



Appeal Decision

Site visit made on 29 June 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2021

Appeal Ref: APP/J0350/W/19/3243603

4 - 10A Alexandra Road, Slough SL1 2NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 AA & Sons Ltd. against Slough Borough Council.
 - The application Ref P/08040/021 is dated 30 April 2019.
 - The application sought planning permission for the consolidation of planning application P/08040/001, and DOE appeal decision ref no T/APP/V0320/A/92/204598/P7, dated 22 October 1992, with minor adjustments to internal alterations, changes to fenestration and infill adjustment to south elevation, together with the relaxation of condition 12 of planning permission P/08040/001, without complying with a condition attached to planning permission Ref P/08040/004, dated 27 June 1995.
 - The condition in dispute is No 6 which states that: the development hereby approved shall be implemented only in accordance with the following plans and drawings hereby approved by the Local Planning Authority.
 - a) Drawing No 2083/33A Dated May 1995
 - b) Drawing No 2083/34A Dated May 1995
 - c) Drawing No 2083/35A Dated May 1995
 - d) Drawing No 2083/36A Dated May 1995
 - e) Drawing No 2083/37 Dated May 1995
 - f) Drawing No 2083/30 Dated May 1995
 - g) Drawing No 2083/31 Dated May 1995
 - h) Drawing No 2083/32A Dated May 1995
 - i) Drawing No 0961/10 Rev B – relating to car parking
 - j) Drawing No 0961/11 Rev B – relating to car parking
 - k) Drawing No 0961/24 Rev D – relating to car parking
 - The reason given for the condition is: to ensure that the site is developed in accordance with the submitted application and to ensure that the proposed development does not prejudice the amenity of the area.
 - This decision supersedes that issued on 20 October 2020. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed, and planning permission is granted for Variation of Condition 6 (approved drawings) seeking amendments to the approved drawings comprising the relocation of vehicular access to the lower ground floor car park (under 4-10A Alexandra Road), adjustment to the angle of the external wall in the north western corner of the building and associated external works in connection with planning permission (as amended by Ref:

P/08040/004) dated 27 June 1995 for the erection of a supermarket and 9 no. retail shops with a guest house on the first and second floors containing ancillary facilities including 2 no. staff flats, 30 no. bedrooms and offices on the Chalvey Road West/Alexandra Road junction and erection of 10 no. residential units on the Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza at 4 - 10A Alexandra Road, Slough SL1 2NQ, in accordance with the terms of application Ref P/08040/021, dated 30 April 2019, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by AA & Sons Ltd against Slough Borough Council. This application is the subject of a separate Decision.

Background & Procedural Matters

3. A Consent Order (CO) issued by the High Court on 26 March 2021 quashed the appeal decision dated 20 October 2020 and costs decision of the same date. The quashed decision letter concluded that the permission sought to be varied (Ref P/08040/004 (004) dated 27 June 1995) did not include all development permitted by permission Ref P/08040/001 (001) dated 7 June 1991. Therefore, permission could not be granted as sought by the appellant. However, the CO declared that planning permission Ref 004, includes all development permitted by planning permission 001 including "the erection of 10 no. residential units on the Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza". Notwithstanding the reference to the continued absence of a definitive red line plan, the Council has not provided any additional substantive evidence that would lead me to come to a different view to that set out in the CO.
4. It is argued by the Council that permission 001 has lapsed. However, permission 004 included a fresh 5 year implementation period. At my visit the largest building labelled Alexandra Plaza was present on site. It appeared in accordance with the approved plans and appeared of an age that the building works would have been implemented within the timescale required by permission 004. There is no substantive evidence to the contrary. I have considered the appeal on this basis.
5. The description of development in the banner heading above is taken from the planning application form. The validation letter and the CO sets out a revised description that I agree with, subject to the omission of access 'from Alexandra Road' given the access to the underground parking area is to be taken from the car park and not Alexandra Road.
6. Therefore, I have considered this proposal as 'Variation of Condition 6 (approved drawings) seeking amendments to the approved drawings comprising the relocation of vehicular access to the lower ground floor car park (under 4-10A Alexandra Road), adjustment to the angle of the external wall in the north western corner of the building and associated external works in connection with planning permission (as amended by Ref: P/08040/004) dated 27 June 1995 for the erection of a supermarket and 9 no. retail shops with a guest house on the first and second floors containing ancillary facilities including 2 no. staff flats, 30 no. bedrooms and offices on the Chalvey Road West/Alexandra Road junction and erection of 10 no. residential units on the

Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza'. This is reflected in the decision paragraph above.

7. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council subsequently provided an appeal statement setting out its position in respect of the scope of 004 and other concerns with the proposals. I have had regard to these and the representations by interested parties in setting out the main issue below.
8. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the appellant the opportunity to comment upon the implications of this.

Main Issue

9. The main issue in this appeal is whether the proposed development would provide a safe and suitable access for all modes of transport.

Reasons

10. This application seeks to amend aspects of the approved development by substituting and adding to the approved drawings listed in condition 6 of permission 004, to amend the layout of a terrace of flats. The flats form part of a wider permission area which included the erection of a now constructed mixed-use building. The proposed alterations to the flats would not change the number of units or the appearance of the Alexandra Road elevation as previously approved. However, amongst other things it would modify the north of the approved terrace by cutting back the side wall to align with the existing access road, consequently reducing the floor area of two of the flats, and the external space associated with some of the properties. The underground parking access would be moved to the rear rather than as approved on the side of the access road.
11. The Council and Highway Authority raised a number of questions in relation to initially submitted proposals, which the appellant has responded to with revisions and clarifications. These were understood to have been submitted in August 2019, since which time the Council and the Highway Authority has had further time to respond before the appeal was lodged, as well as during the appeal and re-determination process. However, I see no further objections from the Council or the Highway Authority in respect of the revised plans and clarified matters.
12. The revised plans indicate the width of the access ramp would be sufficient for two vehicles to pass and there would be 2.4m x 2.4m visibility splays from the ramp. The proposals appear acceptable in this regard. The Council has not objected to the revised proposals in respect of these matters, demonstrated any harm, or provided adopted documents containing relevant standards. Therefore, I have no reason to find the proposals unsatisfactory. I have not been provided with any standards for the internal height of the car park, but 2.1m would appear to be adequate to accommodate most types of vehicles and persons intending to use the spaces.
13. Details of ducting have not been provided, but there is nothing of substance before me demonstrating that such installations would need to materially impinge upon the internal space in any significant way. Based upon the evidence before me, the basement walls and supports appear adequate to

support the dwellings. The revised underground layout would meet the specified minimum internal width and provide adequately sized parking spaces set out in the Highway Officer consultation response. In-light of this I no longer see the need for internal tracking to be provided. There are 14 Cambridge bicycle stands proposed with adequate circulation space which could be accessed via the pedestrian steps or vehicular ramp.

14. The appeal site is well located for access to services, facilities, and public transport. Therefore, this may suppress demand for parking from new residents. Alexandra Road and some surrounding roads are Controlled Parking Zones. While my visit can only represent a brief snapshot in time, there was plenty of on-street parking available at my visit and there is no substantive evidence this was untypical. There is also no substantive evidence demonstrating parking stress in the area in the evidence before me. Therefore, I see no reason the proposed modifications would result in any harmful effects having regard to on-street parking.
15. Electronic pedestrian gates and roller shutters would provide secure and controlled access to the underground parking area. Plans of the entire surface car park indicate the refuse storage is proposed on an existing trolley parking area. The specification and capacity of the refuse storage area is not clear, and neither is the location of the revised trolley parking. While I am advised the location of trolley parking is controlled by condition under Ref P/08040/020, based upon the evidence before me there is a conflict between that permission and this appeal scheme. However, these matters could be addressed through planning condition 5 in the attached schedule.
16. The appellant has clarified they are not intending to alter the vehicular access from Alexandra Road, the details of which are shown on plan/drawing Ref P-19 Rev A approved under permission Ref P/08040/020 that I have been provided with. There are no further concerns raised by the Highway Authority in this regard. Therefore, I see no reason why the previously approved footway and splays would not be adequate.
17. Moving the underground access from the north of No 4A into the car park and cutting back of the external wall would widen the access road. It would also avoid the need for vehicles to stop close to the Alexandra Road access for any vehicles entering and leaving the underground access. Therefore, the proposals would be likely to result in improved operation of the access from Alexandra Road and would overall, reduce the potential for congestion. I see no substantive evidence that the dwellings and associated vehicle movements would result in any discernible adverse effects upon the local highway network.
18. For the reasons set out above the proposed development would provide a safe and suitable access for all modes of transport. I have not been provided with any relevant up to date development plan policies. However, the development would be compliant with paragraphs 110, 111 and 112 of the Framework. In combination and amongst other things these require that development takes opportunities to promote sustainable transport, achieves a safe and suitable access for all users, is only refused on highway grounds if there would be an unacceptable impact upon highway safety or the residual cumulative impacts on the road network would be severe, and, create places that are safe, secure, and attractive which minimise the scope for conflicts.

Other Matters

19. The development would reduce the floor area of two flats and some of the external space of some dwellings. However, they would retain an element of useable private outdoor space that would be adequate for the type, scale and location of dwellings proposed, as well as adequate indoor space. I am not provided with any substantive evidence demonstrating it would be insufficient, result in harmful living conditions for future occupiers or would result in overcrowding, and there is no objection from the Council in this regard. Therefore, I conclude no significant adverse effects would result from this aspect of the development. It would provide a good level of natural surveillance to the front and rear, so I have no grounds to conclude the development would result in conditions that could increase crime or anti-social behaviour.
20. Given the proximity of the development to neighbouring residential properties, the existing parking area, and the duration and scale of the build, a Construction Management Plan (CMP) would ensure that construction and deliveries could be managed to an acceptable level. The alterations to these previously approved dwellings, would not be likely to result in any material increase in noise, disturbance, or perceptible change in air quality once complete so I find no material harm in this regard. The existing commercial units are the subject of conditions 12 and 13 of permission Ref 004 which I have transposed into the conditions below. Subject to their re-imposition, I can see no reason why allowing this appeal would result in any materially greater adverse effect upon the living conditions of neighbouring and future occupiers from the existing commercial units.
21. The dwellings would retain the same overall height and front fenestration to those previously approved. Given the distance to neighbouring properties the development would not result in harmful living conditions to neighbouring or future occupiers in respect of privacy, overlooking or overshadowing. The development would be of a scale, design, and appearance in keeping with other dwellings to the south and east and the neighbouring commercial development to the north. Therefore, it would be in keeping with, and would not be harmful to the character and appearance of the area or constitute overdevelopment.

Conditions

22. Allowing this appeal creates a new standalone planning permission. As the development has commenced a commencement condition is not necessary. A plans condition is necessary to ensure the development hereby permitted is undertaken in accordance with the approved plans. The appellant has agreed the materials and boundary conditions should be pre-commencement. I have made minor modifications to the wording of the former to ensure it relates to the proposed dwellings and is enforceable.
23. The parties are in agreement that previous conditions 3, 4, 5, 8 and 15 would not be required in respect of the access, treatment of surface roads and landscaping. Therefore, having regard to the scope of this scheme, I have not imposed these conditions.
24. In the interests of the living conditions of neighbouring occupiers and highway safety it is necessary to impose a condition to secure a CMP. While there is an existing condition in respect of refuse, I do not consider the proposals

submitted are sufficiently detailed and it does not make provision for the relocation of the existing trolley parking area. Therefore, the condition I have imposed is necessary in the interests of the character and appearance of the area and the safe and satisfactory operation of the site.

25. I have re-imposed previous planning conditions in respect of the parking and turning area, display of goods, hours of use and deliveries at the site as these are necessary in the interests of the satisfactory operation of the site and the living conditions of neighbouring and future occupiers.
26. The Planning Practice Guidance advises that informative notes do not carry any legal weight. The matters relating to construction works are addressed by the CMP I have sought through the new planning condition. I have sought the views of the parties in respect of the planning obligation dated 20 May 1991, which given its wording I do not consider would be linked to this appeal scheme. The parties agree that the obligation does not need to be linked to the appeal scheme, which based upon the evidence before me, is a view I share.

Conclusion

27. I have been provided with no relevant policies of the development plan, and I have been offered no substantive evidence demonstrating a conflict with its provisions. I find the development would be compliant with the relevant provisions of the National Planning Policy Framework. Therefore, I conclude that the appeal should be allowed, and planning permission is granted.

Dan Szymanski

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be carried out only in accordance with the following plans and drawings:
 - a) Drawing No 2083/33A Dated May 1995;
 - b) Drawing No 2083/34A Dated May 1995;
 - c) Drawing No 2083/35A Dated May 1995;
 - d) Drawing No 2083/36A Dated May 1995;
 - e) Drawing No 2083/37 Dated May 1995;
 - f) Drawing No 2083/30 Dated May 1995;
 - g) Drawing No 2083/31 Dated May 1995;
 - h) Drawing No 2083/32A Dated May 1995;
 - i) Drawing No 0961/10 Rev B – relating to car parking;
 - j) Drawing No 0961/11 Rev B – relating to car parking;
 - k) Drawing No 0961/24 Rev D – relating to car parking;
 - l) Drawing No P-01 Rev A;
 - m) Drawing No P-02;
 - n) Drawing No P-03;
 - p) Drawing No P-05 Rev A;
 - q) Drawing No P-06;
 - r) Drawing No P-07;
 - s) Drawing No P-08 Rev A; and,
 - t) Drawing No P-09.
- 2) Samples of external materials to be used on the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority before the construction of the dwellings is commenced on site. The development shall be carried out in accordance with the approved details.
- 3) Before the development hereby permitted is commenced, a suitable means of enclosure shall be erected along the site boundaries, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 4) The parking spaces and turning area shown on the deposited plans 0961/10 Rev A, 0961/11 Rev B and 0961/24 Rev D hereby submitted as previously approved shall be constructed before any part of the development is occupied or within such longer period as may be approved by the Local Planning Authority and shall thereafter be maintained exclusively for that purpose in a useable condition to the satisfaction of the Local Planning Authority.
- 5) Notwithstanding the submitted plans, prior to the occupation of any dwelling, details of the proposed bin & recycling storage to serve the development of 4-10A Alexandra Road, together with details of the trolley park, (to include siting, design, and external materials) shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be completed prior to first occupation of the development and retained for the approved purpose.

- 6) No demolition or development shall commence on the site of 4-10A Alexandra Road until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of the provision to be made to accommodate all site operatives, visitors and construction vehicles loading (to a minimum Euro 6/VI Standard), off-loading, parking, and turning within the site, wheel cleaning facilities during the construction period and machinery to comply with the emission standards in Table 10 in the Low Emission Strategy guidance. The CMP shall thereafter be implemented as approved before development begins and be maintained throughout the duration of the construction works period.
- 7) At all times during the hours that the retail shops on Chalvey Road West are open to the public, the car parking area at the rear of the building shall be made available for customers' vehicles.
- 8) No goods shall be displayed or sold from the forecourt or from the car park.
- 9) Unless otherwise agreed in writing by the Local Planning Authority the ground floor shops, except for the supermarket and Unit One (as identified on Drawing No. 2083/32A), shall be open to the public only between the hours of:-
10.00 to 13.30 on Sundays;
08.00 to 21.00 on Fridays; and,
08.00 to 19.00 on other days of the week.

The supermarket shall be open to the public only between the hours of:
07.30 to 21.00 on Fridays; and,
07.30 to 19.30 on all other days of the week.

Unit One, as identified on Drawing No. 2083/32A shall be open to the public only between the hours of:
06:00 to 20.00 on all days.
- 10) Unless otherwise agreed in writing by the Local Planning Authority there shall be no deliveries or servicing within the car park or service bay between the hours of:-
Before 07.00 or after 21.00 on Mondays to Saturdays.
Before 07.00 or after 13.30 on Sundays or Bank Holidays.

End of Schedule.