



Appeal Decision

Site visit made on 22 October 2019 by John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/W3710/W/19/3234743

Newdigate Arms, Newdigate Road, Bedworth CV12 8EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Gary Slinn, Greene King Pub Partners, against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref 036133, dated 21 January 2019, was approved on 21 May 2019 and planning permission was granted subject to conditions.
 - The development permitted is the formation of new external patio to front of premises, within existing car park space comprising of new hard surfaces, 1000mm high planter troughs formed from railway sleepers, new gate and ramp, 1100mm high picket fence, new cedar cladding to premises, blocking up side entrance to create smoking area, with trellis fencing and planters, fascia boards clad in astro turf.
 - The condition in dispute is No 3 which states that: *The patio area shall not be used until all parts of the existing northern access within the public highway not included in the permitted means of access has been closed off and the kerb and verge reinstated.*
 - The reason given for the condition is: *In the interest of highway safety.*
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Decision

1. The appeal is allowed and planning permission is granted for the formation of new external patio to front of premises, within existing car park space comprising of new hard surfaces, 1000mm high planter troughs formed from railway sleepers, new gate and ramp, 1100mm high picket fence, new cedar cladding to premises, blocking up side entrance to create smoking area, with trellis fencing and planters, fascia boards clad in astro turf at Newdigate Arms, Newdigate Road, Bedworth CV12 8EF in accordance with the terms of application ref 036133, dated 21 January 2019 subject to the following conditions:

1. The development shall be undertaken in accordance with the approved plans contained in the following schedule:

Plan Description	Plan No.	Date Received
Location Plan	2475-07	21st January 2019
Proposed Block Plan	2475-06	21st January 2019
Proposed Side Elevations	2475-04	21st January 2019
Proposed Layout (Part) & Front Elevation	2475-02 Rev D	2nd May 2019

2. Within 2 months of the date of this decision details of a scheme for the erection of a gate, to prevent the use of the existing northern vehicular access by motorised vehicles, shall be submitted for the written approval of the local planning authority. The approved scheme shall be fully implemented within 4 months of written approval being granted by the local planning authority and the approved scheme shall thereafter be retained.

Procedural Matter

2. Since the Council determined the planning application it has adopted the Nuneaton and Bedworth Borough Plan 2019.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

4. The main issue is whether the condition is necessary in the interests of highway safety.

Reasons for the Recommendation

5. The appeal site comprises a public house located on the corner of Newdigate Road with Deronda Close, opposite the junction with Marner Road. It has 2 access drives which cross open space between the appeal site and highway, both of which could provide access to the car park to the front and side of the public house.
6. Part of the parking area to the front of the premises was granted planning permission for a patio area to be laid. The disputed condition relates to the longer of the access drives directly opposite the junction with Marner Road.
7. On my site visit I saw that there was potential for vehicles to use the redundant drive for parking purposes by customers or staff from the public house, or other road users. It is likely that any drivers choosing to park on the access road would have to reverse onto Newdigate Road due to the absence of adequate turning space. This would have an adverse effect on users of the highway at a point on the road network where complex manoeuvres are undertaken. A condition to prevent the use of the redundant length of access drive by motorised vehicles is therefore considered necessary in the interests of highway safety.
8. However, I find that the works required by the disputed condition, namely the reinstatement of the verge, which would involve the removal of the hardsurface and the turfing of the length of the drive, are not necessary to achieve the reason for the condition, relating to highway safety. The disputed condition therefore conflicts with paragraph 55 of the National Planning Policy Framework

relating to planning conditions. The closing off of the access using alternative measures would achieve the desired aim.

9. In this regard it is clear that discussions have taken place between the appellant and the Council where alternative solutions to prevent vehicles using this access have been considered. Whilst the gate required by the Council differs from the bollards offered by the appellant, such a measure would deter motorcyclists from using this access, which bollards may not achieve. Given the proximity to road junctions I consider that such a measure is reasonable and necessary in the interests of highway safety.

Recommendation

10. For the reasons set out above I recommend that the appeal should be allowed. I recommend the grant of a new planning permission without the disputed condition but substituting a new condition, including a timescale for the necessary works to be undertaken.
11. A condition requiring commencement of development within 3 years is not necessary as the development has already begun. I shall retain the non-disputed condition relating to the approved plans from the previous planning permission as it still appears to be relevant in accordance with guidance in the Planning Practice Guidance.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

RC Kirby

INSPECTOR