to be implemented at the start and avoid what has subsequently turned out to be abortive work.

In addition, Transport Scotland has attempted throughout this extended consultation period to find a way to allow this development to proceed and co-operation from the applicant to find a solution has not be forthcoming.

Transport Scotland would respectfully request that the Local Review Board refuse this appeal.

However, Transport Scotland would advise that we would be prepared to enter into discussions with the applicant to try and identify a way forward with this proposed application.

Ken Aitken
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