



Appeal Decision

Site visit made on 9 December 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/G2815/W/19/3237088

Newton Centre, 9 Newton Road, Rushden NN10 0PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Mistry against the decision of East Northants District Council.
 - The application Ref 18/02140/FUL, dated 2 November 2018, was refused by notice dated 10 July 2019.
 - The development proposed is the conversion of first and second floor offices, at 3 to 10 Newton Hall, to form 9 residential units.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion of first and second floor offices, at 3 to 10 Newton Hall, to form 9 residential units at Newton Centre, 9 Newton Road, Rushden NN10 0PG, in accordance with the terms of application Ref 18/02140/FUL dated 2 November 2018, and subject to the conditions within the attached schedule.

Procedural matters

2. The application form uses the address of 'Newton Hall, 2-10 High Street', whereas the appeal form and Decision Notice refer to 'Newton Centre, 9 Newton Road'. Furthermore, the description of development was altered during the application consideration process to include reference to '3-10 Newton Hall'. I have used the revised address and description of development, which have been agreed between parties, for clarity.
3. During the course of the appeal, the Appellant provided a financial contribution in accordance with Section 111 of the Local Government Act 1972. This payment is targeted towards mitigation to off-set the impact of development on the integrity of the Upper Nene Valley Gravel Pits Special Protection Area (SPA). This satisfies the Council's concerns in regard to the impact of the development on the SPA. It therefore no longer wishes to defend the second reason for refusal. Nevertheless, it is incumbent upon me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA. It is therefore still necessary to consider this matter as a main issue.

Main Issues

4. Consequently, the main issues are:

- The effect of the proposal on highway safety with particular regard to the access, and
- The effect of the proposed dwellings on the Upper Nene Valley Gravel Pits Special Protection Area (SPA).

Reasons

Highway safety

5. The proposed development seeks to convert the first and second floor of the building into 9 residential flats. This would include provision of resident car parking within an existing private car park. Around half the spaces would be dedicated to the proposed use. Currently, the car park provides short-term free parking for local users. Also, some spaces are reserved as dedicated parking for local businesses. The car park therefore currently provides parking for both office workers and members of the public.
6. The Development Plan for the district includes the North Northamptonshire Joint Core Strategy (JCS). Policies 8bi and 8bii, of the JCS, seeks to priorities pedestrian safety, to resist development that would prejudice highway safety and requires development to provide a satisfactory means of access. This is reiterated in policy T1 of the Rushden Neighbourhood Plan 2018 (NP). Furthermore, the National Planning Policy Framework (The Framework) states that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
7. The Council is concerned that the proposal would result in different and conflicting groups of users using the car park. However, the car park already accommodates a mix of users being for both short-term parking and longer office worker parking. Moreover, the existing use with a mix of users has not resulted in any recorded accidents in connection with the use of the access¹ over the last 5 years.
8. The Stage 1 safety audit² finds that the proposal would result in less weekday vehicular peak hour trips and fewer seven-day vehicular daily trips. In terms of person trips it also concludes that there would be fewer weekday peak hour trips and a slight increase in seven-day trips. These conclusions resulted in the submission of an amended plan (18-02 rev D) showing marked pedestrian routes and a crossing point. Furthermore, the audit has identified that safety would be increased through the resurfacing of the car park, the reduction of height of an internal fence to 0.6m and in relocating the bin store. The relocation of the bin store would widen the access. The access would therefore only narrow to a pinch point for a short distance.
9. Pedestrians would consequently have a sufficiently safe route both through the car park and to the entrance of the building. Also, the development would not meaningfully increase traffic movements and would result in a reduction of peak activity. This would create a more diffused spread of activity throughout

¹ Cotswold Transport Planning – Transport Statement October 2018

² Cotswold Transport Planning, Stage 1 Safety Audit February 2019

the day. Accordingly, this would also reduce the potential for congestion and conflicts on-site and around the access.

10. Future occupiers of the proposal, when using the car park, would walk through the relatively narrow vehicle access to enter the building from Newton Road. However, the relocated bin store would partly improve this situation. The access to the car park is via a short driveway between a shop and public toilet block. The access enters onto Newton Road, which is between a pedestrianised crossing and a traffic light controlled cross-road junction. The adjacent highway is also subject to (no parking) traffic regulation orders. The footway is around 2m deep and the highway is relatively narrow and enclosed by buildings. The highway is straight and of a slight gradient in both directions for a reasonable distance. Consequently, visibility splays when leaving the site are generally clear and free of obstructions. The highway has the characteristic of a busy high street. Due to the number of hazards motorists would need to apply significant care and attention.
11. A bell-mouth access would not be commensurate with the scale of development or its high street location. Furthermore, the proposal would only result in a small increase in vehicular trips at weekends. Also, the safety audit finds that the proposal would reduce the number of vehicle movements overall compared to the existing use. Consequently, the change in vehicle movement patterns would be relatively insignificant. As such, the proposal would not therefore result in an unacceptable impact on highway safety.
12. Accordingly, the proposal would comply with policies 8bi and 8bii of the JCS, which seeks development to prioritise pedestrian safety, not prejudice highway safety and provide a satisfactory access. Furthermore, the proposal would accord with policy T1 of the NP which seeks development to not result in a significant impact on any aspect of the transport network. Furthermore, the proposal would also comply with the Framework for the reasons stated above.

Special protection area

13. The site is within the zone of influence of the Upper Nene Valley Gravel Pits SPA. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). The Habitats Regulations impose a duty on me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA, either alone or in combination with other plans and projects. The Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage. This responsibility now falls to me within this appeal.
14. Circular 6/2005, and flow chart figure 1, sets out the approach to be taken when considering a development proposal which might affect an SPA, in order to fulfil the requirements of the Regulations. The appeal proposal is not directly related to nature conservation and occupants of the proposal would be likely to visit the SPA.
15. The SPA is significant as it provides wetland habitat for 1% or more of Great Britain's populations of bitterns and golden plovers, mute swans and a migratory habitat for gadwalls. The proposal would result in an incremental

- increase in the local population and be likely to generate further recreational activity and dog walking within the SPA. Furthermore, the Council's associated guidance³ states that in the buffer zone new housing has the potential to significantly adversely impact on the integrity of the site. This would be through increasing recreational disturbance caused by access by people and dogs. Accordingly, the effect of the proposal on the important features, in isolation or in combination with other projects, would be likely to be significant.
16. The implications of the effects of the proposal would be to degrade and erode the quality of the SPA. Natural England has commented that without mitigation the effects of the proposal would be significant. It therefore cannot be determined that the proposal would not have an adverse effect on the integrity of the site.
17. In such circumstances, the Circular then requires me to consider whether compliance with conditions or other restrictions, such as financial mitigation, would enable it to be ascertained that the proposal would not adversely affect the integrity of the SPA. The Council's Mitigation Strategy⁴ requires appropriate residential schemes to make a financial contribution. The intention is to mitigate the adverse impact of visitors to the SPA through specific measures and monitoring. Such mitigation measures include the provision of Suitable Alternative Natural Green Space (SANGS) and Strategic Access Management and Monitoring (SAMM) to mitigate the impact of the development.
18. Natural England has identified that the contribution would adequately support the SAMM in accordance with the Council's Mitigation Strategy. I am therefore satisfied that the appellant's financial contribution⁵, would be consistent with the Strategy. Moreover, Natural England has confirmed that it attends regular meetings with the local authority and the Wildlife Trust to review the deliverability of the Mitigation Strategy. Accordingly, the sum provides the necessary mitigation to offset the identified impact on the integrity of the SPA.
19. Therefore, for the reasons given above, the proposed development would not have a significant effect, either alone or in combination with other development, upon the integrity of the SPA. I am satisfied, based on the specific evidence before me, that the payment delivers a sufficient mechanism to provide the delivery of proportionate and relevant mitigation pursuant to the Council's SPD. Accordingly, the proposal would accord with policy 4(d) of the JCS, which seeks mitigation to off-set the harmful adverse impact of the development. Furthermore, the proposal would comply with the provisions of policy H2 of the NP, which also seeks a financial contribution to mitigate the adverse impacts of development.

Other matters

20. The site is within the Rushden Conservation Area (RCA). The statutory requirements⁶ require that special attention is paid to the desirability of preserving or enhancing the character and appearance of a conservation area. The significance of the RCA derives from the quantity of buildings of historical interest that make a positive contribution to the street scape. The proposed

³ The Upper Nene Valley Gravel Pits Special Protection Area – Supplementary Planning Document 2015

⁴ The Upper Nene Valley Gravel Pits Special Protection Area – Supplementary Planning Document: Mitigation Strategy – November 2016

⁵ East Northamptonshire Council receipt of payment 18/12/19

⁶ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

change of use would make limited changes to the external fabric of the building. The proposed front facing roof lights would have a minimal impact on the character and appearance of the building and would therefore preserve the significance of the RCA.

21. The Northampton Highway Development Management Strategy (2013) has been referred to by the Appellant. However, this has not been referred to in the Council's reason for refusal. Furthermore, a recent appeal decision⁷ found this document to not be part of the development plan but that it supports policy 8 of the JCS. This document advises against mixed use schemes being served by a shared access. Moreover, it would be inappropriate to apply such an approach to this proposal due to its limited scale and the use of the existing access. For these reasons, I have considered this guidance to be of limited weight only.

Conditions

22. I have considered the use of conditions in line with the Government's Planning Practice Guidance. The Council's suggested conditions in regard to the timeframe for commencement of development and the approved plans have been applied. I have also included many of the Council's further suggested conditions with some adapted wording where necessary to comply with the Framework and for clarity. I have not included a condition seeking the creation of a pedestrian visibility splay at the entrance as this is not necessary. I also do not find it would be necessary to impose a condition in regard to access gates as none are proposed.
23. Consequently, I have applied the conditions that are necessary and reasonable. Conditions have been applied in the interests of certainty (1 and 2), to safeguard the proper drainage of the site (9), in the interests of highway safety (3, 4, 6, 9 and 10), to ensure the proper drainage of the site (5) and to protect living conditions of existing residents (7 and 8). I have also added a condition (11) requiring details of the proposed rooflights, I am satisfied that this would not prejudice any party as its requirement is referred to in the officer's report.

Conclusion

24. For the above reasons, the appeal is allowed, and planning permission is granted.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Access and parking details SK01A, Block Plan 04D, Location Plan - 05A, Ground Floor Plan - proposed and existing 06B, First Floor Plan - proposed and existing 07B, Second Floor

⁷ Planning Appeal Decision: APP/G2815/W/18/3214041

Plan – proposed and existing 08B, Front Elevation – proposed and existing 09A, Side Elevation (car park) – proposed and existing 10A, rear Elevation – proposed and existing 11A, Side Elevation – proposed and existing 12 and Proposed Parking Layout 18-02 rev D.

- 3) Prior to first use or occupation of the development hereby permitted, the means of access and the car park, shall be paved with a hard-bound surface. Such surfacing shall thereafter be maintained in perpetuity.
- 4) Prior to first use or occupation, the proposed vehicular access and parking facilities shall be provided in accordance with the approved plans, including pedestrian refuge areas and crossing area as shown on plan SK01A, and shall thereafter be set aside and retained for those purposes.
- 5) Prior to first use or occupation, suitable drainage shall be provided at the end of the driveway to ensure that surface water from the vehicular access does not discharge onto the highway or adjacent land.
- 6) Prior to the first occupation of the development hereby permitted, full details of all service and delivery vehicles expected to the site and how these will be managed to prevent conflict with pedestrians and other users of the access shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 7) Prior to the occupation of the development hereby permitted, mitigation measures as detailed in the Environmental Noise Assessment dated 28th July 2018 and prepared by Rand Tech Consulting, shall be installed and retained in perpetuity.
- 8) Prior to the occupation of the development hereby permitted, details of access control for all shared door-sets including access to the building via the use of a restricted electronic key fob, card or key (and excluding a tradesperson release mechanism); remote release of the primary entrance door-set from the dwelling; and audio communication between the occupant and the visitor.
- 9) Prior to the occupation of the development hereby permitted, full details of a secure cycle facility shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage facility shall thereafter be implemented in accordance with the approved details prior to the occupation of the development hereby permitted. It shall thereafter be retained and maintained in perpetuity.
- 10) Notwithstanding the submitted information, revised bin storage details shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the occupation of the development hereby permitted. The bin storage area shall thereafter be maintained and retained in perpetuity.
- 11) Prior to the occupation of the development hereby permitted, details of the rooflights shall be submitted and approved by the Local Planning Authority. The required details shall show the type and style to ensure they are flush fitting to the roof plane.

End of conditions