
Appeal Decisions

Site visit made on 6 August 2019

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 12th August 2019

Appeal A Ref: APP/J0350/W/19/3220156 Hurricane Court, Heron Drive, Slough SL3 8XP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Nacropolis (Langley) Limited against the decision of Slough Borough Council.
 - The application Ref P/10204/011, dated 13 September 2018 was refused by notice dated 12 November 2018.
 - The application was for planning permission to carry out change of use from offices class B1(a) to 54 residential flats class C3 (24 no. Studios; 11 no. 1 Bed; 19 no. 2 bed) and associated parking without complying with a condition attached to the prior approval notification Ref F/10204/008, dated 11 October 2017.
 - The condition in dispute is No 1 which states that: "No part of the development hereby permitted occupied until details of a new signal controlled pedestrian crossing in Heron Road by the Parlaunt Road have submitted to and approved in writing by the Local Planning Authority. The new signal controlled pedestrian crossing shall be formed, laid-out, constructed, and brought into full use in accordance with the details approved prior to first occupation of the development."
 - The reason given for the condition is: "To ensure that the development provides safe pedestrian crossing facilities of the access road and in accordance with paragraph W Part 3 of the GPDO 2015 (as amended) and the requirements of the National Planning Policy Framework 2012."
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Appeal B Ref: APP/J0350/W/19/3220157 Hurricane Court, Heron Drive, Slough SL3 8XP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Nacropolis (Langley) Limited against the decision of Slough Borough Council.
 - The application Ref P/10204/010, dated 13 September 2018, was refused by notice dated 17 December 2018.
 - The application sought planning permission for "demolition of the existing roof and erection of an additional storey together with a 3 storey infill extension to create 30 self-contained flats, (21 no. 1 bed; 9 no. 2 bed). Associated landscaping and parking. External alterations to the existing building." without complying with a condition attached to planning permission Ref P/10204/009, dated 25 June 2018.
 - The condition in dispute is No 10 which states that: "No part of the development hereby permitted shall be occupied until the new signal controlled pedestrian crossing in Heron Road by the Parlaunt Road has been formed, laid-out, constructed, and brought into full use in accordance the details approved under condition 2 of application F/10204/008."
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- The reason given for the condition is: "To ensure that the development provides safe pedestrian crossing facilities of the access road and in accordance with Core Policy 7 of The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008, and the requirements of NPPF 2012."
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Procedural Matter

1. As set out above there are two appeals on this site. They relate to different proposals but the issues are similar. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
2. The Decision Notices refer to the National Planning Policy Framework 2018. This was revised in February 2019 (the 2019 Framework). The start date for these appeals was after this so the Parties were able to address it as part of their case. Moreover, the section relating to transport is unchanged.

Decisions

3. Appeal A and Appeal B are dismissed.

Background and Main Issues

4. As set out in the legislation, the Framework and in case law, applications made under section 73 of the Town and Country Planning Act 1990 are to be considered only in relation to the subject matter of the conditions in dispute.
5. For both Appeals the first main issue is the whether or not the disputed conditions are necessary in the interests of safe and suitable pedestrian access for all. For Appeal B the second main issue is the effect the removal of Condition No 10 would have on reliance by future residents of the proposed development on the private vehicle for access to goods and services.

Reasons

6. The appeal site, Hurricane Court, is an office building on the corner of Parlaunt Road and Heron Drive (the junction) within a defined Existing Business Area (EBA). The Heron Drive cul de sac serves commercial buildings within the EBA including the appeal site.
7. Under the provisions of Schedule 2, Part 3, Class O of the GDPO¹ change of use from offices to flats is permitted subject to a prior approval process. The GPDO specifically provides for transport and highways impacts to be taken into account for Class O. The proposal for 54 flats Ref F/10204/008 (scheme A) was granted prior approval subject to a number of conditions including Condition No 1 which is the subject of Appeal A.
8. The proposal for extensions to create 30 flats was granted planning permission Ref P/10204/009 (scheme B) subject to a number of conditions including Condition No 10 which is the subject of Appeal B. In total the proposal would provide 84 one bed; two bed; and studio flats which is a significant scale of development.

¹ Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)

Safety of pedestrians

9. There is an extensive history of planning applications/notifications on the site for changes to residential uses. The Framework advises that transport issues should be considered from the earliest stages of development proposals and Paragraph 108 advises that safe and suitable access should be provided. Paragraph 110 gives priority to pedestrian and cycle movement; seeks to ensure the needs of those with reduced mobility are addressed and to minimise the scope for conflicts between pedestrians, cyclists and vehicles. Hurricane Court has its main access onto Heron Drive close to the junction. The Council has been consistent in attaching conditions to residential proposals relating to pedestrian safety.
10. The appeal site is on the eastern side of Heron Drive. The junction is controlled by traffic signals for vehicles that includes a signal controlled pedestrian crossing facility across Parlaunt Road to the west of Heron Drive. However, future residents of Hurricane Court would need to cross Heron Drive to access this pedestrian crossing; the leisure centre, shops and services further west along Parlaunt Road; and bus stops/railway station.
11. Parlaunt Road is a two lane carriageway with a right turn lane into Heron Drive when approaching from the west. Heron Drive is two lanes wide at the stop line for Parlaunt Road. There is good visibility along Heron Drive and speeds tend to be low because of features including 15mph roundels, a traffic splitter island, a pedestrian refuge at the Parlaunt Road interface, a change in road surface materials and a change in carriageway width. In addition, Heron Drive is relatively short at circa 150 metres, incorporates two access points within close proximity to one another and a roundabout/turning head at its southern end. The evidence indicates there have been no Personal Injury Accidents in the vicinity of the junction within a five year period.
12. Schemes A and B are accompanied by a Transport Statement (the 2018 TS), itself following the 2017 TS submitted with earlier proposals. This is accompanied by a pedestrian crossing video camera survey at the junction undertaken on 17 July 2018 between 07:00 and 19:00. On that day pedestrian flow was relatively light with circa 40 two way pedestrian movements (excluding 'child in pram') during the morning and evening peak periods.
13. Further analysis of the findings was undertaken for the purposes of the current Appeals (the 2019 TAS). Over the survey period the total two way vehicle and cycle flow was 1,099, including 89 heavy goods vehicles. Analysis found there was no difficulty for pedestrians crossing Heron Drive with wait times of an average of less than a second. Gaps in vehicle movements vary during peak hours between 2 seconds (the data in the 2019 TAS indicates a minimum of zero at three times) and about 16 minutes. However, pedestrians do have to take careful note of vehicles using the junction and estimate whether gaps will be sufficient to cross. This is made more difficult with vehicles parked along Parlaunt Road obstructing one of the lanes for turning left into Heron Drive. Moreover, with a residential use there is likely to be more pedestrians with restricted mobility arising from the proposed residential use compared to an office use.
14. The evidence provided is for a single day only. It is not clear whether Hurricane Court was occupied at the time the survey was undertaken or whether the different patterns of movements from the proposed residential use would affect

the gaps in traffic flow. The appellant accepts there may be some variations in vehicle flows and gap lengths on different days, but asserts these variations would not be significant. However, I have seen no evidence that demonstrates this. In my experience traffic surveys are normally carried out over a longer period to minimise the effect of atypical incidents or other activities such as school term times that may affect movements. Moreover, the National Planning Policy Guidance indicates that the timeframe that the assessment covers should be agreed with the local planning authority² and I note the Council's concerns in respect of the survey period.

15. Schemes A and B would result in a change in the pattern of movements through the junction compared to the permitted office use. The evidence includes Trip Rate Information Computer database to compare pedestrian trip generation between the two uses. This estimates a potential decrease overall in pedestrian trip generation between the two uses but with an increase between the hours of 07:00 to 10:00 from 22 to 35 two way trips. Overall the estimated vehicle trip generation would increase slightly but with a decrease between the hours of 07:00 to 10:00 from 79 to 67 two way trips.
16. For Appeal B the reasons for refusal include the absence of a Stage 1 Safety Audit (SA). The Council explains that this requirement was as a result of additional comments from the highway engineer in the intervening period between the decisions on Scheme A and Scheme B. The Council's Transport and Highway Guidance, Developer's Guide Part 3, Interim Document November 2008 would appear to indicate that the requirement for a SA arises mainly when works are proposed to a highway which does not appear to be the case here where the proposal is to remove the need for pedestrian crossing works. Nevertheless, a SA could be one way in which the safety or otherwise for pedestrians crossing Heron Drive could be demonstrated.
17. On the basis of the available evidence I cannot confidently conclude that movements through the junction have been robustly demonstrated. Nor have I seen evidence demonstrating the effect on movements through the junction arising from the proposed residential use. Accordingly I cannot conclude that the proposed development would provide suitable pedestrian access for all without mitigation measures. The Council is of the view that a signal controlled pedestrian crossing is necessary to achieve mitigation and I have no alternative mitigation measures before me.
18. The disputed condition at Appeal A requires the submission of details for approval of a signal controlled pedestrian crossing of Heron Road and the implementation of the approved details. For Appeal A I cannot conclude that the proposed development would provide suitable pedestrian access for all without the disputed condition and I conclude it is necessary to enable the development to go ahead.
19. The disputed condition at Appeal B requires the implementation of a signal controlled pedestrian crossing in accordance with details already approved for Scheme B. Whilst there may be ways that safe and suitable access could be provided other than in accordance with the already approved plans no such alternative is before me. For Appeal B I cannot conclude that the proposed development would provide suitable pedestrian access for all without the

² Paragraph: 015 Reference ID: 42-015-20140306

disputed condition and I conclude it is necessary to enable the development to go ahead.

20. For the reasons set out above I find that the removal of the disputed conditions for both Appeals would conflict with Core Policy 7 of the Slough Local Development Framework Core Strategy 2006-2026 Development Plan Document 2008 (Policy CP7) and those principles of the Framework that seek safe and suitable access for all.

Reliance on the private vehicle

21. The appeal site is in an accessible location in that goods and services together with public transport links are available within reasonable walking distance. Accordingly future residents would not need to rely on the private vehicle for daily access to these. This accords with the requirements of Policy CP7 which seeks to reduce the need for travel and make travel by sustainable means of transport more attractive than by private car. It also accords with those principles of the Framework that seek to promote walking, cycling and public transport use with significant developments focussed in locations which are sustainable through limiting the need for travel with a choice of transport modes.
22. There are many reasons why residents choose to use the private vehicle even in accessible locations. Should there be a perception that the junction was unsafe for pedestrians then more use might be made of a vehicle instead. However, the probability of this seems relatively low as vehicles emerging from the site would need to turn right across the traffic flow; could be impeded by the signals; and there may not be destination parking easily available.
23. For these reasons on balance I conclude that the removal of Condition No 10 would not have such an adverse effect on reliance by future residents of the proposed development on the private vehicle for access to goods and services as to justify refusal on this basis. Therefore I find no conflict with Policy CP7 or those principles of the Framework that seek to reduce reliance on the private vehicle.

Conclusions

24. The disputed conditions relate to transport and highway safety which are relevant planning matters. The proposed residential uses would result in a different pattern of traffic movements compared to the permitted office use and the combined developments are of a significant scale so the disputed conditions are relevant to the developments proposed. I find the disputed conditions to be precise in their requirements. I see no reason to find them unenforceable or unreasonable in any other respect. As set out above I have found that the conditions are necessary to enable the development to go ahead. The disputed conditions accord with the requirements of Paragraph 55 of the Framework. The appeals should be dismissed.

S Harley

INSPECTOR