



Appeal Decision

Site visits made on 27 and 28 March 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2023

Appeal Ref: APP/W2845/W/22/3307685

The Red Lion, Harborough Road, Brixworth NN6 9BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by The Co-operative Group against the decision of West Northamptonshire Council.
 - The application Ref C/2020/0054/4, dated 22 June 2021, sought approval of details pursuant to Condition No 6 of a planning permission Ref DA/2020/0054, allowed under appeal Ref APP/Y2810/W/20/3254497 on 27 November 2020.
 - The development granted planning permission is: *Demolition of a public house and construction of a new retail unit (use class E).*
 - The application for approval of details was refused by notice dated 23 August 2022.
 - Condition No 6 states that: *The development hereby approved shall not be brought into use until and unless a Delivery Management Plan (DMP) has been submitted to and approved in writing by the Local Planning Authority, the DMP will include details of the timing and frequency of vehicular deliveries to the premises (days and times), the type of vehicles to be employed and the control measures to be employed to minimise disturbance to neighbouring properties. The use of the development hereby approved shall be carried out in accordance with the parameters contained within the agreed DMP and any subsequent material changes to the agreed delivery arrangements shall be submitted to and agreed in writing with the Local Planning Authority prior to taking effect.*
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Decision

1. The appeal is allowed and Condition 6 of planning permission Ref DA/2020/0054 (appeal Ref APP/Y2810/W/20/3254497) is discharged in accordance with the terms of application C/2020/0054/4, dated 22 June 2021, and the details¹ submitted with it.

Preliminary Matter

2. It has been brought to my attention that a variation of condition application² has been submitted to and recently approved by the Council, which relates to the retention of a former access point located to the northern end of the site (the secondary access point) for the purposes of delivery vehicle egress. I shall consider the submitted details that are before me on this basis, noting the clear and formalised intention for the secondary access point to be utilised for the purposes of accommodating exiting delivery vehicles.

¹ Technical Note 1 - Delivery Management Plan, 7 June 2022, including drawing Ref 70080895 SK01 261121 A

² WND/2022/0890

Main Issue

3. The effect of the proposed Delivery Management Plan (DMP) upon highway safety.

Reasons

4. The approved retail unit, which is currently under construction, is to be served by an on-site car park capable of accommodating up to 14no parked vehicles. Access is to be drawn off Harborough Road at the point where it merges into Northampton Road. The highway is of curved alignment and offers unrestricted on-street parking opportunities near to the site.
5. I inspected the site during early afternoon hours, and then the following day at a time to coincide with morning rush hour. I witnessed regular traffic movements on both occasions, as well as vehicles parked close to the site and on the same side of the highway. The presence of parked vehicles and the curving alignment of the highway necessitated that some drivers proceeded with hesitancy and at slow speed near to the site. Nevertheless, I observed traffic to be relatively free flowing with simultaneous movements in opposite directions typically possible. Notwithstanding my own experiences, I have noted the submissions of interested parties including photographs and references to the effects of parked cars and traffic congestion.
6. The submitted DMP³ indicates that the six easternmost on-site parking spaces (the delivery area) would be cordoned off with cones by an employee whenever necessary for the purposes of accommodating delivery vehicles. Such vehicles would enter via the site's main access from Harborough Road and then exit via the secondary access point, the use of which would be restricted to delivery vehicles by the installation of retractable bollards. A Delivery Schedule is set out in the DMP, where it is confirmed that a maximum of four deliveries per day by 10m rigid heavy goods vehicles would be made to the site during a specified delivery window of 0700-1000 hours (the delivery window) in addition to a maximum of just two deliveries by transit-sized light goods vehicles between 0700 and 1100 hours.
7. It is my understanding that the appellant, who operates an established and extensive chain of retail stores, utilises logistics management software for the purposes of arranging suitable and convenient time slots for deliveries to individual stores. This enables employees to be aware of, and to prepare for, the arrival of deliveries. At this site, preparations would include cordoning off the delivery area once a heavy goods vehicle is expected. Further, as acknowledged within the DMP, employees would be responsible for monitoring the occupation of parking spaces during (and in advance of) the delivery window.
8. To my mind, subject to monitoring and cordoning off activities being carried out diligently and on a consistent basis in full accordance with available logistics management information, situations where the delivery area is occupied and/or inaccessible when a heavy goods vehicle is due would likely be infrequent. I also have no reason to doubt that suitable opportunities would avail for drivers to be contacted where necessary for the purposes of safely delaying their final approach to the site. Whilst there shall always exist the

³ dated 7 June 2022

- potential for unforeseen events on the highway network, for example, to disrupt travel plans, the anticipated timing and frequency of deliveries and associated management responsibilities are set out within the DMP in no uncertain terms. This offers adequate assurances that its requirements could be effectively monitored and enforced.
9. In accordance with my findings as set out in the preceding paragraph, it is possible that the delivery area could be cordoned off for a significant portion of the delivery window on any given day. This is particularly when noting the obstruction to deliveries that could be caused by allowing private vehicles to park within the delivery area between, or in immediate advance of, individual deliveries to the site. As such, it is likely that only eight on-site parking spaces would be available for patrons of the retail unit for a significant portion of the delivery window on any given day.
 10. The Highway Authority has highlighted that, for the development to have achieved full compliance with adopted Northamptonshire Parking Standards, 35no off-street spaces would have been required. However, previous Inspectors⁴ have found 14no on-site spaces to be acceptable when considering such factors as the parking shortfall that would have applied when the site was previously in active use as a public house, anticipated customer dwell times, and the results of parking beat surveys.
 11. It is important to note that any reduction from 14no to eight on-site parking spaces would only apply during the delivery window, which, in accordance with projections contained within the appellant's Transport Statement (May 2018), does not correspond with periods of the day when anticipated parking demand generated by the retail unit would be at its highest. As such, any increase in on-street parking generated by the intention to cordon off the delivery area would, in all likelihood, be limited. This is particularly as a considerable portion of the car park would remain accessible to customers. As such, having had regard to all relevant evidence before me and factored in my own experiences of the site and its immediate surroundings, there is no clear justification for me to depart from the most recent previous Inspector's finding that local roads have sufficient spare parking capacity to accommodate on-street parking without having an adverse impact on highway safety.
 12. I have noted a request by an interested party for additional requirements to be imposed, including the creation of a pedestrian crossing, the introduction of road markings, and the creation of a 20-mph speed zone. However, my considerations are necessarily limited to measures reasonably necessary to manage deliveries at the site. Having inspected the site's access points and experienced the not insignificant levels of visibility that would realistically avail when either entering or exiting the site, any such additional requirement would, to my mind, be onerous and unreasonable. This is even when acknowledging the potential for vehicles to be parked on the highway adjacent to the site's access points.
 13. I accept that vehicular manoeuvres or other customer related activities could be occurring within the car park and near to the highway at the point in time of a delivery vehicle's arrival at the site, which could delay immediate access being attained. However, this situation would similarly apply to any vehicle seeking to enter the site. Further, the car park has been designed with a wide

⁴ Appeal Refs: APP/Y2810/W/18/3217345 and APP/Y2810/W/20/3254497

central lane that would assist in promoting ease of navigation to the delivery area (or an individual parking bay if a light goods vehicle) and that would help in minimising the risk of conflict with other vehicles and users of the car park. Moreover, only in exceptional circumstances could it be realistically envisaged that a delivery vehicle would be forced to exit the site in reverse gear.

14. I am satisfied too that acceptable pedestrian visibility would avail for the drivers of delivery vehicles, including when exiting via the secondary access point. Indeed, a footway of generous width runs alongside the site, and it is fair to assume that heavy goods vehicles when exiting the site would proceed to the highway with caution and at slow speed across a short route of approach. Furthermore, there is no clear reason for me to consider that the proposed delivery arrangements would prejudice safe egress from the site by store customers in the event of a fire.
15. I note that significant, yet ultimately unsuccessful efforts have been made by the appellant to pursue a Traffic Regulation Order that would have enabled unloading to occur on the highway close to the site. To my mind, with this off-site option unobtainable and only the northern part of the appeal site sharing a direct relationship with the highway, the solution that has been found, which does not raise undue safety concerns and necessitates a reduction in available on-site parking across a daily period of only limited duration, cannot be fairly resisted. For the avoidance of doubt, the disputed condition is worded flexibly to allow a DMP to be formulated without the establishment of an off-site loading bay. This is even though off-site delivery arrangements were generally anticipated prior to planning permission being first granted in 2020.
16. For the above reasons, the proposed DMP, subject to its comprehensive and effective implementation, would have an acceptable effect upon highway safety. The submitted details satisfactorily accord with the National Planning Policy Framework (July 2021) in so far as it sets out 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.

Other Matters

17. I am satisfied that the DMP incorporates adequate measures to suitably minimise the risk of disturbances being caused by deliveries, such that the living conditions of neighbouring residential occupiers would be appropriately safeguarded. It would, I note, be neither realistic nor advisable to require that deliveries occur outside of the store's permitted opening hours and thus during a period of the day when residential occupiers would likely be sleeping. There is also no reason for me to consider that the DMP's implementation would lead to any adverse effect upon the character or appearance of the Brixworth Conservation Area.

Conclusion

18. For the above reasons, the appeal is allowed. Thus, Condition 6 attached to planning permission Ref DA/2020/0054 (appeal Ref APP/Y2810/W/20/3254497) is hereby discharged.

Andrew Smith

INSPECTOR