



Appeal Decision

Site visit made on 6 December 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2024

Appeal Ref: APP/P0119/W/23/3314689

King William IV, 30 Tower Road South, Warmley, BS30 8BL

- 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 Cordage Estates Limited against the decision of South Gloucestershire Council.
 - The application Ref P21/03182/F, dated 1 July 2021, was refused by notice dated 5 January 2023.
 - The development proposed is erection of a convenience store (Use Class E) on land adjacent to the existing public house (Sui Generis), including the creation of a new access / egress off Tower Road South to serve a reconfigured car park for the public house and convenience store, a new delivery bay, and associated hard and soft landscaping. Including the demolition of an existing single storey extension and front entrance porch on the public house.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a convenience store (Use Class E) on land adjacent to the existing public house (Sui Generis), including the creation of a new access / egress off Tower Road South to serve a reconfigured car park for the public house and convenience store, a new delivery bay, and associated hard and soft landscaping. Including the demolition of an existing single storey extension and front entrance porch on the public house at King William IV, 30 Tower Road South, Warmley, BS30 8BL in accordance with the terms of the application, Ref P21/03182/F, dated 1 July 2021, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The Government published the revised National Planning Policy Framework on 19 December 2023 (the Framework). The main parties have referred to the now superseded Framework and in particular the provisions of Chapter 9, promoting sustainable transport. The main thrust of the provisions of Chapter 9 of the superseded version are comparable to the provisions now outlined within Chapter 9 of the more recent iteration of the Framework (December 2023). I am satisfied therefore that the issues at hand on this appeal are not affected by the policy change and that neither party would be prejudiced by my reference to the more recent Framework.

Main Issue

3. The main issue is the effect of the proposed development on highway safety with particular regard to the adequacy of the proposed delivery bay.

Reasons

4. The appeal site is occupied by a public house which sits on a corner plot facing onto Tower Road South next to its junction with Cadbury Heath Road. There are parking areas to either side of the public house with access from Tower Road South over a dropped kerb which runs along the frontage of the site. A pedestrian crossing over Tower Road South lies in front of the vehicle parking area to the northern extent of the site. A roundabout junction lies further to the south, providing access onto Wesley Lane and Mill Lane. Whilst Wesley Lane was a narrow road, I noticed unrestricted parking along Mill Lane and Cadbury Heath Road within the vicinity of the site.
5. During my site inspection I witnessed a regular flow of traffic movements along Tower Road South. I also noticed a car was parked in front of the building at a right angle to the road. Moreover, in addition to the existing access to the public house, I observed that existing dropped kerbs with residential accesses onto the road are an established part of the character of the area, and this would be apparent to highway users, including pedestrians.
6. The appellant asserts that due to the dropped kerb along the frontage of the site, delivery vehicles and cars use the area directly in front of the public house for servicing and parking. Whilst the Council point out that there are parking areas at either end of the building, I have no strong evidence to refute these assertions.
7. Tower Road South within the vicinity of the appeal site is of relatively straight alignment. A footway and double yellow lines are either side of the road. I noticed a variety of enclosures to the rear edge of the footway, including metal railings, and brick, stone and rendered walls. The nature of Tower Road South is such that the majority of highway users would be likely to proceed with a degree of caution, given the busy nature of the street and the prevalence of vehicular accesses over the footway.
8. The appeal scheme would result in a significant increase in the number of deliveries to the site. A new delivery bay is proposed in front of the public house. The submitted evidence, including a tracking drawing, demonstrates that a 10-metre-long rigid vehicle would be able to enter and exit the site in a forward gear. Whilst such larger delivery vehicles would need to route through the local area, it also demonstrates that a 10-metre-long vehicle could occupy the delivery bay without obstructing the access to the proposed car park and it would have space for unloading without conflicting with the pedestrian footway. Consequently, there would be sufficient space within the delivery bay to accommodate deliveries associated with the appeal site and avoid reversing manoeuvres and obstruction of the public highway.
9. A delivery vehicle exiting the site through the south access would have the potential to obstruct customers attempting to enter or exit the car park. However, this would likely only be a fleeting occurrence as the vehicle joins the public highway at a point where there is good forward visibility in both directions. As such, there would unlikely be a significant impact on the free flow of traffic and there is no particular reason to consider that this would be harmful to highway safety.
10. Even though the delivery bay would be near to the pedestrian crossing, the appeal scheme would remove the existing access to the car park at the

northern end of the building, which lies closer to the crossing. Vehicles within the delivery bay would have unobstructed visibility of the crossing and users of the crossing would have clear visibility of the delivery bay. The proposal would provide a raised section of footway between the two access points of the delivery bay with a barrier installed at the rear edge of the footway providing separation between pedestrians and delivery vehicles.

11. Pedestrians would be used to vehicles crossing the footway as such arrangements do not seem to be uncommon in the locality. Moreover, the appeal scheme would remove the potential for parking to take place at the front of the building and would provide a dedicated delivery bay. As such, for these reasons, the proposal would be unlikely to increase the potential for conflict between highway users and those exiting the public house that could result in crashes or injuries.
12. A pedestrian route would be maintained to the entrance at the front of the public house with bollards installed. This would provide a protected pedestrian route separate from the loading bay. As the route and entrance for the public house would have good visibility along it and would be two metres wide, except where it would coincide with the two bay windows, there would also be delivery access for trolley cages from delivery vehicles with little likelihood of conflict between pedestrian movements.
13. In order to enable deliveries to be managed between the two operators on the appeal site and to ensure the delivery bay remains available to delivery vehicles, the appellant has proposed a Servicing Management Plan (SMP) be secured via condition. A Road Safety Audit recommendation for the scheme is that measures such as appropriate signage and road markings are introduced to prevent obstruction of the delivery bay. It also refers to the potential for collapsible bollards. Such arrangements are not uncommon within dedicated delivery bays and the appellant has proposed that such measures are secured as part of a SMP.
14. Paragraph 56 of the Framework identifies that conditions should only be imposed where they meet the six tests, which include being enforceable. Whilst the Council maintain that such a condition would not be enforceable, there would be some prospect of further dialogue between the appellant and the Council in light of my findings above and agreement of the detail of the SMP to ensure that the delivery bay remains available for its designated use. The details of signage and road markings would be understandable terms and so including that within a SMP secured via a planning condition would be enforceable. Subject to such a condition, I do not consider that the proposal would cause any significant disruption to the free flow of traffic on the street, or that it would lead to unacceptable conflicts between vehicles or with pedestrians and other highway users.
15. The proposal would retain parking for the public house and would provide spaces for the convenience store. The appeal site is located within an accessible area, with a bus stop directly next to it. In these circumstances, the appeal scheme would have an adequate level of parking provision. There is no evidence to substantiate the claim that accidents that have occurred on the highway have not been reported. Nevertheless, the absence of reported incidents does not mean that the access would be unsafe.

16. I have considered the local representations. Even though traffic surveys were conducted during lockdown and notwithstanding the concern expressed in relation to TRICS data, there is nothing compelling within the evidence to suggest that there would be any significant adverse impact with regard to parking and the free flow of traffic. I have no basis to consider the footway along the frontage of the site would be tapered so as to provide a trip hazard or be uncomfortable for those with wheelchairs. I note that the Council has not objected to the proposal on these grounds, and I have no reason to come to a different conclusion. The site would be accessible by safe and convenient means and the fact that there is a roundabout within the vicinity is not in itself a reason to dismiss this appeal.
17. Based on the foregoing reasons, the proposal would not harm highway safety with particular regard to the adequacy of the proposed delivery bay. I therefore find no conflict with the aims of Policy CS8 of the South Gloucestershire Local Plan Core Strategy 2006-2027 (adopted 2013) and Policy PSP11 of the South Gloucestershire Local Plan Policies, Sites and Places Plan (adopted 2017), which together along with other things seek to ensure developments provide appropriate, safe, accessible, convenient and attractive access, and provide appropriate on-site loading, unloading and waiting facilities for commercial developments.
18. I also find no conflict with Chapter 9 of the Framework which states that development should only be prevented or refused on highway 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

19. I have had regard to the comments raised locally in respect of the proposal in addition to those matters covered by the main issue. The bollards and fencing would be congruent with the variety of enclosures experienced locally and would not appear contrived or out of place.
20. There is no dispute that the existing public house is a non-designated heritage asset (NDHA). The predominantly two-storey appearance of the proposed building, its proportions and design would help to reduce the visual impact of its scale. I have found no reason to disagree with the Council's assessment of the proposal in that it would be compatible with the surrounding area and, overall, the public benefits of the scheme outweigh the less than substantial harm to the NDHA.
21. Objections to the scheme were raised in relation to the provision of another convenience retailer and its effect on existing local businesses and the local community. However, it is not the role of the planning system to restrict competition between different commercial interests and there is no substantive evidence to demonstrate that the appeal scheme would undermine the essence of the local community.
22. The submitted evidence demonstrates that the proposal would not harm the ongoing viability of the public house. Comments were submitted in relation to increasing anti-social behaviour in the area. There is, however, no substantive evidence before me that the proposal would exacerbate this issue. I have no compelling evidence that the proposal would increase air pollution.

23. The site lies alongside a busy road and would be adjacent to a public house. Having regard to this context, together with the scale and nature of the development proposed, there would be no unacceptable impact on the living conditions of residential neighbours or loss of day light. Furthermore, conditions could restrict noise levels and delivery times.
24. Comments were submitted in relation to the need for housing, however, that is not the proposal before me. Where the development would be carried out, I observed seemingly stable ground conditions. I have not been presented with evidence to demonstrate that the site is designated as green space. Therefore, refusal is not warranted on the basis of these matters.
25. Moreover, I note that many of these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I recognise the concerns of residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
26. I have considered this appeal on its individual merits and any future development proposals for similar development in the area would have to be considered in a similar way. Furthermore, I have found the scheme would be acceptable and therefore see no reason why it would lead to unacceptable development elsewhere.
27. Various appeal decisions have been brought to my attention. I have not been provided with the full details of the cases and I am therefore unable to fully assess any direct comparability to the current appeal proposal. However, from the details before me, it appears that the case relating to 31 Tower Road South was a scheme of 10 self-contained apartments with concerns arising in relation to insufficient width and visibility at the highway access. It is therefore not directly comparable.
28. Whilst I acknowledge the appeal decisions provided by the appellant, the merits and circumstances of those appeals appear to be materially different to the appeal proposal before me, including that the sites were in a different location. In any case, every appeal must be considered on its own merits, as I have done.

Conditions

29. A list of conditions has been sent to both parties, of which have been incorporated from those within the main parties' appeal evidence. I have amended them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance (PPG). I have limited the use of pre-commencement clauses to where it is essential for the condition to achieve its purpose.
30. I have attached the standard time condition and I have specified the approved plans in the interests of certainty. In the interests of the character and appearance of the area, conditions in respect of architectural detailing, materials and to secure appropriate landscaping and boundary treatments are required and necessary.
31. I have considered the appellant's request for a specific condition requiring details of any plant, ventilation and extraction equipment and an associated

noise assessment. I consider this is necessary to minimise potential effects on living conditions of nearby residential occupants and I have amended the condition suggested by the Council accordingly. It is necessary to condition the hours permitted for construction works at the appeal site in the interests of nearby occupiers living conditions.

32. It is necessary to limit delivery hours given the proximity of residential neighbours, however, I have increased the permissible hours for deliveries having regard to the proposed opening hours, the busy nature of the road and the context of existing business uses. The Council has not explained why lesser hours are necessary, nevertheless, given that the road would be likely to be less busy on Sundays and Bank Holidays, to protect neighbouring living conditions, it is necessary to impose lesser hours on those days.
33. A condition in respect of details for surface water management is necessary to ensure satisfactory drainage. Given the integral nature of the surface water drainage it is necessary to secure the details prior to commencement.
34. If a planning condition were to be imposed to facilitate the proposed alterations to the public highway, it would need to take the form of a 'Grampian' condition. Such conditions are negatively worded to prohibit development activity until some specified action takes place, in this case the proposed changes to the footway, which requires work on land that is controlled by the highway authority rather than the appellant.
35. According to the PPG a condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. The PPG also states that it is not appropriate to use Grampian conditions where there are 'no prospects at all' of the action being performed by the time limit imposed by the condition. While I am aware of the objections raised, it seems to me that there is some prospect of further dialogue between the appellant and the highway authority and the works on the public highway being performed. Therefore, as any dialogue would take place between the appellant and a public body, I would consider it appropriate to impose a Grampian condition in this particular case to secure the highway works. Such a condition would meet the six tests set out in paragraph 56 of the Framework insofar as it would be necessary, enforceable, precise, reasonable and relevant to the development and planning. I have amended the Council's condition accordingly.
36. In the interests of highway safety, a condition requiring the provisions of parking, access and servicing is necessary. I have attached a condition relating to the submission and agreement of a Servicing Management Plan for the reasons set out in my main report.

Conclusion

37. For the reasons given I conclude that the appeal should succeed.

J White

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall only be carried out in accordance with the plans as set out in the plans list below:
 - 16 Jun 2021 00.00 B SITE LOCATION AND EXISTING BLOCK PLAN
 - 16 Jun 2021 00.05 A EXISTING TOPOGRAPHICAL SURVE
 - 16 Jun 2021 00.06 A EXISTING PUBLIC HOUSE FLOOR PLANS
 - 16 Jun 2021 00.07 A EXISTING PUBLIC HOUSE ELEVATIONS
 - 22 Aug 2022 10.00 M PROPOSED SITE PLAN
 - 22 Aug 2022 10.01 V PROPOSED FLOOR PLANS
 - 22 Aug 2022 10.02 L PROPOSED ELEVATIONS
 - 22 Aug 2022 10.04 D PROPOSED DEMOLITION PLAN
 - 22 Aug 2022 10.11 J PROPOSED INDICATIVE STREET SCENES
 - 22 Aug 2022 10.12 Q PROPOSED LANDSCAPE PLAN
- 3) No development above ground level shall commence until large-scale details of the following have been submitted to and approved in writing by the Local Planning Authority, the development shall thereafter be carried out in accordance with the agreed details:
 - Windows including reveals, quoins, cills and heads
 - Doors (including recessed wood panelling) including reveals, quoins and head;
 - Eaves (including rainwater goods), verges, parapets, kneelers and ridge;
 - Chimney (if incorporated);
 - External signage;
 - External lighting; and
 - Security shutters.
- 4) No development above ground level shall commence until sample panels of the external walling (natural stone, showing stone type and colour, coursing, jointing and pointing), tiles/slates, and render, have been erected on site and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.
- 5) The use shall not commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site and retaining walls, and a programme of implementation. The development shall be carried out strictly in accordance with the approved details.
- 6) Details of any plant, ventilation and extraction equipment and a noise assessment shall be submitted to and approved in writing by the Local

Planning Authority prior to their installation. The approved equipment shall be installed, and any noise mitigation measures implemented prior to the first use of the retail store and retained thereafter.

- 7) The hours of working on site during the period of construction shall be restricted to Monday - Friday 07:30 - 18:00, Saturday 08:00 - 13:00 and no working shall take place on Sundays or Public Holidays. The term working shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of the site.
- 8) No deliveries shall be taken at or despatched from the site outside the hours of 06:00 to 23:00 on Monday to Saturday and 08:00 to 21:00 on Sundays and Bank Holidays.
- 9) No development shall commence until surface water drainage details including SUDS (Sustainable Drainage Systems e.g., soakaways if ground conditions are satisfactory), for flood prevention, pollution control and environmental protection have been submitted and approved by the Local Planning Authority.

A detailed development layout showing the location of surface water proposals is required along with results of percolation tests and infiltration calculations to demonstrate that the proposal is suitable for this site.

The development shall thereafter be carried out in accordance with the agreed details.

- 10) No development shall commence until details of the improvements to the public highway and existing footway have been submitted to and approved in writing by the Local Planning Authority. The approved works shall thereafter be completed prior to the first use of the development hereby approved.
- 11) Prior to the commencement of use of the development hereby approved the parking, access and servicing shall be installed in accordance with the details shown on the Proposed Site Plan (10.00M).
- 12) Prior to the commencement of the use of the development hereby approved, a Servicing Management Plan (SMP) shall be submitted to and approved in writing by the Local Planning Authority. The SMP shall include full details of signage and road markings to be provided within the delivery bay together with details for the management of deliveries to the site. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.

End of Schedule