



Appeal Decision

Site visit made on 6 January 2026

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2026

Appeal Ref: APP/B3030/W/25/3360680

**The Maltings Retail Park, Northgate, Newark on Trent, Nottinghamshire
NG23 1HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Merchant City Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref is 23/02135/S73.
 - The application sought planning permission for "Variation of conditions 23 and 24 attached to planning permission 20/00711/S73M to amend the wording to allow Unit B to have a smaller unit size and to allow the bulk sale of wine, beer and spirits" without complying with a condition attached to planning permission Ref 23/01031/S73M, dated 16 October 2023.
 - The condition in dispute is No 20 which states that: "The development hereby permitted shall not be commenced unless or until improvements to the Northgate/Queens Road junction has been made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) to the satisfaction of the Local Planning Authority".
 - The reason given for the condition is: "In the interests of highway safety and capacity".
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Merchant City Ltd against Newark & Sherwood District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The development to which the planning permission subject to the appeal application relates has been completed and occupied. The condition under dispute has not been discharged and not therefore complied with.
4. The condition under dispute required improvements to a junction not within the application site, but close by to include vehicle and pedestrian detection facilities. Those improvements were required prior to the commencement of development.

Main Issue

5. The main issue is whether or not the condition is necessary, relevant to the development to be permitted, enforceable and reasonable in all other respects having regard to the tests in the National Planning Policy Framework (the Framework).

Reasons

Necessary

6. Although the reason for the imposition of the condition is stated in the banner heading above, the consultation responses and officer reports give more detail and nuance for its imposition. It is clear that both the Local Highway Authority (LHA) and the Council originally considered that the development would lead to an increase in traffic using the junction, which would require more use- and user-specific control in order to ensure an acceptable effect on the highways network.
7. The Council's decision on the appeal application refers to Spatial Policy 7 of the Newark and Sherwood Amended Core Strategy, adopted March 2019 (the Core Strategy). This encourages and supports development proposals which promote an improved transport network and an emphasis on non-car modes of transport as a means of access to services and facilities. It explicitly notes that the Council and other relevant agencies will support the development of opportunities to enhance the *pedestrian* environment.
8. Similarly, Policy DM5 of the Newark and Sherwood Development Management DPD, adopted July 2013 (the DM-DPD). This policy requires safe and inclusive access to new development, using as many alternative modes of transport as possible.
9. This, plus the very clear wording of the condition itself makes plain that the condition is not only intended to address vehicular traffic at the junction.
10. The appellant produced traffic surveys to support their application and this appeal and it is clear that the LHA disagree with the methodology used in them, notably the time periods and dates of the surveys. Given they are the LHA, I consider it entirely reasonable for them to express their dissatisfaction with working methodology intended to dissuade them from their long-standing and well-reasoned position on the need for the improvements required by the condition. In my view it is not for the LHA to re-establish their position, particularly when the evidence of the appellant does demonstrate increased use of the junction in question following the development.
11. Despite this, and the clear reference in the condition itself to a requirement for "nearside *pedestrian* detection facilities (or similar arrangements to provide the same effect)" the evidence of the appellant does not grapple with the effect of the appeal development, or indeed, non-compliance with the condition, on pedestrian conditions or experience. The evidence focuses solely on vehicle movements and control. This is plainly contrary to the aims of the development plan and ignores an important part of the condition.
12. In any event, the LHA and the Council still consider that the condition is necessary to address the effect of vehicle movements on the local highway network as a result of the development. That the junction is operating within its theoretical capacity is not analogous with the junction operating to the satisfaction of the LHA. It does not do so, on the basis of the evidence before me, and which the LHA have reviewed.

13. During my site visit, I used the junction to which the condition relates, in a car and on foot. From that and my observations at the junction, it was clear to me that the current wait times for pedestrians in particular are unsatisfactorily long and regularly lead to people crossing the junction against the pedestrian signal. National policy in the Framework requires the promotion of sustainable transport, and explicitly sets out that pedestrian and cycle movements, including beyond the site, should be given priority. This is wholly consistent with the approach taken in the Core Strategy and the DM-DPD. The current junction does not do this, but the condition under dispute would ensure that it does.
14. As such, I find that the condition is necessary, and at present, there is no compelling evidence to support it not being so.

Relevant

15. The evidence before me demonstrates that vehicle movements at the junction to which the condition relates have changed since before the development took place. Absent data which properly assesses this, noting in particular the LHA's concern over the relationship of the survey dates to recent road reopenings, I am satisfied that the condition is relevant to the development.
16. I note that improvements to this junction are apparently on the Council's CIL list. However, there still appears to be a direct link between the development and the condition.
17. As such, allied with the development plan position set out in the reason for the condition, and the reasons for the Council's decision on the appeal application, I find that the condition is relevant, both to planning and to the development proposed.

Enforceable

18. There is nothing in the evidence before me to suggest that the condition is not enforceable, that the appellant could not comply with it, albeit in breach of the original time period for compliance, or that it would otherwise be unreasonable or unlawful for the Council to take any enforcement action.
19. I am also not persuaded by the evidence before me that there was not, nor is there likely to be, any prospect of the works required by the condition being performed.
20. I do not consider that the failure of the Council to take enforcement action to this point is, as the appellant suggests, evidence of the condition being unenforceable.
21. As such, I am satisfied that the condition remains enforceable.

Reasonable

22. The condition relates to effects arising from the development. The evidence of the appellant shows that there has been a change in vehicle movements through the junction, as anticipated when the condition was previously imposed, even if the amount of additional traffic is lower than or similar to the original forecasts. There is no clear, overwhelming evidence before me to suggest that the condition cannot be complied with, in order to deliver the improvements required or that they are no longer necessary.
23. The condition remains therefore reasonable in all other respects.

Conditions

24. The Council has suggested that whilst the condition does still meet the tests in the Framework, as the appeal development has already taken place, the condition could be amended to require the works to be carried out within a period such as three months.
25. Whilst I note this suggestion, I have no evidence before me as to the reasonableness or effectiveness of such a time limit.
26. Given that, I consider that dismissing the appeal, and therefore retaining the condition as currently imposed, effectively maintains the status quo. Neither the appellant nor the Council are in a materially different position to that in which they found themselves before this application or appeal.
27. The need for the works required by the condition still remains on the face of the evidence before me. The appellant could still discharge and then comply with the condition. The Council could still take enforcement action.

Conclusion

28. Taking all of the above into account, I find that the condition does meet the tests in the Framework, and the appeal should therefore be dismissed.

S Dean

INSPECTOR