



Appeal Decision

Hearing held on 6 September 2023

Site visits made on 5 & 6 September 2023

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/M2840/W/23/3320660

4 Higham Road, Rushden, NN10 6DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Phillips against the decision of North Northamptonshire Council.
 - The application Ref NE/22/00432/FUL, dated 28 March 2022, was refused by notice dated 7 December 2022.
 - The development proposed is the creation of 33 flats and 3 townhouses and retention of existing hot food takeaway by the demolition of rear warehouse, the extension to and conversion of the frontage building, and the erection of rear block.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of 33 flats and 3 townhouses and retention of existing hot food takeaway by the demolition of rear warehouse, the extension to and conversion of the frontage building, and the erection of rear block at 4 Higham Road, Rushden, NN10 6DZ in accordance with the terms of the application, Ref NE/22/00432/FUL, dated 28 March 2022, subject to the conditions in the Conditions Schedule below.

Preliminary Matters

2. On the application the development was said to be

Creation of 33 Flats and 3 Townhouses, combination of new build and conversion. Demolition of some buildings on site. Change of use of the majority of the site from retail to residential.

However, the description I have used above describes the development with greater clarity and less ambiguity.

3. The appellant invited me to accept amended plans to supersede those on which the application was determined. The scheme shown on those plans though, which involved reducing the number of units by one, would have not been in line with the viability assessments, and would have resulted in excessive payments being made towards infrastructure, over-and-above what would be justified by the scale of the scheme. I have therefore assessed the appeal against the plans used by the Council to determine the proposal.
4. The address is, in some documents, given as 2 Higham Road, but it is agreed the address above is the more accurate.
5. An application for costs was made by the appellant against the Council, and that is the subject of a separate decision.

Main Issues

6. The main issues in this case are

- a) the effect of the scheme on the significance of the non-designated heritage asset and the character and appearance of the area;
- b) the effect on living conditions of residents and the operation of the adjacent petrol filling station;
- c) the effect on the Upper Nene Valley Gravel Pits Special Protection Area (the SPA) and
- a) the impact on infrastructure provision.

Reasons

The non-designated heritage asset & character and appearance

- 7. The appeal property stands on the corner of Higham Road and Shirley Road, and was built in the 1930s by Birch Bros Limited as its bus station. It comprised a large workshop to the rear where the buses would have been parked and serviced, and this was originally accessed from Higham Road through the frontage building that I assume provided passenger facilities and office space. The bus use ceased in the 1970s, and now the building is a furniture showroom and a vacant takeaway on the ground floor, and empty above.
- 8. The workshop is of a utilitarian and industrial appearance, and built of relatively functional materials. It adjoins the rear of the front element (called Building A on the submitted plans), which comprises 3 storeys and is of a striking art deco style. Visually, Building A has a strong horizontal emphasis resulting from its roofline, its banding and its window arrangement, while it also has curved elements including a prominent tower feature with a domed top, and it is finished in a cream render. When account is also given to the nature of the window frames and the fencing to Shirley Road, this element of the site represents a distinctive and attractive landmark.
- 9. Moreover, Birch Bros Limited was a notable company in the town for over 150 years and, despite the existing uses and the alterations that have occurred, the nature of the property's original use can still be perceived. As a result, an awareness of this company continues, and the impressive nature of Building A demonstrates the status of the business.
- 10. The building is not listed, and so does not enjoy the level of statutory protection associated with listed buildings. However, I acknowledge it is a non-designated heritage asset, with its significance resting in part on its historical associations and the architectural value of Building A in particular.
- 11. The appeal site lies in an area of varied built form, with flats to the south and north-east, a petrol filling station to the north, a large supermarket to the south-west and houses to the north-west. As such, there is no strong rhythm or pattern in the styles, scales or ages of surrounding and nearby properties.
- 12. The proposal is to demolish the workshop area, renovate Building A, extend that building by adding what the appellant called Building B, and constructing a detached block of flats (Building C) to the rear. The hot food takeaway on the

Higham Road frontage would be retained but otherwise the site would be used as flats and townhouses.

13. In November 2021 an appeal on the site for a very similar development to that before me was refused (the previous decision). This was for a number of reasons, including concerns about balconies intended on the Higham Road frontage, and a finding that the rear detached block of flats then proposed was of a bulk, height and position that would unacceptably compete with the scale of the art deco element. This is clearly an important consideration, and, having regard to the need for consistency, only where I have given substantiated reasons should I depart from its findings when considering issues or elements that are not materially different.
14. The loss of the workshop would diminish the significance of the heritage asset, as it remains a demonstration of the original purpose of the building. I am aware though that this is very much a subservient element of the site, due to its height, its limited design value and its concealed position to the rear, and this reduces the harm that would be caused in this regard.
15. Turning to Building A, this has been subject to some alterations over time that do not respect its significance and, both inside and out, it is in poor condition. Through this scheme there would be opportunity to replace the various external changes, where appropriate, with more sympathetic works that better related to the art deco appearance of the building and its former use. Furthermore, a condition could be imposed to ensure the restoration of the building was phased to be done in advance of or alongside the elements of new build, and the scheme would deliver a use for this part of the site. Given the prominence of this building and its distinctive architecture, these are undoubted benefits of the scheme. Overall, I therefore find that the opportunity to refurbish and reuse Building A would outweigh any harm to its significance arising from the loss of the workshop.
16. Building B would be extending Building A to the side over what is now a car park. I share the findings in the previous decision that, although it would be elongating the Higham Road elevation, its scale would not be excessive and its effects on the proportions would not be unacceptable. Its detailing and design would also sympathise with that of Building A while the glazed stairwell would provide a clear break between the original building and the new. The unacceptable balconies that were to be on this elevation in the scheme subject of the previous decision are no longer proposed, and so do not form a concern. As such, I consider the effect of Building B would not harm the significance of the non-designated heritage asset.
17. Turning to Building C, this is a 'U'-shaped block of flats that runs along North Street on the eastern side, as well as along parts of the site's northern and southern boundaries. Putting to one side the art-deco tower, it would be appreciably higher than Buildings 1 and 2 to the front. This is because it would comprise mainly 3 storeys of flats with a lift/stair tower rising above, over a ground floor parking/servicing area under its northern and southern arms. It would nonetheless be separated from Building A and Building B by the access to the car park on one side, and by a break of a similar width on the other.
18. From Higham Road to the front of the site, Building C would be concealed by Buildings A and B. When approaching from the north, its prominence would be reduced by the substantial canopy to the neighbouring petrol filling station, and

it would be seen adjacent to Chichele Court to the rear. Although higher than the buildings at the front of the site, it would not be set against the non-designated heritage asset, and while the taller staircase tower would be visible, the impact of that would be reduced as it would be towards the rear of the site and partly concealed by the building's northern arm. As such, from the north this element would not cause harm to the significance of Building A.

19. Indeed, from the north, west and east this scheme is not materially different to the one subject of the previous decision, and in that decision no objections to the scheme are raised when looking from these directions.
20. Concerning the southern elevation, the scheme subject of the previous decision was to be 4 storeys in height (3 storeys of flats over a service area) right up to the access to the car park on the Shirley Road boundary. In that decision it was found that, when seen from mainly localised views along Shirley Road away from the Higham Road frontage, this arrangement would mean Building C would unacceptably compete with the scale of the art-deco building (Building A) due to its bulk, height and position on higher ground.
21. Now though, the topmost floor on this side is to be set back. As a result, the building's elevation to Shirley Road would be 3 storeys high next to the car park access (2 storeys of flats over a ground floor parking and servicing area), rising to a fourth storey further back near to the North Street junction. This would still mean that, where the 2 were closest, Building C would be taller than the non-designated heritage asset.
22. This arrangement and the relationship between Building C and Building A could be seen from the flats to the south of Shirley Road, but otherwise there are few places from where it could be readily appreciated. Shirley Road itself is relatively narrow with a pavement on just the northern side, so from ground level views to the upper floor of what would be a relatively tall block would be limited. Oblique views would be possible from further east along Shirley Road, and it would be apparent for a short distance when going northwards on Higham Road. Such points though offer only a quick or fleeting appreciation of the situation. It was also suggested it would be apparent from Higham Road when travelling south, as one looked over the petrol filling station and through the gap between Buildings B and C. To my mind though there would be little awareness of the nature of this southern arm of the block from here, and its relationship to the non-designated heritage asset would not be readily visible.
23. From where it could be seen, Building C, when taken with the non-designated heritage asset, would form a stepped arrangement that would be a suitable response to its position on rising land. As a result, I consider it would not now overwhelm Building A or compete unduly with its status. Indeed, the corner location of Building A on a main road, with its striking design and prominent tower, would ensure it was maintained as the focus of the site.
24. In coming to this view, I am aware that the previous decision identified that scheme as causing '*some low-level harm to the significance of the [non-designated heritage asset]*'. However, I interpret that as being a level of harm that is well down the scale, and I am aware that it was arising as a consequence of not just the nature of the rear block but also the balconies on the Higham Road frontage. As the scheme before me has adapted the Shirley Road elevation and deleted the balconies, I consider it is materially different when compared to that subject of the previous decision.

25. The stair tower on Building C would also be visible above its southern arm from certain limited places. Again though this would be embedded in the scheme and a response to the rising land, so would not be harmful. It is also of note a concern in relation to this was not raised in the previous decision.
26. Turning to the effect on the character and appearance of the area, there would be benefits from the refurbishment of Building A and the landscaping of the Higham Road frontage. The car park on which Building B would be built, and the views it allows of the rear workshop, currently bring little positive benefit to the streetscape, and similarly the rear workshop is an industrial element in what is increasingly a residential area. Given the presence of blocks of flats to the north and south, the eastern elevation of Building C would not be unduly dominant or discordant when seen in the context of North Street, while its southern and northern arms would respect the nature of development around. Therefore, putting aside its impact on the non-designated heritage asset, I have no basis to find the scheme would harm the character or appearance of the surroundings.
27. Accordingly, the only harm I have identified under this issue arises from the removal of the rear workshop and the loss this would have on an understanding of the original purpose of the site, but the scheme offers benefits arising from the refurbishment and re-use of Building A. I also find that the erection of Buildings B and C would not harm the significance of Building A. I therefore conclude that, overall, the scheme would not cause harm to the significance of this non-designated heritage asset, and would not detract from the character and appearance of the area. As such, it would not conflict with Policy 2 in the *North Northamptonshire Joint Core Strategy* (the JCS), which seeks to safeguard and protect the significance of heritage assets, as well as JCS Policy 8 and Policy EN1 in the *Rushden Neighbourhood Plan* that broadly require development to respond to its immediate context.

Effect on the living conditions of residents and the operation of the adjacent petrol filling station

28. The proposed flats and townhouses would be of suitable sizes and would each have a reasonable outlook. The terrace on Building A, that is to be shared by the townhouses, could be subdivided by screening, as was accepted in the previous decision. There is also the existing hot food use to be retained in that building, but again conditions could ensure residents were suitably protected from noise, odour and vibration. At the Hearing concern was raised about car fumes from the parking area, but that is to be relatively open and so I would expect it to be well-ventilated. While I appreciate that Higham Road is heavily trafficked with queuing outside the site, I have no evidence to show this would be an unacceptably harmful source of fumes either. Although the submitted Air Quality Assessment is now a few years old there are no grounds to consider the situation has become materially worse over the intervening time.
29. The on-site open space is limited to the terrace of Building A and a roof garden on Building C. Mindful this was not a concern raised in the previous decision, the park is nearby and I consider this arrangement is not unreasonable in tight urban areas such as this.
30. The houses on the opposite side of Higham Road are a little to the north, and so would have an angled relationship to the development and would be a reasonable distance from its closest part. As such, the scheme would not have

an unduly dominant effect on the occupiers of those houses or detract unacceptably from their privacy. I also have no basis to find that the interface distance between the scheme and the flats on the other side of Shirley Road would be unacceptable, particularly as it is over a public highway.

31. To the north of the site is a petrol filling station that operates in the early morning, through the day and into the night. There is no substantive evidence before me to show how noise, light or fume pollution could unreasonably affect the residents of the appeal scheme, and I am aware there are already flats to the rear and houses on the opposite side of the road. It is nonetheless reasonable to assume it will be lit up in hours of darkness, and will generate a certain amount of noise and disturbance, when open, from customers and their vehicles. It could also be perceived to be a source of odour.
32. Directly next to the forecourt is the side elevation of Building B, which would contain 4 windows to kitchen areas in flats, but would otherwise be blank. Mindful that these could be fixed shut with acoustic glazing and mechanical ventilation, I consider there would be no detriment to residents resulting from the proximity of those windows to the petrol filling station. I accept that to assess this could require identifying noise levels both inside and outside the building, as well as a noise assessment and acoustic design report. If needed though, such information could be sought to substantiate the acoustic glazing proposed under the condition.
33. Further back, the northern elevation of Building C is also next to the northern boundary. Only part though would overlap with the curtilage of the petrol filling station, and that would be level with and behind the kiosk. As such, it would have a less pronounced relationship to that neighbouring site than the side windows in Building B. Again though, windows on that elevation could be fitted with acoustic glazing and mechanical ventilation to overcome any harm that may result, while the canopy should prevent light pollution to a great extent. Indeed the windows next to the site's northern boundary that are closest to the petrol filling station's forecourt could be fixed shut as well. I consider that windows on the northern elevation of Building C that are further east would be sufficiently far from activity at the petrol filling station to mean living conditions or the operation of the petrol filling station would not be unduly affected if the residents chose to open them.
34. There would also be windows facing east and west on Buildings B and C, but I am not satisfied their relationship to the petrol filling station would give rise to harm to the living conditions of residents.
35. With this suitable mitigation in place, and mindful of paragraph 187 in the *National Planning Policy Framework* (the Framework), I have no grounds to consider that the petrol filling station would have a significant adverse effect on residents' living conditions or that this relationship would result in unreasonable restrictions being placed upon it.
36. In the previous decision it was found that the scheme had adequate on-site parking to address the needs of residents. However, subsequently an appeal was dismissed at 11 Higham Road to the north (Document TP3 below). In that case too there was a shortfall below the required standard (although there was more parking per unit than in this scheme), and the Inspector found that the shortfall would cause harm to the living conditions of the scheme's residents.

37. While the decision at No 11 was after the previous decision on the site before me, the difference in timings of less than 3 months is not sufficient to persuade me that the No 11 decision was responding to materially different circumstances. Rather, any variation in the positions adopted by the 2 Inspectors might well have been as a result of the evidence received. I have little knowledge of what was before the Inspector considering the appeal at No 11. However, in this case, and with the exception of the appeal decision concerning No 11, I understand that the evidence before me is substantially the same as was considered in the previous decision, and so I have no grounds to come to a different view on the matter.
38. Accordingly I conclude the development would not adversely affect the living conditions of residents in the development or near the site, and would not result in undue restrictions being placed on the operation of the adjacent petrol filling station. As such it would not conflict with JCS Policy 8 or Policy EN1 in the *Rushden Neighbourhood Plan*, which seek to preserve the amenity of future occupiers and neighbours, or the Framework.

The effect on the SPA

39. Having regard to the *Conservation of Habitats and Species Regulations 2017* (the Regulations), any proposals that may affect a designated habitat site should be considered with the aim of maintaining or restoring, at favourable conservation status, its natural habitats and species.
40. The site is within 3km of the SPA, which is a designated habitat site. This contains fragile wetland that provides important habitats for birdlife, which I consider to be irreplaceable. I understand that this is a popular place to walk and exercise, yet such activities can result in a pressure that causes harm to habitat and birdlife through trampling, erosion, general plant destruction and so on. Therefore, by increasing the number of residents who may choose to use the SPA for recreation, the proposal could adversely impact on the SPA's integrity through greater disturbance and damage.
41. The impact of this scheme must be considered not just alone but also in combination with other plans and projects. Therefore, whilst the effect of the residents in these units, by themselves, may be slight, when taken with other similar proposals around the SPA there could be a cumulative harm arising.
42. An appropriate assessment under the Regulations is therefore required. As a part of this, any avoidance or mitigation measures that may be necessary must be considered. The Council seeks some £363.62 per unit to be used towards Strategic Access Management and Monitoring of the SPA, and I consider this would allow the likely significant effects arising from the scheme to be adequately mitigated. This money is to be secured by a legal agreement under section 111 of the *Local Government Act 1972*.
43. I therefore conclude that, when considered in combination with other plans and projects, the development would adversely affect the integrity of the SPA, and this would be suitably mitigated by the use of the monies secured under the submitted legal agreement. As such, there would be no adverse effects on the integrity of the site and the proposal would not conflict with JCS Policy 4, which seeks to address the impacts of development on the SPA.

Other Infrastructure payments

44. Through a signed legal agreement under section 106 of the Act the appellant has committed to infrastructure contributions towards healthcare, libraries and Early Years Education provision. Given the submitted evidence I am of the view that these contributions are of a scale and nature that satisfy the tests in Regulation 122 in the Community Infrastructure Levy Regulations 2010 and so are reasonable, necessary and justified.
45. The agreement also secures 10% affordable housing on the site. While this is below the policy requirement, it was accepted that viability issues meant this was all that could be reasonably delivered. I have no basis to find differently.
46. Accordingly, I conclude the proposal would make suitable contributions to infrastructure and affordable housing, in accordance with JCS Policies 10 and 30 that secure infrastructure payments and affordable housing.

Other matters

47. The previous decision found the scheme had suitable levels of on-site parking to protect highway safety, and it is a view I share. Notwithstanding the decision at No 11, I consider this site is so close to the shops in the town centre that residents are unlikely to drive there. Consequently, there is much opportunity for them to pursue alternative modes of transport, so meaning a need for on-site parking is likely to be reduced. Moreover, should parking provision prove inadequate, at the time of my visits there was ample on-street parking near to the site. Whilst I accept these visits were just snapshots, I had no evidence to lead me to a contrary view.
48. The queuing traffic on Higham Road can make it difficult to leave the Shirley Road junction. I consider though that the additional movements associated with this scheme will not have a material effect on traffic flows here or on the surrounding road network. Although the refuse lorry may need to stop on Shirley Road for a while to service the site, this would be only an intermittent occurrence and would not be sufficient to resist the scheme.
49. Drainage had been a reason for refusal but was subsequently withdrawn. Given the site is in a built-up area and is already developed, and mindful that conditions would allow a comprehensive drainage scheme to be implemented, I have no grounds to find the proposal would have an adverse effect in this regard. There might well be flooding on Higham Road now, but given the above factors there is no reason to find it is directly associated with this site or that this scheme would make that situation any worse. Rather, I anticipate this would be an opportunity to secure some level of improvement. I have no sound reason offered as to why the issue of drainage means finished floor levels should be set above ground level.
50. Taking into account Policy H4 in the *Rushden Neighbourhood Plan* and the other evidence before me, I consider the mix of units proposed is satisfactory. Whilst it may be contended that this policy does not reflect the current needs in the town, that view was not supported by firm evidence and it is still part of the operative development plan. There may be a desire, of some, for more houses on the site, but it is for me to consider the merits of this scheme.

Conditions

51. The standard condition on the commencement of development should be imposed [Condition 1], and, for the avoidance of doubt the scheme should be in accordance with the approved plans [2].
52. Mindful of the heritage environment, the details of the existing building should be recorded [4] and, to ensure the remaining portion of the non-designated heritage asset is restored, a phasing plan should be agreed for the proposed refurbishment [5].
53. To make sure the site would be adequately drained a drainage strategy should be agreed, along with its maintenance regime [6].
54. Having regard to the character and appearance of the area, details should be agreed of materials [10], refuse storage [11] and landscaping [12], and no storage of refuse should be prohibited to the front of the hot food takeaway [18]. Lighting should also be in accordance with approved details [17]. I consider it unduly onerous though to require the landscaping to be maintained in perpetuity.
55. In the interests of safeguarding the living conditions of future occupiers and the operational environment of the adjacent garage, windows on the northern elevation of the scheme should have acoustic glazing and mechanical ventilation [9] while those windows bounding the petrol filling station should be fixed shut [16]. Furthermore, a ventilation system should be agreed for the hot food takeaway [7], and screening should be agreed for the terraced area on Building A [15]. For this reason contamination should also be addressed [8]. There should also be a Construction Management Statement approved [3] to ensure noise, fumes, dust and disturbance is limited. I see no need for the condition to contain a list of things that should be included in this Statement. However, it could incorporate controls relating to piling, hours of operation dust suppression, road mud, burning, processing of demolition waste, compliance with the air quality assessment concerning demolition, and vehicle movements (insofar as permissible under planning legislation). Separate conditions relating to these elements are therefore not necessary. I also have nothing to show other ventilation equipment or similar (other than associated with the takeaway) is proposed that would be harmful, and so a condition relating to that is not required.
56. Highway safety justifies the access and parking on the approved plans being laid out prior to first occupation [14]. The issue of water draining onto the highway though would be tackled under the surface water drainage strategy. The agreement of cycle storage would also promote transport choices [11].
57. With regard to ecology, details of the proposed biodiversity enhancement should be approved [13] and this is a further reason for also approving external lighting.
58. I am not satisfied though the provision of security measures, fire hydrants or sprinklers are most effectively controlled under planning legislation. Given the information before me I also consider the floor levels are suitably established already.
59. Of these conditions, Conditions 3 to 8 require the agreement of details before development commences, because either information could be lost (in the case

of Condition 4) or what details are acceptable could shape how the development is implemented from the outset.

Conclusion

60. I recognise the previous decision dismissed that scheme because it was found to cause '*some low-level harm to the significance of the* [non-designated heritage asset]', while the lack of infrastructure payments and payments towards the SPA also weighed against it. As I consider all these matters have now been addressed, these are material differences between the scheme before me and the one subject of that previous decision.

61. Accordingly I conclude that the appeal should be allowed.

JP Sargent

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development shall be in accordance with the following approved plans:
 - Existing Floor Plans 18 088 30
 - Existing Elevations 1 of 2 18 088 31
 - Existing Elevations 2 of 2 18 088 32
 - Site Location Plan & Proposed Block Plan 18 088 33B
 - Existing & Proposed Site Plan 18 088 34
 - Proposed Car Park / Ground Floor Plan 18 088 35E
 - Proposed First Floor Plan 18 088 36G
 - Proposed Second Floor Plan 18 088 37G
 - Proposed Third Floor Plan 18 088 38H
 - Proposed Roof Plan 18 088 39D
 - Proposed Elevations 1 of 3 18 088 40E
 - Proposed Elevations 2 of 3 18 088 41E
 - Proposed Elevations 3 of 3 18 088 42E
 - Proposed Site Sections A-A & B-B 18 088 43B
 - Proposed Vehicle Tracking Spaces 1, 1B & 2B 18 088 45
 - Proposed Vehicle Tracking Spaces 33, 35 & 38 18 088 46
- 3) Prior to the commencement of the development, a Construction Management Statement shall be submitted to and approved in writing by the Local Planning Authority and the development shall then be undertaken in accordance with the approved Statement.
- 4) Prior to the commencement of the development, a record shall be made of the existing building on site in accordance with a programme and approach that has first been submitted to and approved in writing by the Local Planning Authority. The programme and approach shall also include details of post-recording assessment, together with the preparation of post-recording analysis and the preparation of site archive ready for deposition in a store, along with a timetable for each of these steps, and each of these steps shall then be undertaken in accordance with the approved programme and approach and the approved timetable.
- 5) Prior to the commencement of the development, details shall be submitted to and approved in writing by the Local Planning Authority of the restoration works for Building A, along with a phasing timetable to show when those restoration works will be undertaken in relation to the proposed new-build elements. The development shall then be undertaken in accordance with the approved details of the restoration works and the approved phasing timetable.
- 6) Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of the drainage

strategy for the site, together with details of its maintenance and a timetable for its implementation, and the drainage strategy shall then be implemented and maintained in accordance with the approved details and timetable.

- 7) Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of the means of ventilating and soundproofing the hot food takeaway, as well as details of how to avoid any unreasonable disturbance arising from vibration. The approved ventilation and soundproofing, together with the details to avoid any unreasonable disturbance arising from vibration, shall be installed prior to the first occupation of any unit in Building A or Building B.
- 8) Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of a comprehensive contaminated land investigation, comprising a Phase 1 desktop study and a site investigation to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. If any unacceptable risks are identified, an appraisal of remedial options and a proposal of the preferred option, together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Any necessary remediation of the site shall then be undertaken in accordance with the approved details and timetable. Within 4 months of the completion of the remediation, a closure report shall be submitted to the Local Planning Authority to confirm remediation has been in accordance with the approved details.
- 9) No development above slab level shall take place until details have been submitted to and approved in writing by the Local Planning Authority of acoustic glazing and mechanical ventilation for all windows along the north facing elevation of the development, and prior to the occupation of any apartment containing any of those windows the approved acoustic glazing and mechanical ventilation shall be installed and thereafter retained.
- 10) No development above slab level shall take place until details have been submitted to and approved in writing by the Local Planning Authority of materials to be used in all external surfaces, including details of window and door treatments, the intended render and its colour, and the development shall then be undertaken in accordance with those details only.
- 11) No development above slab level shall take place until details have been submitted to and approved in writing by the Local Planning Authority of the means and method of refuse storage and cycle storage, and this shall be provided prior to the first occupation of any unit it is intended to serve and thereafter retained.
- 12) No development above slab level shall take place until details of the hard landscaping (including boundary details and surfacing materials) and soft landscaping, together with their intended maintenance regimes, have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be carried out prior to first occupation. Any trees or plants that, within a period of 5 years from

planting, die, are removed or become seriously diseased, shall be replaced in the next planting season with others of the same size and species as those originally approved.

- 13) No development above slab level shall take place until details have been submitted to and approved in writing by the Local Planning Authority of the ecological measures for biodiversity improvements at the site, together with a timetable for their implementation. The approved ecological measures for biodiversity improvements shall then be implemented in accordance with the approved timetable.
- 14) Prior to the first occupation of the development the proposed vehicular access and on-site turning and parking shall be laid out in accordance with the approved plan, and surfaced in accordance with materials that have been first submitted to and approved in writing by the Local Planning Authority and the areas of access, turning space and parking provision shall thereafter be retained for these purposes.
- 15) Prior to the first occupation of any of the townhouses, privacy screening shall be erected on the second floor terrace to their rear in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority, and that privacy screening shall thereafter be retained.
- 16) The north facing windows on Building B, and the north facing kitchen windows to Flats 17, 25 and 33 shall at all times be fixed shut.
- 17) Any external lighting shall be in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 18) There shall be no commercial storage associated with the hot food take-away unit between the front elevation of the building and the pavement to Higham Road.

APPEARANCES

FOR THE APPELLANT:

Mr R Colson	Planning Consultant
Mr D Wishart	Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Baish	Principal Development Management Officer
Ms A Baxter	Principal Planning Officer
Mr D Tanzer	Housing & Enabling Officer

INTERESTED PARTIES:

Cllr J Bone	Unitary Councillor for Higham Ferrers Ward
Cllr D Maxwell	Unitary Councillor for Irthlingborough Ward
Cllr A Mercer	Unitary Councillor for Rushden South, & Town Councillor for Spencer South Ward
Cllr G Mercer	Unitary Councillor for Rushden Pemberton West, & Town Councillor for Pemberton Ward

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

BY THE APPELLANT:

APP1: Site Plan 18-088-53

APP2: Email to the Planning Inspectorate concerning pre-commencement
conditions (dated 21 September 2023)

APP3: Signed Unilateral Undertaking (dated 21 September 2023)

APP4: Email to the Planning Inspectorate concerning SPA payments and supporting
documentation (dated 3 October 2023)

APP5: Email to the Planning Inspectorate containing a legal agreement under s111
of the *Local Government Act 1972* together with supporting documentation
(dated 6 October 2023)

BY THE LOCAL PLANNING AUTHORITY:

LPA1: Suggested conditions

LPA2: Email to the Planning Inspectorate concerning the removal of the suggested
condition concerning floor levels (dated 8 September 2023)

BY THIRD PARTIES:

TP1: Comments from Cllr Maxwell

TP2: Comments from Cllr G Mercer

TP3: Appeal decision APP/G2815/W/3277113, concerning 11 Higham Road
(dated 10 January 2022) submitted by Cllr G Mercer

TP4: Representations from Asda (dated 20 September 2023)

TP4: Email to the Planning Inspectorate from Natural England concerning the SPA
(dated 9 October 2023)