



Appeal Decision

Site visit made on 29 April 2025

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th May 2025

Appeal Ref: APP/M2840/W/24/3354564

Former Peter Crisp Department Store, 1-11 High Street & 1-9 Church Street, Rushden, NN10 9JR & NN10 9YU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Peter Crisp Ltd against the decision of North Northamptonshire Council.
 - The application Ref is NE/24/00635/PDU.
 - The development proposed is the Change of Use of the Existing Building from Commercial, Business and Service (Use Class E) to Residential (Use Class C3) Comprising of 14no. Flats.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) for the Proposed Change of Use of the Existing Building from Commercial, Business and Service (Use Class E) to Residential (Use Class C3) Comprising of 14no. Flats at former Peter Crisp Department Store, 1-11 High Street & 1-9 Church Street, Rushden, NN10 9JR & NN10 9YU in accordance with the application NE/24/00635/PDU and the details submitted with it including the plans: Location Plan (CCT 459 SUR 201 Rev. A), Proposed Block Plan (CCT 459 SUR 101 Rev. B), Proposed Ground Floor (CCT 459 SUR 201 Rev. A), Proposed First Floor (CCT 459 SUR 202 Rev. D), Proposed Second Floor (CCT 459 SUR 203 Rev. C), Proposed Roof Plan (CCT 459 SUR 204), Proposed Elevations (CCT 459 SUR 301 Rev. A), Proposed Elevations (CCT 459 SUR 302) and subject to the following conditions¹.

- 1) Prior to the commencement of the development, a scheme for protecting all flats from noise from external sources, including ground floor uses of the building, shall be submitted to and approved in writing by the local planning authority. Such details shall demonstrate noise attenuation to achieve internal noise levels not exceeding the following, with windows closed:

- a) 35 dB LAeq, 16 hour (07:00-23:00)
- b) 30 dB LAeq, 8 hour (23:00-07:00)

Such details shall include passive ventilation to all facades annotated blue and active ventilation to all facades annotated orange (as shown in figure

¹ In addition to the standard conditions set out at Paragraphs MA.2. (5) and (6) of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

20 to the Noise Impact Assessment Report by Noise Air ref: P6162-R1-V1 dated 22 June 2023). All works which form part of the scheme shall be completed before any flat is occupied and retained thereafter.

- 2) No part of the development shall be occupied until the refuse and cycle parking facilities shown on plan refs. Proposed Ground Floor (CCT 459 SUR 201 Rev. A) and Proposed Block Plan (CCT 459 SUR 101 Rev. B) have been provided. These facilities shall thereafter be kept available for the disposal of refuse and parking of cycles in association with the development.

Preliminary Matters

2. The Council's decision notice only referenced 1-11 High Street, Rushden in its decision notice however I have used the full site address given on the application form here for completeness. I have abridged the description of development given on the application form to refer to the proposed works only, but this is only to avoid unnecessary repetition in this decision.
3. Plans showing revisions to the proposed layouts for the first and second floors were provided with the appeal, and I have taken these into account in reaching my decision here. These revisions related to internal layouts and annotations only and I am satisfied that they do not alter the fundamental nature of what permission has been sought for. Although the Council has not commented on these revisions, it had the opportunity to do so and therefore, given their minor nature, no parties have been prejudiced through my acceptance of these plans.

Main Issues

4. The main issues are:
 - 1) whether the development would mitigate against likely significant effects in relation to the Upper Nene Valley Gravel Pits Special Protection Area (SPA), and
 - 2) whether the size of the proposed flats, specifically flats 2, 3 and 6, conforms with the Nationally Described Space Standard (NDSS).

Reasons

Effect on SPA

5. The site is set within the SPA and the Council has a Mitigation Strategy in place to secure appropriate mitigation to offset effects on the European Site. The appellant has provided evidence of payment of the requisite fee and I am therefore satisfied that the development can proceed in accordance with Article 3(1) of the Order and the Conservation of Habitats and Species Regulations 2017.

Living conditions

6. The Council expressed concern relating to the floorspace of three flats which, due to the proposed number of occupants and floorspace, did not accord with the NDSS and as a consequence failed the tests at Articles 3(9A)(a) and 3(9A)(b) of the Order. Revised plans submitted with the application, which I have accepted as detailed above, indicated the replacement of double beds with single beds and the statement confirms the number of occupants as per below:

- Flat 2 - 1-bedroom, 1-person
 - Flat 3 – 2-bedroom, 3-person
 - Flat 6 - 2-bedroom, 3-person
7. Furthermore, the floor area for flat 2 has been clarified as being 37 square metres, whereas the Council assessed this as 36.47 square metres. Given that this is a minor difference and could have resulted from the scaling of the plans, particularly given the irregular shape of this flat, I am satisfied that it meets the minimum standard set out by the NDSS and Articles 3(9A)(a).
8. These revisions render all the proposed flats compliant with the NDSS and the provisions of Articles 3(9A)(a) and 3(9A)(b) of the Order.

Other Matters

9. The Council's Education, Libraries and Digital Infrastructure services indicated that the development would be liable for a contribution of £2,196 towards libraries. However, the planning authority has indicated that it is not seeking this contribution in relation to this development.

Conditions

10. Development under Class MA is permitted subject to the conditions at Paragraphs MA.2.(5) and (6) of the Order which include that the development must be completed within a period of 3 years starting with the prior approval date; and that any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.
11. A condition is imposed to require details of noise mitigation to the proposed flats. The Noise Impact Assessment Report details various potential noise sources including ground floor uses, deliveries and general town centre background noise. These have the potential to cause disturbance and intrusion for the future occupants, including during nighttime hours, which could result in a deleterious effect on the future occupants living conditions. This condition is a pre-commencement condition and therefore, having regard to S100ZA of the Town and Country Planning Act 1990 (as amended) and Regulation 2 of the Pre-commencement Conditions Regulations 2018, the appellant has been consulted on this condition.
12. I have further imposed a condition requiring the implementation of the cycle parking area and refuse storage area prior to the occupation of the development. This is to ensure that these facilities are made available for the future occupants.

Conclusion

13. For the reasons given above the appeal should be allowed and prior approval should be granted.

N Bowden

INSPECTOR