

Punch Partnerships (PML) Ltd

The Swan Inn, HAVANT

Project Reference: 1710-046/TN/04

Technical Note

1 Response to highways comments

Introduction

- 1.1 Further to the submission of planning application APP/23/00588 comments have been received from Hampshire County Council (HCC), raising concern with overflow parking and its impact upon highway safety. A copy of the consultation response is provided at **Appendix A**. This report sets out the points raised and provides responses / additional information.

Public Amenity and Safe Highway Operations

- 1.2 The HA recommendation states that the application's considerations to the principles of public amenity and safe operation of the highway were not satisfactory:

"The proposed development fails to provide adequate provision for on-site parking which would encourage the parking of vehicles on the public highway and so interrupt the free flow of traffic and cause a hazard to road users and a loss of amenity for existing residents and/or users of any formal on road parking."

- 1.3 The first Technical Note (TN01), submitted in support of the application, included comprehensive surveys of parking at the application site and on the surrounding streets, and further surveys have shown that the weekends are the peak times in terms of pub parking demand. Further analysis on those times has been undertaken and is set out in the following paragraphs.

Parking Surveys

- 1.4 The parking stress survey attached to document 1710-046 TN01 showed that parking stress levels would not be increased by an amount which would negatively impact highway safety. The weekend parking stress results can be seen in [Table 1.1](#).

Table 1.1 Parking stress results

Location	Calculated unrestricted spaces (5.0 m)	Survey date					
		Friday 15.9.23		Saturday 16.9.23		Sunday 17.9.23	
		Parking stress (%)	Free spaces	Parking stress (%)	Free spaces	Parking stress (%)	Free spaces
Surrounding streets	100	41	60	43	58	47	54
Jessie Road	16	63	6	69	5	69	5

- 1.5 Using data from a car park occupancy survey also included in [Table 1.2](#). The peak car occupancy occurred on Saturday, with a total of 21 cars.

Table 1.2 Car park occupancy (12:00 – 00:00)

Date	No of spaces	Average occupancy	Peak occupancy	
		No.	No.	Time
Friday 15.9.23	24 (22 + 2 disabled)	10	19	17:30 – 18:00
Saturday 16.9.23		11	21	14:30 – 15:00, 16:00 – 17:00
Sunday 17.9.23		7	10	12:30 – 14:00

- 1.6 The proposed parking layout for The Swan Inn provides a total of 14 parking spaces.
- 1.7 If the peak occupancy of 21 is taken into consideration, there would be a slight overspill of up to 7 cars into the adjacent roads on Friday and Saturday at the surveyed times. Taking the maximum overspill into account when projecting parking stress, the peak parking stress across the survey area would be 54%, i.e 46% of on street parking spaces in the vicinity of the site would remain empty. This means 46 spare parking spaces within 200m of the site, at the busiest time of the week.

- 1.8 Where parking surveys are undertaken it is generally accepted that highway safety issues are only likely to arise where on street parking demand exceeds 85% occupancy (in some cases 90%). This has been accepted at various planning appeals and is stated in documents produced by various local authorities. One such recent example is in the recent parking study undertaken by Stevenage Borough Council.
- 1.9 Stevenage Borough Council's Old Town Ward parking study ¹). This sets out the typically accepted thresholds succinctly, as follows (copied from page 34 of the document):

"Impacts are likely to start occurring when parking demand is in excess of 85%. At this point, locating a parking space can be considered more challenging. If the on-street parking capacity is in the region of 70-84%, there may be some difficulties in locating a parking space, which could cause these impacts to occur in specific situations. If the available capacity is below 70%, there shouldn't be many issues experience.

- 1.10 The peak weekday and weekend parking stress therefore would not be classified as a potential challenge for highway safety considerations.

Previous applications

- 1.11 Regarding overflow parking, parking stress and the matter of highway safety, HCC has made inconsistent comments in this case compared with other recent applications form comparable schemes. In reference to application P/23/0460/FP, at The Crofton, Fareham, the HCC has had no objection to the development and made the following comments:

"After further consideration and with regular on-site observations, the Highway Authority have reconsidered the previous request and consider the existing assessment appropriate in this instance. From the data it is clear that during the busiest trading periods (particularly during the Friday evening peak and Saturday lunch time peak) the reduction in the number of parking spaces will result in overspill on street parking on the local highway network within the vicinity of the site. The Highway Authority do not consider on-street parking as an entirely acceptable alternative, however, after consulting the PIA data submitted, it is clear there is no existing safety concern related to the presence of existing on-street parking that may be exacerbated by the slight increased possibility of further on-street parking. Therefore, the proposals that result in the removal of on-site parking are considered acceptable and are not to be of severe detriment to the safety and operation of the local highway network."

- 1.12 This directly juxtaposes the comments made by HCC on the Swan Inn site, where the HA is suggesting that there will be an unacceptable impact upon highway safety from the 7 additional cars that may occasionally

¹ (<https://www.stevenage.gov.uk/documents/parking/old-town-parking-surveyresults/stevenage-old-town-ward-parking-study-final.pdf>)

need to park on street, despite that fact that the implication of that additional parking is simply to increase parking stress to 54%, leaving some 46 parking spaces still available within a short walk of the site.

Appeal precedent

1.13 With a view to understanding the general acceptability across the country of on street parking and of parking surveys being used in order to justify that 'overflow' parking from new developments will not cause harm to safety, a review of planning appeal decisions has been undertaken, based solely upon schemes that TPA have been involved with.

1.14 The following appeals included on street parking surveys and the Inspector's decision in each case was that due to the availability of on street parking, on site parking provision below the suggested local standards was acceptable and there would be no unacceptable highway safety impacts.

*The Malt Shovel, Hovingham (see **Appendix B**)*

1.15 This scheme involved the creation of residential dwellings, reducing the size of a public house car park. Paragraph 10 of the inspector's decision includes a statement that:

"Main Street would be able to accommodate additional parking demand without adversely compromising highway safety and the free flow of traffic in this area."

*The Red Lion, Brixworth (see **Appendix C**)*

1.16 This was a proposal to demolish the public house and erect a new convenience store, with parking on site being significantly below the Councils suggested standards – a shortfall of circa 20 spaces. The site is on a bend and on a classified road.

1.17 Paragraph 21 of the inspector's decision is fundamental to the point in question:

"The parking beat survey found 124 unrestricted spaces within 200m of the site, with 84 and 87 spaces free on Friday and Saturday. This indicates that parking stress within 200m of the site was low, at an average of 31%, where 90% is considered as a maximum."

1.18 The reference to 90% being the maximum acceptable level of on street parking stress supports our comments at paragraph 1.10 of this report.

*The Pincushion, Wyberton (see **Appendix D**)*

- 1.19 This scheme proposed a new convenience store within the grounds of a public house, with the latter to be retained. The site is on a B class road, with junctions nearby. Parking levels proposed were below local planning policy standards, however the inspector's decision makes it clear that on street parking associated with the development would be acceptable and would not be expected to lead to any safety issues. Paragraph 10 & 11 include the following key statements:

"Consequently, the proposal would, at times, be likely to create demand for on-street parking in the area, and for the reasons given above, it is probable that this may be greater than suggested. The appellant has argued that this demand is most likely to be satisfied in the nearby residential streets. On-street parking already takes place on these streets, and it is clear that there is capacity on these roads for further parking. Whilst these streets are within walking distance of the site, I agree with the Council that customers are much more likely to park on London Road, as close as possible to the site. Whilst the survey indicated that little parking took place on London Road at present, it appears to me that this is because the houses and businesses along here had adequate levels of off-street parking, rather than because people parked on other streets in preference."

"I am satisfied that the generation of demand for on-street parking in the immediate vicinity of the site, would not result in hazardous parking, or adversely affect the free flow of traffic along the road."

*Brundall Garage, The Street, Brundall (see **Appendix E**)*

- 1.20 This appeal was with respect to the proposed conversion of a car sales / repair garage to a convenience store, with parking on site provided at a level approximately 25% lower than local planning guidance would suggest should be provided. The site is located on a classified road, adjacent to a 90 degree bend in the road.
- 1.21 Paragraph 7 of the inspector's decision notice accepts that on street parking would occur in association with the proposed development, but the inspector considers that would not lead to a severe hazard to highway safety.

"Parking takes place on the road at present and this restricts two way traffic flow. This restriction has implications for highway safety and I note that there has been a personal injury accident in the last 5 years here. This was of slight severity and was a result of a collision between a car and a parked van. Paragraph 32 of the National Planning Policy Framework states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. I am mindful that any additional on-street parking arising from the proposal would add to the existing restriction but there is no evidence that this would result in a severe hazard to highway safety."

*Wantz Road, Maldon (see **Appendix F**)*

- 1.22 This scheme was a proposal to convert a public house on a busy crossroads junction to a convenience store. The proposals only included 9 parking spaces on site, significantly below the Council's suggested level of provision. Paragraphs 15 & 17 state:

"The Council's parking beat survey of the four arms of the junction indicates that, within 100 metres of the junction, there would be likely to be a sufficient number of spaces to accommodate overspill from the proposed car park."

"Clearly, on street parking spaces are not abundant in this location and the proposed development would be likely to add to the pressure on them. However, on the evidence before me, including the Council's survey and my observations during my site visit, I consider that the demand for parking likely to be generated by the proposed development would be capable of being accommodated by a combination of the proposed car park and on street provision."

*The Crown Inn, Fordham (see **Appendix G**)*

- 1.23 This appeal was made based on a development which proposed the erection of two four-bedroom dwellings adjacent to a use class E restaurant. It utilised existing access with associated parking and landscaping, providing only a reconfiguration of the restaurant's car park. It was recognised that the peak occupancy and parking level with exceed the projected numbers of the surveys associated with the application. Paragraph 19 of the appeal states

"Even if demand were to exceed this figure from time to time the survey also demonstrates ample unused capacity in the vicinity with the large open and unregulated car park opposite and long stretches of unrestricted kerbside parking on Church Street. Any overspill on-street parking is thus likely to be limited and infrequent, with inconsiderate on-street parking leading to highway safety issues correspondingly unlikely."

*The Navigation Inn, Derbyshire (see **Appendix H**)*

- 1.24 This appeal was made regarding a development for the erection of a detached dwelling (use class C3). The development utilised existing public house access and associated parking. The development would result in the loss of 9 parking spaces, decreasing provision to a total of 16 from the existing 25 spaces. Paragraph 17 and 20 of the appeal decision state:

"Compared to the existing situation, the development could result in up to 9 additional vehicles being parked on the surrounding streets during busy times. However, a submitted parking survey indicates that there is more than sufficient capacity to accommodate this additional demand.

For the above reasons, I conclude that the development would not prejudice highway safety. It would therefore accord with the Framework, which seeks to avoid any significant impacts on highway safety."

2 Conclusion

- 2.1 Parking surveys have been undertaken which show that there is a vast amount of 'spare' on street parking, in suitable, safe and legal locations close to the site. On street parking is permitted in the vicinity of the site, with no traffic orders in place to restrict parking, suggesting that the highway authority do not consider this an unsuitable location for on street parking. The amount of spare on street parking space will mean that it will be easy for drivers to park on street in suitable and safe locations, with no need or incentive to park poorly nor illegally.
- 2.2 Planning precedent has been investigated, in the form of planning appeal decisions and it is clear from that investigation that the use of on street parking surveys and reliance upon on street parking for some development related parking is considered to be suitable and acceptable, where levels of parking stress are below 85% - 90%. The level of parking stress in this case has been calculated at just 54%, including the development overflow parking.
- 2.3 HCC mention public amenity and while that is not a matter one would typically see raised by a highway authority, it is difficult to see how there could be an amenity issue when the proposals will leave a large percentage and number of spare parking spaces on street.
- 2.4 There is therefore considered to be no valid reason for the highway authority to conclude that the proposals will lead to highway safety issues to the extent that the grant of planning permission should be withheld and to do so would conflict with commonly accepted highways methodology and with planning precedent across the country.

Document Management

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Document Review

	Status	Author	Checker	Approver	Date
01	Draft	GKO	NH	NH	December 23
-	Issue	GKO	NH	NH	December 23
A	Revision ²				
B	Revision ³				

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APPENDIX A

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Enquiries To Sophie Osborne

Direct Line 0370 779 5232

Date 15 December 2023

My reference 051720

Your reference APP/23/00588

Email havantdc@hants.gov.uk

Dear Ms Wells,

The Swan, Jessie Road, Havant, PO9 3TH

Erection of 3 two-bed dwellings (Use Class C3) on the land adjacent to the public house, utilising new vehicular access, with associated parking and landscaping, including reconfiguration of beer garden and car park of the public house.

Thank you for your re-consultation on the above planning application. In response to previous comments raised by the Highway Authority dated 25 August 2023 the applicant has submitted a revised Technical Note (ref. 1710-46/TN/01), additional parking surveys (ref. 1710-46/TN/03) and supporting drawings which the Highway Authority have reviewed and have the following comments to make.

Access to Dwellings

The width of both vehicle crossovers providing access to the dwellings are 5.0m. The proposed access on Jessie Road is c. 20m from the junction with Ernest Road. It has been confirmed that the access onto Ernest Road is a new access and not an extension of the existing. This is noted. Both accesses can therefore be constructed via a S171/184 license.

Visibility:

2.4m X 43m visibility splays in accordance with HCC TG3 for both proposed vehicular accesses on Jessie Road and Ernest Road are shown within drawing 1710-46-VS01. It is agreed that appropriate visibility can be achieved from both access points. 2.0m X 2.0m pedestrian visibility splays in accordance with HCC TG3 are also shown on the drawing and are agreed.

Director of Hampshire 2050
Gary Westbrook

Parking Provision

Vehicular Parking:

The applicant has confirmed that the proposed parking bays are to be 2.4m X 4.8m in accordance with Havant Borough Councils Parking Standards. This is noted. EV charging space requirements should be confirmed with the Planning Authority as this may need additional space to accommodate the charging infrastructure and for safe operation.

Dwellings:

The aisle width for those parking spaces to be accessed via Jessie Road is to be 6.0m. This is agreed to be an appropriate width to manoeuvre into spaces.

Public House:

The proposed car parking arrangement is shown within drawing 1710-46-PL01 Rev A.

Parking Occupancy Survey

In response to previous concerns raised by the Highway Authority the applicant has undertaken a parking occupancy survey of The Swan Inn Monday-Sunday between 12:00-00:00, based on 30-minute beats.

The results of the survey suggest that at peak demand on a Friday and Saturday, the proposed parking provision leads to a deficit of 5 and 7 spaces respectively encouraging overspill parking on the wider highway network. On a Sunday, the peak demand is only slightly lower than the proposed parking provision. The Highway Authority are aware that regular events are also held at the public house where the parking would not be able to be accommodated within the proposed provision. Appropriate parking should be provided to accommodate the peak parking demands at the very minimum to minimise any overspill parking on the highway network occurring.

Parking Stress Survey

The applicant has undertaken a survey to assess the parking stress of nearby residential roads over a period of Monday-Sunday. The survey suggests that the greatest parking stress occurs on a Saturday and Sunday with a maximum parking stress of 69% recorded along Jessie Road within the direct vicinity of the site. This coincides with the peak parking demand of the Public House as identified within the parking occupancy survey as laid out above. The Highway Authority are concerned that the deficit of parking at the Public House will lead to an overspill of parking on the highway network leading to a potential highway safety issue particularly during periods where parking stress is greatest.

Cycle Parking:

The applicant confirms that cycle parking for the proposed dwellings is to be provided in accordance with Havant Borough Council's Parking SPD. This is agreed.

Director of Hampshire 2050
Gary Westbrook

Deliveries, Refuse Storage and Collection

Public House:

Swept path analysis for a rigid vehicle accessing and egressing the site is shown within drawing 1710-46-SP06 Rev A. The Highway Authority is satisfied that there is appropriate space within the parking layout to accommodate these movements.

The RTN states that refuse collection is undertaken by a private contract. The applicant should ensure that the dimensions of the refuse vehicle undertaken via the private contract can track within the car parking layout. Should this encroach on spaces then refuse and service should be undertaken out of hours allow for the refuse to manoeuvre appropriately. The applicant should be made aware that servicing from the highway for the Public House is not acceptable and should only be undertaken internally.

Dwellings:

The applicant has confirmed that the dwellings comply with the darg and carry distances for refuse as laid out within Manual for Streets. The fire tender is also able to access dwellings in line with the required distances. This is agreed.

Recommendation

Having regard to the above, the Highway Authority recommend refusal to this application for the following reason:

LACK OF ONSITE PARKING

The proposed development fails to provide adequate provision for on-site parking which would encourage the parking of vehicles on the public highway and so interrupt the free flow of traffic and cause a hazard to road users and a loss of amenity for existing residents and/or users of any formal on road parking.

Reason: In the interests of public amenity and safe operation of the highway.

Yours sincerely,

Sophie Osborne
Transport Planner – Highways Development Planning
Hampshire 2050

Director of Hampshire 2050
Gary Westbrook

APPENDIX B

Appeal Decisions

Site visit made on 27 January 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal A Ref: APP/Y2736/W/19/3228532

Malt Shovel Inn, Main Street, Hovingham YO62 4LF

- 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 Punch Partnerships (PML) Limited against the decision of Ryedale District Council.
 - The application Ref 18/01048/FUL, dated 27 September 2018, was refused by notice dated 21 March 2019.
 - The development proposed is described as "Construction of a pair of semi-detached dwellings to the rear of the Malt Shovel, including reconfiguration of the car park to serve both the retained pub and proposed houses".
-

Appeal B Ref: APP/Y2736/W/19/3237018

Malt Shovel Public House, Main Street, Hovingham YO62 4LF

- 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 Punch Partnerships (PML) Limited against the decision of Ryedale District Council.
 - The application Ref 19/00692/FUL, dated 13 June 2019, was refused by notice dated 15 August 2019.
 - The development proposed is described as "Erection of 2 no. three bedroom semi-detached dwellings with shared access through the car park to serve both the retained public house and proposed dwellings".
-

Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission granted for erection of 2no. three bedroom semi-detached dwellings with shared access through the car park to serve both the retained public house and proposed dwellings at Malt Shovel Public House, Main Street, Hovingham YO62 4LF, in accordance with the terms of the application, Ref 19/00692/FUL, dated 13 June 2019, subject to the conditions detailed in the attached schedule.

Application for costs

3. An application for costs was made by Punch Partnerships (PML) Limited against Ryedale District Council. This application is the subject of a separate Decision.

Procedural Matter

4. As set out above there are two appeals on this site. They differ in the detail of design and layout. I have considered each proposal on its own merits.

However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

5. The Public House located to the west of the appeal site has been referred to in the submitted documentation as various names including the Malt Shovel Inn and the Malt Shovel Public House. As been noted in some of the evidence, and confirmed during my site visit, the name of this Public House has been renamed to the Hovingham Inn. For the sake of brevity, I will refer to the Hovingham Inn as the “public house” in my decision.

Main Issues

6. The main issues are the effect of the proposals on highway safety with regard to parking; the effect of the proposals on the viability of a protected community facility; whether the proposals would preserve or enhance the character or appearance of the Hovingham Conservation Area; and the effect of the proposals on the living conditions of the occupiers of 24 Pasture Lane (No 24) with regards to outlook, light and privacy.

Reasons

Highway safety

7. The appeal site, whilst in separate ownership and currently fenced off, does form part of the car parking area for the public house. The proposed development would result in the reduction of the car park from 36no. spaces to around 14no. spaces with an additional 2no. spaces designated for the proposed properties. The site is located in the rural village of Hovingham which the Council have described as been supported by limited public transport. Patrons to the public house would most likely use private vehicles to visit the premises.
8. The appellant has submitted a transport statement which includes a parking survey and parking analysis for the existing and proposed arrangements. On the days in which the survey was undertaken, it identified that the peak number of vehicles within the car park was 15 vehicles and this happened only on several occasions. It is noted that between the hours of 10:30 and 13:30 on the Saturday, the car park was at full capacity, this being the time when the monthly market occurred.
9. I have taken the period when the car park was at full capacity as an exception, as this happened during the hours of the monthly market when it is likely traffic and parking in the village is generally disrupted. Therefore, given the statistics provided in the transport assessment, there is surplus within the existing 36no. space car park and I am satisfied that the proposed car park would be able to accommodate vehicles associated with the public house. There may be occasions when the proposed car park reaches capacity however the additional demand is likely to be low and parking would be available on Main Street.
10. Concerns have been raised that the loss of the car parking spaces would lead to an increase in vehicles being parked on Main Street. The statistics provided by the appellant indicates that this may happen on occasions. I acknowledge that parking is required on Main Street for existing residential properties and other buildings including the Village Store and Village Hall. However, Main Street, adjacent to the public house, is a wide road with no parking restrictions

and a speed limit of 30mph. Main Street would be able to accommodate additional parking demand without adversely compromising highway safety and the free flow of traffic in this area.

11. I have had regard to the Councils statement of case including the statement by the Highway Authority which refers to the documents "Transport Issues & Development – A Guide 2003" (TIDG) and "Interim Guidance on Transport Issues including Parking Standards and advice on Transport Assessments and Travel Plans". The TIDG provides guidance on parking requirements which the Highways Authority have indicated advises that the public house should have a car park area with over 51 spaces. The TIDG however does not comply fully with the National Planning Policy Framework (the Framework). The Framework states in paragraphs 105 and 106 that local parking standards for non-residential development should take into account a number of factors and maximum parking standards should only be set where there is a clear and compelling justification. I have not been presented with any clear and compelling evidence to suggest that the public house requires over 51 parking spaces.
12. There are concerns that the appellants parking survey within the transport assessment should have been undertaken over a longer period with doubts whether the public house was open. No evidence has been submitted suggesting the public house has been closed for any significant period and there is an indication that the public house has been operational for some time with a reduced car park area. It is noted that a car parking space may have been lost due to placement of a gas tank in the parking area. I remain satisfied however that the proposals would not compromise highway safety in the area.
13. I therefore find that the proposals would not have a harmful effect on highway safety with regard to parking. The proposals would be in accordance with Policy SP20 of the Ryedale Plan – Local Plan Strategy 2013 (RPLPS) which seeks proposal to not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists.
14. The appellant has referred to examples of other schemes in the country which have been granted planning permission. However, I do not consider these to be directly comparable to the appeal schemes particularly with regard to location and development plan policy. In any case, I have determined the appeal on its own merits.

Viability

15. Policy SP11 of the RPLPS states that existing facilities that contribute to the vitality of the village and the well-being of local communities will be protected from loss/redevelopment. The Council consider the public house to be a protected community facility. The proposed developments would not result in the loss of the public house building and it appears that the public house is currently in use.
16. As detailed above, I am satisfied that the proposed reduction in the public house car park would not lead to harmful effects to highway safety and there would be sufficient parking provision to accommodate patrons visiting the public house. It has been indicated that the ability for the public house to cater for food is critical and the proposals would limit the potential for the business to operate sustainably in the future. Insufficient evidence has been submitted

however, to convince me that the proposed developments and reduction in the car park would have a harmful effect on the vitality or viability of the public house.

17. The proposed developments would not have a harmful effect on the vitality or viability of the public house which has been described as a protected community facility. The proposals would accord with Policy SP11 which seeks to protect community facilities that contribute to an areas vitality from being lost or redeveloped.

Conservation Area

18. The appeal site is an open parcel of land located to the east of the public house with residential properties to the north and the Village Hall with its associated recreation land to the south. The site lies within the Hovingham Conservation Area (HCA).
19. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 193 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
20. The HCA is characterised by traditional village vernacular of predominantly houses and cottages. Beyond the main street of buildings lies further built development of variant layout and form. There is a mix of buildings within the HCA of different sizes, styles and ages. In my view the significance of the HCA is derived from the linear main street form with buildings located beyond of variant layout, design and scale.
21. The proposed buildings would be sensitive in design, scale and height. The proposals, particularly the scheme in Appeal A, may have wider gables and higher ridge and eaves than surrounding properties. However, given the variation in the massing of buildings in the area, the proposals would not appear as overly bulky features that would adversely detract from the HCA.
22. The scheme in Appeal A would not be directly adjacent to the neighbouring property to the north. The existing layout of the surrounding properties is not linear in form and therefore the positioning of the proposal in Appeal A would not be out of keeping with the variant layout style of the area.
23. The proposed properties in Appeal B would have main frontages that face west which is different to the east facing orientation of the properties directly to the north. The proposals would not form part of the residential cul-de-sac to the north with them being accessed from the west. The positioning of the proposed properties would not appear visually unusual, particularly in the context of the wider area which has buildings of various orientations. The layout and siting of the proposals would not have a detrimental effect on the existing pattern of development or be harmful to the surrounding built environment.
24. I therefore find that the proposals would preserve the character and appearance of the HCA and not have a harmful effect on the surrounding built environment. The proposals would be in accordance with Policies SP12 and SP16 of the RPLPS which seeks proposals to conserve designated historic

assets and their settings including Listed Buildings and Conservation Areas; and respect the context provided by its surroundings.

25. I have had regard to the Council's statement of case including concerns from the Building Conservation Officer that close boarded boundary treatment can appear suburban. Given the location of the appeal site and in relation to its surroundings, close boarded fencing would appear overbearing and the use of less intrusive boundary treatment would be required.
26. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
27. The grade II listed buildings of Malt Shovel, Home Cottage and Listers Cottage have been described as been within proximity to the appeal site. The Council have not raised any concerns that the proposals would have harmful effects on the setting of these listed buildings. Given the distance of the appeal site to these listed buildings and the proposed design of the properties, I find that the proposals would sustain the setting of these grade II building heritage assets. The proposals would accord with the policies of the Framework which seek to conserve and enhance the historic environment.

Living conditions

28. The development in Appeal A proposes a property that would be large in both height and depth which would be set forward of the front building line of No 24 and developed close to the boundary with this neighbouring property. There are windows and doors in the front elevation of No 24 which would be in close proximity to the proposed property. Due to its height and scale, the proposal would create a dominant expanse of built development along the boundary when viewed from No 24.
29. The proximity of the windows and doors of No 24 to the proposed development would result in the building having an unavoidable and overbearing presence that would dominate the outlook from No 24 and harm the living conditions of the occupants.
30. Due to the positioning of the proposed property and the large expanse of built development along the boundary with No 24. This would have a detrimental effect on the light into the windows of No 24 therefore creating overshadowing that would have an adverse effect on the living conditions of the occupiers of this property.
31. There are openings proposed in the side elevation of the property which would look directly towards the front windows of No 24. The use of obscure glazing in the side elevation windows and doors, which has been offered by the appellant, would overcome any concerns of privacy loss. This matter however, would not outweigh the harm I have identified above.
32. I therefore find that the proposed development in Appeal A would have a harmful effect on the living conditions of the occupiers of No 24 with regards to outlook and light. The proposal would be contrary to Policy SP20 of the RPLPS which seeks new development to not have a material adverse impact on occupants of neighbouring buildings.

33. The Council have not raised any concerns with the effect of the proposal in Appeal B on the living conditions of neighbouring occupiers and I have found no harm in this regard.

Other matters

34. A number of concerns have been raised to the proposed schemes including from Hovingham with Scackleton Parish Council, the Hovingham Village Hall Management Committee, the Howardian Hills Area of Outstanding Natural Beauty (AONB) Manager and local residents.
35. These concerns include the proposed access being unsuitable and the car parking spaces not being sufficient in size and do not include disabled parking. The Council and the Highways Authority have not raised any concerns in regard to these matters. There is also insufficient evidence to suggest that the proposal would have a harmful effect on the living conditions of neighbouring occupiers with regards to noise and pollution as well as having a harmful effect on services in the area. The AONB Manager has raised concerns over the proposed use of stonework for the external walls of the properties however, this can be controlled by planning conditions. I have also had regard to other matters raised relating to the proposal blocking views and that the social and affordable housing need is not met. These matters raised do not result in the proposal in Appeal B having a harmful effect on highway safety, the viability and vitality of the public house, the character and appearance of the HCA and the living conditions of neighbouring occupiers.

Conditions

36. The conditions imposed are those that were submitted by the Council and the Highways Authority and which were agreed by the appellant. In the interests of precision and clarity I have undertaken some minor editing and rationalisation.
37. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty. In the interests of highway safety conditions are imposed for a construction management plan and to ensure the car park is used for its intended purposes. To ensure the development does not compromise the character and appearance of the HCA, conditions are necessary in relation to materials, landscaping, means of enclosures, windows and doors. A condition removing permitted development rights is also necessary to ensure the HCA is preserved. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage and archaeology.

Conclusions

38. I conclude that the scheme subject of Appeal A would not have harmful effects on highway safety; and viability of a protected community facility and would preserve the character and appearance of the HCA. These matters however would not outweigh the harm I have identified in relation to the living conditions of the occupiers of No 24 with regards to outlook and light.
39. The scheme subject of Appeal B would not have a harmful effect on highway safety in regard to parking; viability of a protected community facility; and the living conditions of neighbouring occupiers; and would preserve the character and appearance of the HCA and surrounding area.

40. For the reasons set out above, and having had regard to all other matters raised, I conclude that Appeal A should be dismissed, and Appeal B be allowed.

Chris Baxter

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 18.3039.100 P8; 18.3039.101 P3; 18.3039.110 P8; 18.3039.111 P6; 18.3039.112 P8; 18.3039.113 P9; ENC/080818/2DD1-Top.
- 3) The parking spaces, turning areas and access hereby approved as shown on Drawing Number 18.3039.110 P8 shall be fully constructed prior to the occupation of the proposed properties and thereafter kept available for their intended purposes at all times.
- 4) Before the development hereby approved is commenced a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout the construction period of the development. The Plan shall include the following details:
 - a. The parking of vehicles of site operatives and visitors;
 - b. Loading and unloading of plant and materials;
 - c. Storage of plant and materials used in the construction of the development;
 - d. Erection and maintenance of security hoarding;
 - e. Wheel washing facilities;
 - f. Measures to control the emissions of dust and dirt during construction;
 - g. A scheme for recycling/disposing of waste;
 - h. HGV routing and timing to avoid school starting and leaving times during term.
- 5) Before the development hereby approved is commenced details and samples of the materials to be used on the exterior of the building and ground surfacing material the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Before the end of the first planting season (November- March inclusive) following the commencement of development, plans showing details of landscaping and planting schemes shall be submitted to and approved in writing by the Local Planning Authority prior to any such planting taking place. The schemes shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed where appropriate to the development. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs including existing items to be retained. All planting, seeding and/or turfing comprised in the above scheme shall be carried out in the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

- 7) Before the development hereby approved is commenced, the developer shall construct on site for the written approval of the Local Planning Authority, a one metre square free-standing panel of the external walling to be used in the construction of building. The panel so constructed shall be retained only until the development has been completed.
- 8) Before the development hereby approved is occupied, details of the materials and design of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these shall be erected in accordance with the approved details and prior to the occupation of any dwelling to which they relate.
- 9) Prior to their installation, details of all windows, doors and garage doors, including means of opening, depth of reveal and external finish shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 10) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 11) There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-
 - a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
 - b) evidence of existing positive drainage to public sewer and the current points of connection; and
 - c) the means of restricting the discharge to public sewer to a maximum rate of 3.5 litres a second, up to and including 1 in 100 year rainfall events
- 12) A) No demolition/development shall commence until a Written Scheme of Investigation for an archaeological strip, map and record excavation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 1. The programme and methodology of site investigation and recording
 2. Community involvement and/or outreach proposals
 3. The programme for post investigation assessment
 4. Provision to be made for analysis of the site investigation and recording
 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 6. Provision to be made for archive deposition of the analysis and records of the site investigation
 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 12A.

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 12A and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any instrument revoking or re-enacting that Order) planning permission shall be required for development or alterations falling within Classes A, B, C, D, E, F, G and H of Part 1, Schedule 2 and Class A, C and F of Part 2, Schedule 2.

APPENDIX C

Appeal Decision

Hearing held on 11 September 2019

Site visit made on 11 September 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2019

Appeal Ref: APP/Y2810/W/18/3217345

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 planning permission.
 - The appeal is made by the Co-operative Group against the decision of Daventry District Council.
 - The application Ref DA/2018/0580, dated 2 July 2018, was refused by notice dated 29 October 2018.
 - The development proposed is the demolition of public house and construction of new A1 retail unit.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The draft Daventry District Settlements and Countryside Local Plan (Part 2) (LPP2) has been examined, and the Council is consulting on a number of main modifications. I therefore accord its policies significant weight.

Main Issues

3. Taking account of all the representations I have read and heard, the main issues are:
 - the effect of the demolition of the building and the redevelopment on the character and appearance of the Brixworth Conservation Area (CA) and on the setting of surrounding listed buildings; and,
 - whether it would provide sufficient parking, access, and servicing facilities.

Reasons

Significance of the CA and the setting of listed buildings

4. The CA is significant for retaining the character of a small, rural village, with ironstone buildings clustered around its medieval street layout, looked over by the Anglo-Saxon church, at the top of the hill. In this section, the buildings hug the line of the old coaching route, save opposite the entrance to the former parkland, which retains its enclosing boundary wall of stone, and where an open section has formed. In addition to the layout of the streets and plots, the CA is distinctive here, architecturally, for the gentle interplay of roofs and walls
-

in shifting orientations and delicate variations in form and detailing, following a broadly similar rural vernacular language using local stone.

5. Brixworth History Society's research suggests that an inn has stood on the appeal site since at least 1822, attracting passing trade on the turnpike road, with the present pub built in around 1931. Though the evidence about the date of construction of the Red Lion is inconclusive, it shares the distinctive characteristics of the buildings of the improved pub movement between the wars, when many public houses were rebuilt. For instance, unlike the previous inn on the site, which extended from the terrace to its south, the Red Lion is detached and set back from the road, with a pull-in for cars at the front and a garden to the rear. Its layout, form, detailing and street presence follow the aspirational Brewers' Tudor style, with a big, bright interior to moderate drinking, a garden to attract families, and a tall, modelled roofscape of large gables, projecting chimneys and part-timbered bays seeking nostalgic succour after the trials of the first World War.
6. The George Inn, a late C17 public house with stone walls and gables, listed grade II, stands a few metres to the south of the site on the opposite side of the street. The later Coach and Horses public house, listed grade II, stands further to the north on the same side of the street. Like the George it has stone lintels over its ground floor openings and timber to the upper floor, but it has retained its thatched roof. Immediately to the south of the Coach and Horses, is the grade II stone-clad and thatched Pound House with a datestone showing 1594, and beside it the grade II, mid C18 Lodge with a late C18 wrought iron gate, also listed. These listed buildings share a similar texture from their ironstone walls and their ashlar gabled parapets, and a coherence in the appearance of their pitched roofs over generally solid walls.

Effect of the redevelopment on heritage assets

7. It was agreed at the Hearing that the Red Lion has little archaeological value, and that architecturally, it is not an outstanding example of its kind. It has communal value to those who would have enjoyed its bars and rooms, though the lack of attachment to it in the representations in this appeal indicates that this is limited.
8. Nonetheless, it has been recorded¹ by the Council as a positive building, who also recognised it in determining the planning application, as a non-designated heritage asset. I accept that the architectural features described above, especially given its prominence on the bend in the street, place the Red Lion somewhat at odds with its more modestly scaled and more humbly detailed rural, vernacular setting. Notwithstanding this, its distinctive design and its command of the corner, despite its different language, adds to the architectural character of the CA. It adds to the historic significance of the CA as a marker of the social changes to drinking and public house design in the early C20, particularly so given its rural location, and the size of the village.
9. For these reasons, and despite its departure from its rural, village vernacular context, the building has sufficient historical and architectural significance to justify that attribution. Its demolition would harm the character of the CA, placing it in conflict with policy BN5 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014 (CS) which seeks to conserve and enhance

¹ Brixworth Village Conservation Area Appraisal and Management Plan 2017

designated and non-designated heritage assets and their settings, saved policies GN1, GN2, and EN2 of the Daventry District Local Plan 2007 (LP) and policies 8 and 9 of the Brixworth Neighbourhood Development Plan 2016 (NP) which require development to preserve or enhance the significance and character of a conservation area and the setting of listed buildings, and to reflect the general architectural character of the existing buildings, as well as eLP policy ENV7 which seeks to sustain and enhance the historic environment by supporting proposals that make a positive contribution to the significance of designated heritage assets. I turn now to the building proposed to replace it.

10. Given the size of the Red Lion, the footprint of the proposed building would not be so different from the present grain in this part of the CA. Its overall height, lower than the Red Lion, would be sensitive to the ridge heights of the buildings surrounding it. I acknowledge that the elevation towards the street would be active, however, bringing the area of the back of house means of escape to the street frontage would weaken the animation of the street scene and sever the visual connection of the proposed shop from its neighbours.
11. The frontage to the car park would reflect something of the vertical grain of the surrounding buildings, but it would be only skin-deep, lacking any physical modelling or depth differentiation. The truncated gable forms are familiar in the CA, though they generally enclose roofs of steeper pitch than that proposed here, and they tend not to run horizontally for as long as the parapet over the stair block. The stairway gable, the squat proportions of the gables, and the boxed eaves would appear clumsy details given the finer, more crafted detailing of the buildings in whose setting these would stand. So too the superficial gestures of the roundels in the gables and the brick ornamentation. These would appear at odds with the simple detailing of the surrounding buildings, distinctive for their weather-tested arrangement, their traditional building methods, and the high quality, enduring texture and warmth of their materials.
12. Regarding non-designated heritage assets, like eLP policy ENV7, the National Planning Policy Framework (the Framework) requires a balanced judgement to be made, having regard to the scale of any harm or loss and the significance of the heritage asset. In terms of use, I find no harm to the character of the CA from a shop replacing a long disused public house close to two retained public houses. I acknowledge the sensitivity of its footprint and height, however, the arrangement of the proposed building, its form, materials and detailing would not hold its own against its distinctive architectural context.
13. It would be in conflict with CS policy BN5, LP policies GN1, GN2, EN2, EN42, NP policies 8 and 9 which require development to sustain and enhance the heritage features which contribute to the character of the area, to reinforce local distinctiveness, and eLP policies ENV7 and ENV10 which seek high quality development, including exemplary and innovative design that integrates with the surrounding area and creates a strong sense of place.
14. In these circumstances, the loss of the non-designated heritage asset would conflict with the adopted plan policies, and with the eLP, including where it requires the impact of the scale of loss of significance of the non-designated heritage asset to be taken into consideration. For the specific reasons concerning architectural design above, the proposed development would not mitigate the harm from the loss of the existing building as a non-designated

heritage asset, which holds an important place in the significance of the CA. More decisively, the design aspects described above would undermine the architectural significance of the CA, harming its appearance, and the setting of the surrounding listed buildings.

15. Paragraph 193 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Although the degree of harm here would be less than substantial, this does not equate to a less than substantial planning objection, especially where the statutory test is not met.
16. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The provision of a shop of large footprint would provide public social, environmental and economic benefits including employment, the reduction in trips to larger shops, and spending in the local economy. However, these public benefits would not outweigh the harm identified above.
17. I conclude that the proposed development would fail to preserve the character and appearance of the CA and the setting of the surrounding listed buildings. It would fail to satisfy the requirements of the Act, paragraph 192 of the Framework and it would conflict with the development plan policies described above.

Off-street parking, access and servicing

18. Saved LP policy GN2 says that planning permission will be granted for development provided it has satisfactory access and sufficient parking facilities and that it does not have an adverse impact on the road network. The Council does not have its own parking standards, but it refers to those of the County Council². These suggest that non-food shops should provide 1 car space per 25m², and food shops 1 space per 20m², of gross floor area, which the appellant gives as 700m². The use sought is A1 retail, against which the standards indicate 28 and 35 spaces should be provided, whereas the proposal provides only 14 spaces, a shortfall of at least 14.
19. Against the same set of standards, a public house built on the site today should provide 24 spaces, whereas the actual parking provision is only 8 spaces, a shortfall of 16 spaces. There is no evidence of harm from this number of spaces when the public house was in active use. Notwithstanding this, the appellant has compared this proposal, with a retail area of 465m² with a convenience store in Trethomas sited next to a charity shop and a barber, sharing the same car-park of 19 spaces, with a combined retail area of 557m². Measurements of customer dwell times there have been used to estimate the length of stay in this shop as between 10 and 15 minutes, and on that basis, a need for no more than 13 spaces for most of the day.
20. I appreciate that the proposed shop would have a greater retail area than the Trethomas shop, however the Trethomas measurements included smaller units which tended to increase dwell times. Given the areas of retail of the two sites,

² Northamptonshire Parking Standards September 2016, Northamptonshire County Council

the comparison does not appear unreasonable and the dwell times do not appear unrealistic.

21. Notwithstanding this, the parking demand estimate indicates a shortfall of up to 4 spaces at lunch-time and evening peak times. However, the parking beat survey found 124 unrestricted spaces within 200m of the site, with 84 and 87 spaces free on Friday and Saturday. This indicates that parking stress within 200m of the site was low, at an average of 31%, where 90% is considered as a maximum. The identified shortfall of up to 4 spaces would be amply accommodated within the vicinity of the site, where I saw customers parking for the shops alongside the appeal site.
22. I have taken into account the representations about queuing for spaces in the car-park at the Co-op convenience shop on Spratton Road. While its retail area is around half the area of this proposal, and the car-park has around 17 spaces, there are 5 other shops alongside it. With the Co-op, the combined retail area there appears greater than this proposal. Moreover, there appear to be commercial, and community uses on the opposite side of Spratton Road to which visitors may also travel by car, and park here. Even allowing for one of these shops being a fish bar, I am not persuaded that the comparison with the Co-op on Spratton Road indicates that the proposed car-parking would be insufficient. Whilst the application sought an A1 retail unit, and there is no tie to an operator, it appears to me that a shop of the scale proposed on Harborough Road would relieve some of the parking pressure on Spratton Road.
23. I acknowledge that the number of proposed car spaces would fall short of the guideline figure in the County's standards. However, these state that a lower provision may be acceptable where justified on an individual basis, which the appellant's parking accumulation calculations have demonstrated in this case. Moreover, for most of the time there would be sufficient parking within the site, and any shortfall would be limited in extent and duration and would not adversely affect the convenience of surrounding occupiers or the safety or operation of the highway. In respect of parking, I find no conflict from the proposed development with LP policy GN2.
24. Deliveries to the shop are proposed to be made by parking on the street to the south of the site, in a loading bay to be secured under a traffic order, with up to 4 deliveries per day. The intervisibility of cars emerging from the car-park to the right, with cars parked in the car-park, would be 43m, and to the left, the visibility would be 37m. When the rigid delivery lorry would be parked in the loading bay, while cars could pass in both directions alongside it, buses or lorries in opposite directions would have to give way. However, the loading vehicle would be visible from around 40m away and at 20m distance from the loading vehicle, the oncoming driver would have around 46m of visibility without crossing the centreline of the road.
25. I appreciate that a loading bay may displace some street parking presently in front of the shops adjacent to the site. However, the parking survey indicates no shortage of space in the vicinity, and the loading bay could be time-limited. There is no servicing and delivery management plan, however, a condition to require one to the satisfaction of the LPA in terms of timing of deliveries, vehicle types, and noise control would make the development acceptable in planning terms.

26. In respect of access and servicing facilities, I find no harm from the proposed development to highway safety and no adverse impact on the road network, including the entrances to the houses on the opposite side of the street, and no conflict with LP policy GN2.

Other Matters

The loss of the public house use

27. Notwithstanding the Council's reason for refusal concerning the loss of the public house use and the potential loss of neighbouring retail uses, it was common ground between the main parties that the redevelopment of the appeal site for a retail use would not be inappropriate, in principle.
28. There was long discussion at the Hearing over the relevance of CS policy RC2, in particular its definition of community facilities which the policy protects. Notwithstanding this, the Council confirmed that there had been only one objection to eLP policy CW3. This specifically refers to public houses. It resists their loss, unless there have been efforts to market it for 12 months or where there are sufficient alternative, equivalent services accessible in the village or the immediate locality. Given the location of two alternative public houses within around 200m of the appeal site, I find no conflict from the proposal with this policy, or with the Framework which says that decisions should guard against the unnecessary loss of valued facilities, particularly where this would reduce the community's ability to meet its day-to-day needs.
29. I acknowledge the activity of the shops and facilities on Spratton Road which feels like a village centre. However, given the other shops close to the appeal site, and the other public houses within its view, as well as the relatively short distance of the site from Spratton Road, I am not convinced that the proposed shop would undermine the Neighbourhood Plan which seeks in policy 7 to strengthen the village centre as a focal point for local services and community facilities. LP policy RT9 supports shops provided they are within the confines of the settlement, and there is no substantive evidence that a retail use here would lead to loss of retail use in Spratton Road.

The living conditions of surrounding occupiers

30. During the Hearing, I visited Hill House Cottage and Hill House which back onto the eastern boundary of the site in response to their objections to the effect of the proposed building on their privacy, light, and outlook. In terms of privacy, whereas the public house has upper floor windows facing these houses, the proposed shop would not.
31. Without scaled cross-sections and plans showing these houses in relation to the proposed building I am unable to conclude on the effect of the proposal on their light and outlook. If I were otherwise minded to allow the appeal I would have sought more, detailed drawings showing these neighbours in relation to the proposal. However, as I am dismissing the appeal for another reason, I have not pursued this matter further.
32. Given that the public house already provides parking spaces beside the road, the additional parking in this proposal and the additional movements and activity outside the building would not result in a level of noise likely to disturb surrounding occupiers. Planning conditions could limit sound levels from plant

as well as the hours of operation, external lighting, and deliveries so as to protect the living conditions of surrounding occupiers.

Conclusion

33. I have found that the proposed development would provide sufficient parking, access, and servicing facilities. It would bring economic benefits from future jobs connected to the retail use, from the construction works and from direct and indirect spending in the local economy as well as the social benefit of restoring animation and activity in this part of the village. However, these benefits would not outweigh the harm it would cause to the character and appearance of the CA and the setting of surrounding listed buildings, and its conflict with the development plan as a whole, and with the advice in the Framework. I have not found any other material considerations of sufficient weight to overcome these conflicts. I therefore conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Steve Edgeller MRTPI

Director, Edgeplan Ltd

Mr Rob Armour-Chelu MCIfA

Armour Heritage

Mr Nathan Hanks MCIHT

Director, Transport Planning Associates

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robert Ham RTPi

Major Projects Officer

Daventry District Council

Mrs Jane Parry RTPi

Planning Policy Officer

Daventry District Council

Miss Rachel Booth

Senior Conservation Officer

Daventry District Council

Mrs Verity Chilver

Senior Development Management Engineer

Northampton Highways

INTERESTED PERSONS:

Mrs Nuala Gomez

Local resident

Ms Ketrina Dean-Foster

Local resident

Documents submitted at the Hearing

By the Council: Main modifications versions of eLP policies RA1 ,ENV7 and ENV10

APPENDIX D

Appeal Decision

Site visit made on 25 July 2016

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th August 2016

Appeal Ref: APP/Z2505/W/16/3148531

**Pincushion Inn, 289 London Road, Wyberton, Boston Lincolnshire
PE21 7DD**

- 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 New River Retail Property Unit Trust No 4 against the decision of Boston Borough Council.
 - The application Ref B/15/0271, dated 30 June 2015, was refused by notice dated 27 October 2015
 - The development proposed is the demolition of existing outbuildings and erection of Class A1 convenience store and outbuilding with associated car parking, access arrangements, landscaping and ATM machine.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing outbuildings and erection of Class A1 convenience store and outbuilding with associated car parking, access arrangements, landscaping and ATM machine at the Pincushion Inn, 289 London Road, Wyberton, Boston Lincolnshire PE21 7DD in accordance with the terms of the application, Ref B/15/0271, dated 30 June 2015, subject to the conditions set out in Annex A.

Application for costs

2. An application for costs was made by New River Retail Property Unit Trust No 4 against Boston Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in the appeal are:
 - The effect of the proposed development on highway safety; and
 - Whether or not the proposal represents an acceptable form of development having regard to its flood zone location.

Reasons

Highway Safety

4. The appeal site is located on London Road, which although now replaced by the A16 as the main road between Boston and Spalding, still acts as a local distributor road and carries a significant level of traffic. The site is occupied by a public house which has its main car park to the south west of the site, and a
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- smaller area of parking adjacent to the beer garden and the front of the public house.
5. The site is close to the junctions of London Road with Parthian Avenue, and with West End Road and Saundergate Lane. The latter being served by a right turn lane whose hatched taper markings begin to develop in front of the site. I observed that whilst these junctions were regularly used, no significant queues of traffic formed at them. Neither London Road, nor the surrounding, mainly residential, streets have any parking restrictions, other than close to the junctions.
 6. The proposed development, would retain the 7 parking spaces in front of the public house, and would have 1 disabled, 1 parent and child and 10 other spaces on the land between the proposed store and the public house. The appellant has indicated that based on the parking standards set out in Appendix 3 of the *Boston Borough Council Interim Local Plan (2006)* a maximum of 20 spaces for the convenience store and 38 spaces for the public house, and a minimum of 1 disabled space, are required. Whilst highlighting that, given the age of the plan, the standards take no account of advice in paragraph 39 of the *National Planning Policy Framework* (the Framework), it is stated that the proposal would not breach these maximum standards. This is not disputed by the Council.
 7. Whilst both the public house and the shop would mainly serve a local catchment, it is probable that many customers would still choose to drive, and given the volume of traffic that uses London Road, the proposal would also attract passing trade. Nevertheless, the appellant's evidence, based on surveys of the parking levels on the site at present, and TRICS data, indicates that this level of provision would be adequate apart from a 4 hour period on a Sunday afternoon. Whilst the Council have indicated that they consider the proposed levels of parking would be insufficient, they do not give any indication of what they consider would be the predicted parking needs that would arise from the development.
 8. However, the Council has indicated that three spaces in front of the public house are sub-standard in size, and this has not been disputed by the appellant. Whilst I accept that these are existing, the inadequacy of these spaces reduces the capacity of the car park, and means that at certain times of the day/week the car park would be operating close to capacity.
 9. In addition, no dedicated staff parking is to be provided on the site, and it is unclear whether the TRICS data takes account of staff parking needs. Although it is indicated that the site is in close proximity to bus stops, the service in the evenings is limited, and there is no service on a Sunday. Given the operating hours of the store, even if many of the staff are local, the likelihood is that many would travel by car, and so would want to park in the immediate vicinity.
 10. Consequently, the proposal would, at times, be likely to create demand for on-street parking in the area, and for the reasons given above, it is probable that this may be greater than suggested. The appellant has argued that this demand is most likely to be satisfied in the nearby residential streets. On-street parking already takes place on these streets, and it is clear that there is capacity on these roads for further parking. Whilst these streets are within walking distance of the site, I agree with the Council that customers are much more likely to park on London Road, as close as possible to the site. Whilst the

survey indicated that little parking took place on London Road at present, it appears to me that this is because the houses and businesses along here had adequate levels of off-street parking, rather than because people parked on other streets in preference.

11. Notwithstanding this, the appellant's evidence is that London Road is currently functioning at free-flow and well within capacity, and that this would continue to be the case even if some on-street parking were to occur. The Council have not supplied any evidence to counter this. In the light of this, and given that in the vicinity of the site London Road is straight, and so there is good forward visibility in both directions, I am satisfied that the generation of demand for on-street parking in the immediate vicinity of the site, would not result in hazardous parking, or adversely affect the free flow of traffic along the road.
12. I note that the pavement serves as a combined footway /cycleway, but as a grass verge separates this from the road along the site frontage, I see no reason why on-street parking would be detrimental to pedestrians or cyclists. If anything, the closure of one of the existing accesses to the car park as part of the scheme, would be beneficial in this regard.
13. The appeal scheme would result in a significant increase in the number of deliveries to the site. Whilst the public house would have a delivery yard to the rear, the convenience store would have no dedicated delivery area, but would utilise part of the car parking area for this purpose. As a result for the duration of deliveries a number of parking spaces would be unavailable. It is indicated that deliveries would generally take place at times when it is predicted that the car park would be operating well below capacity. Such an arrangement would still require careful management as spaces may need to be coned off in advance of a delivery, but a condition requiring the submission of a Delivery Management Plan could be used to ensure this is the case.
14. Delivery vehicles for both uses would use the same access as the car park. Swept path analysis drawings show that a 10m rigid lorry, as used by the brewery, and proposed to be used by the store, can either reverse into the site and leave in forward gear, or can turn within the site. However, as the latter would over run a number of parking spaces, it could only be done when usage of the car park is low, which as outlined above is likely to be the case.
15. Moreover, reversing into the site would not be an unduly complicated manoeuvre, and would be likely to occur at times when traffic flows on London Road are lower. Given that there is good forward visibility in both directions, there is no particular reason to consider that such a manoeuvre would be detrimental to highway safety. In this respect, reference was made to another similar store where delivery vehicles are required to reverse from the road. The evidence indicated that this had not resulted in any accidents involving service vehicles at this site.
16. Given that delivery vehicles would share the same access, when a delivery vehicle is manoeuvring into the site, it would render the parking adjacent to the store inaccessible. Nonetheless, the parking at the front of the beer garden would still be available, and any need to wait on the highway would be for a limited period of time.
17. All in all, I consider that the proposed development would not have an unacceptable impact on highway safety. Accordingly there would be no conflict

with Policies G1 and G6 of the Boston Borough Local Plan (adopted April 1999) which require that developments should not harm the amenities of nearby residents through the level of traffic generation, and should be provided with a satisfactory pedestrian and vehicular access. Moreover, it has not been demonstrated that the development would be likely to result in circumstances where the cumulative impact of the development on local roads would be severe. The test set out in paragraph 32 of the Framework is therefore met.

Flood Risk

18. The appeal site is located within Flood Zone 3, and was accompanied by a Flood Risk Assessment. In the light of an objection from the Environment Agency the proposal was amended so that the finished floor levels in the store would be a minimum of 650mm above the average site levels. At the same time, the flood mitigation strategy was revised to outline how various flood proofing measures would be incorporated into the design. Subject to a plan showing revised elevations, the Council have indicated that they consider that the revised proposal would be likely to overcome the objection from the Environment Agency.
19. Whilst I note that the Environment Agency have not been re-consulted on the revised Flood Risk Assessment, I am satisfied that the revisions made address the specific concerns they raised. Consequently, they would be adequate to ensure the development would be safe from flooding, without increasing flood risk elsewhere.
20. Therefore, I consider the proposed development would represent an acceptable form of development having regard to its flood zone location. As a result, there would be no conflict with the Framework, which seeks to ensure that inappropriate development in areas in risk of flooding are avoided.

Other Matters

21. Whilst concern has been raised regarding the impact the retail use may have on other local stores in the area, given the proposed floorspace of the proposal, the Framework does not require that any impact assessment is carried out. Moreover, it is not the role of the planning system to restrict competition. In addition, there is no firm evidence to indicate that the proposal would result in a significant increase in noise and disturbance.

Conclusion and Conditions

22. For the reasons set out above, I conclude the appeal should be allowed.
23. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of the character and appearance of the area a condition is required to control the external appearance of the dwelling. For reasons of highway safety conditions are required to ensure the provision of car parking, the submission of a delivery management plan, and restricting the size of vehicles that can service the site. In the interest of flood prevention a condition is required to ensure compliance with the measures set out in the Flood Risk Assessment.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No RF43-0300 Rev A; Existing Site Plan Drawing No RF43-0301; Proposed Site Plan Drawing No RF43- SK001; Proposed GA Floor Plan Drawing No RF43-0303; Proposed GA Roof Plan Drawing No RF43-0304; Proposed Elevations - Retail Store Drawing No RF43-0305 Rev B; Proposed GA Floor Plan, Roof Plan and Elevations – Outbuilding Drawing No RF43-0306 Rev A
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in full accordance with the Flood Risk Assessment (Rev A, dated September 2015, Peter Brett). The mitigation measures shall be fully implemented prior to the retail use being brought into use, and shall be retained as such thereafter.
- 5) The retail use hereby permitted shall not be brought into use until the parking spaces shown on Drawing No RF43- SK001 have been laid out on the site and made available for use and these parking spaces shall be retained in that form thereafter.
- 6) The retail use hereby permitted shall not be brought into use until a delivery management plan for all uses on the site, has been submitted to, and approved in writing by, the local planning authority and thereafter deliveries to the site shall be made in accordance with the approved plan.
- 7) The site shall not be serviced by vehicles longer than 10.1m in length, and all servicing shall occur within the site.

APPENDIX E

Appeal Decision

Site visit made on 24 March 2015

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 April 2015

Appeal Ref: APP/K2610/W/14/3001643

Brundall Garage, 122 The Street, Brundall, Norwich NR13 5LP

- 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 Accentor Assets against the decision of Broadland District Council.
 - The application Ref 20141214, dated 26 July 2014, was refused by notice dated 19 November 2014.
 - The development proposed is change of use of existing garage to A1 retail with associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of existing garage to A1 retail with associated works at Brundall Garage, 122 The Street, Brundall, Norwich NR13 5LP in accordance with the terms of the application, Ref 20141214, dated 26 July 2014, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Accentor Assets against Broadland District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in the appeal is the effect of the proposed change of use on highway safety.

Reasons

4. The Street is the main road through the village and carries through traffic to and from the A47. The appeal property is located close to a right angled bend in the road. Along The Street there is a mixture of dwellings, shops and other facilities. I saw on my visit that most of the dwellings have off-street parking spaces and the nearby public house and dental surgery have car parks. Close to the appeal site there is a pharmacy, an optician and a hairdresser which do not appear to have parking facilities. There are double yellow lines around the sharp bend and as far as the junction with Long Meadow. Beyond this on-street parking is not restricted.
5. The existing car sales use generates car borne traffic and although the Highway Authority questions the appellants' assumptions in this regard, the predictions regarding the proposed level of traffic generation are not disputed. The

appellants anticipate that the unit would be a convenience store and have provided survey information regarding the average length of stay at such facilities. This shows that the duration of parking is typically short. The proposed car parking facility would accommodate the predicted number of cars for the average duration of stay indicated by the surveys.

6. The site has good accessibility on foot from the nearby residential areas and there is a frequent bus service past the site. It is likely that a significant proportion of trips to the unit would be by means other than the car. The proposal would provide about 74% of the Council's maximum car parking standard¹. The SPD acknowledges that developers should not be required to provide more spaces than they wish, except where needed to avoid on-street parking and road safety problems. For the above reasons it is likely that the proposed car parking provision would be sufficient to avoid any significant additional on-street parking.
7. Any on-street parking in association with the proposal would take place to the east of the site and away from the sharp bend because of the waiting restrictions. Parking takes place on the road at present and this restricts two-way traffic flow. This restriction has implications for highway safety and I note that there has been a personal injury accident in the last 5 years here. This was of slight severity and was a result of a collision between a car and a parked van. Paragraph 32 of the National Planning Policy Framework states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. I am mindful that any additional on-street parking arising from the proposal would add to the existing restriction but there is no evidence that this would result in a severe hazard to highway safety.
8. The proposal would provide adequate visibility in both directions and the road has more than sufficient capacity to accommodate the extra traffic that would be generated. Vehicle speeds are low and turning movements into and out of the site would not be hazardous.
9. The tracking plan demonstrates that a service vehicle of 8.4 metres in length could manoeuvre within the site although it would use a parking space in doing so. The appellants propose the use of a Servicing Management Plan which would limit the size of delivery vehicles and manage the use of the parking space to ensure it is not occupied when deliveries take place. A condition can be imposed to secure this.
10. The length of the parking spaces at 4.8 metres would fall short of the 5 metres required in the SPD for short stay parking but given that the manoeuvring space would be more than sufficient I see no reason to doubt that the car park layout would function acceptably. The rear parking spaces would be conveniently located in relation to the entrance as would the bicycle parking facilities.
11. There is no provision for a separate pedestrian path from the site frontage but there would be paths around the building and given the limited size of the car park the absence of a separate pedestrian route would not be harmful.

¹ Broadland District Council Parking Standards Supplementary Planning Document 2007 (SPD)

12. For the above reasons the proposed change of use would not adversely affect highway safety. It would accord with saved policies GS3(d), TRA8 and TRA14 of the Broadland District Local Plan (Replacement) (2006). The Council has referred in its decision to its Development Management Submission document. Because this has not been adopted I can give only limited weight to its policies which do not alter my conclusions.

Conclusion and Conditions

13. I have had regard to the tests in paragraph 206 of the National Planning Policy Framework and the Planning Practice Guidance in imposing conditions.
14. A condition is necessary to define the approved plans for the avoidance of doubt. A condition requiring external facing materials to be approved is necessary to ensure the appearance of the building is acceptable.
15. Conditions limiting the hours of opening and when service deliveries may take place, as suggested by the Council's Environmental Health Officer are necessary to safeguard amenity. The appellant has agreed with the Council that service deliveries will take place no later than 18:30 hours. The acoustic report and noise rating report demonstrate that noise from vehicle movements and general activity and from the air conditioning equipment would be within acceptable levels between 07:00 hours and 23:00 hours. I have imposed a condition limiting the hours of opening to those hours in order to protect the amenities of nearby occupants.
16. Conditions 6 to 11 are as recommended by the Highway Authority and are necessary to ensure that the access and car/bicycle parking spaces are provided to the required standards, that the footway in front of the site is reinstated and that on-site parking is provided for construction workers in the interest of highway safety.
17. The appellants have suggested a condition requiring a Servicing Management Plan to be approved and subsequently implemented. This is necessary to ensure that the size of service vehicles is restricted and that they are able to turn within the site and exit in a forward gear.
18. Finally I have imposed a condition requiring an investigation of any contamination and necessary remediation works as recommended by the Council's Pollution Control Officer. This is to ensure that there is no risk to future users of the site from contamination.
19. For the above reasons I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 5172(P)101B, 5172(P)103B, 5172(P)202, 5172(P)203 and 1401-97 PL04A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The shop shall not be open before 07:00 hours or after 23:00 hours on any day.
- 5) Deliveries shall not take place before 07:00 hours or after 18:30 hours on any day.
- 6) The development shall not be brought into use until the footway has been reinstated and pedestrian and vehicular accesses, other than the means of access shown on the approved plans have been closed in accordance with details which have been submitted to and approved in writing by the local planning authority.
- 7) The development shall not be brought into use until the means of access has been provided to a minimum width of 6 metres in accordance with a detailed scheme which shall be submitted to and approved in writing by the local planning authority. The scheme shall include provision for surface water to be drained so that it does not discharge from or onto the highway carriageway.
- 8) Notwithstanding the provisions of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
- 9) The development shall not be brought into use until visibility splays have been provided in accordance with the details shown on the approved plan. The visibility splays shall thereafter be maintained free from any obstruction exceeding 0.225 metres above the adjacent highway carriageway.
- 10) The development shall not be brought into use until the car and bicycle parking areas and facilities have been provided and demarcated, levelled, surfaced and drained in accordance with the approved plan. The car and bicycle parking areas and facilities shall be retained thereafter for those specific uses.
- 11) No development shall take place until a scheme detailing provision for on-site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the local planning authority. The approved scheme shall be provided throughout the construction period.

- 12) No development shall take place until a Servicing Management Plan, which shall limit the size of service vehicles visiting the site and make provision for the management of the car park in connection with service deliveries shall be submitted to and approved in writing by the local planning authority. All vehicle servicing shall take place in accordance with the approved Servicing Management Plan.
- 13) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

APPENDIX F



Appeal Decision

Hearing held on 13 November 2013

Site visit made on 13 November 2013

by Nicholas Taylor BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 December 2013

Appeal Ref: APP/X1545/A/13/2200683

The Cups, 214 Wantz Road, Maldon, Essex CM9 5DG

- 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 Tesco Stores Ltd against the decision of Maldon District Council.
 - The application Ref FUL/MAL/12/00709, dated 20 August 2012, was refused by notice dated 28 March 2013.
 - The development proposed is erection of single storey side/rear extension, installation of new shopfront and creation of 9 no. parking spaces.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of single storey side/rear extension, installation of new shopfront and creation of 9 no. parking spaces at The Cups, 214 Wantz Road, Maldon, Essex CM9 5DG in accordance with the terms of the application, Ref FUL/MAL/12/00709, dated 20 August 2012, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. At the hearing, the main parties addressed the reconciliation of plans listed within the Statement of Common Ground (SCG) and those on the file. This confirmed that those on the file are those upon which the Council based its decision and I have determined the appeal on that basis. A s106 Agreement, submitted unsigned and undated before the hearing, has been subsequently amended. I deal with this matter further in my reasoning.

Main Issue

3. The main issue in this case is the implications of the proposal for highway safety, having regard to its impact on parking, servicing and traffic.

Reasons

Background and policy

4. The appeal site comprises a two storey public house ("The Cups") and an adjacent, single storey retail unit, together with outbuildings and open areas used for parking and the storage of vehicles. It occupies one corner, between Wantz Road and Cross Road, of a four-legged road junction. Two of the opposite corners are occupied by a small Co-operative convenience store and a small furniture store, respectively. Otherwise, the immediately surrounding area is predominantly residential in character. The proposed development

would involve the demolition of the retail unit and outbuildings and conversion and extensions to the public house to create a Tesco Express convenience store.

5. The location is designated as a local centre in the *Maldon District Replacement Local Plan* (LP) and the Council raises no objection, in principle, to the use of the entire site for A1 retail purposes. A number of third parties are sceptical about the designation as a local centre, question the need for a Tesco Express store, are concerned about its effect on other retailers in the town and express a preference for other uses on the site. However, in the light of the development plan designation and national planning policy, in the form of the *National Planning Policy Framework* (the Framework), I see no reason to disagree with the Council's view on the principle of the proposed use. Nor are there any planning grounds to object, in principle, to a small, convenience store format, to the particular applicant or its potential effect on the trade of competing businesses.
6. My attention has also been drawn to the emerging *Maldon District Local Development Plan*. A *Preferred Options* document was published in July 2012 and the Council does not envisage adoption of the final plan until late 2014. Under the circumstances, and with regard to paragraph 216 of the Framework, I agree with both main parties that the emerging plan presently carries very limited weight. At the hearing, both confirmed that they are not relying on the emerging plan in this case. Some third parties queried whether the proposed development would prejudice the ability to meet housing need or other policies within the emerging plan. However, I have not been provided with any strong evidence to that effect.

Traffic and parking generation

7. Although the main parties reach differing conclusions on the net increase in floorspace, taking into account demolitions and the upper floor of the public house, a gross floor area of approximately 345 square metres for the proposed store is agreed. Using the Trip Rate Information and Computer System (TRICS) database, the main parties agree broadly similar likely levels of traffic by the scheme. Notwithstanding certain inconsistencies which were discussed during the hearing in the way in which the TRICS figures had been interpreted, I consider that the forecast provides a sound basis for assessment of impact.
8. The forecast levels can be compared with the actual traffic flows at the junction, as surveyed by the appellant and adjusted for predicted growth over time. It was noted at the hearing that the appellant's prediction is both more up to date than a survey¹ carried out by the Highway Authority, referred to by a resident, and assumes a 'worst case scenario' in which all traffic would turn left out of the proposed car park, towards the junction. Applying the Transport Research Laboratory's PICADY model, the appellant maintains that the analysis of the effect of the forecast traffic on the junction shows that the appeal proposal would have an imperceptible impact on the capacity of the junction. The Council does not fundamentally disagree and, on the basis of the evidence before me, including my observations on site, I am satisfied that the design capacity of the junction would not be exceeded.

¹ Vehicle Count Report dated 1 Nov 2007

Parking provision

9. Saved LP Policy T8 refers to the Council's adopted vehicle parking standards, which are set out in a Supplementary Planning Document². This gives a maximum standard of one space per 14 square metres for retailing and convenience stores, which corresponds to a maximum of 25 spaces for the proposed development, with a maximum provision of three spaces for disabled users. The proposed development would provide nine on-site parking spaces, including one space for disabled users.
10. Notwithstanding that the standard indicates the maximum provision and does not specify a minimum, the Council argues that the proposed number of spaces would not meet normal requirements. It states that applying the TRICS database indicates a peak weekday average hourly parking demand of 30 vehicles, suggesting that the nine proposed spaces would be insufficient for most of the day. The appellant, however, applies a weighted average 'dwell time', from entry to the car park to leaving it, of 7.6 minutes and a mode duration of 2 – 4 minutes, derived from observations at a number of Tesco Express stores. By that analysis, the appellant maintains that only five spaces would be typically required at the busiest times. The Council refers to its survey of parking demand at a Tesco Express store in Burnham-on-Crouch, which found an average dwell time of 11 minutes and a maximum accumulation of 21 vehicles. However, the appellant's sensitivity testing of dwell times at the appeal site indicates that only where average duration exceeds 15 minutes would nine spaces be insufficient to meet parking demand.
11. Convenience stores of the type proposed tend to be associated with customer parking stays of short duration. Although the evidential basis for the appellant's dwell time of 7.6 minutes is not set out in detail, I consider that, applied to the appropriate TRICS data, it is likely to provide a reasonably robust indicator of likely parking demand for most of the time. Whilst customers' use of the car park would, initially, be unregulated, I consider that the risk of many people over-staying would be low. The generally sustainable location, reasonably well served by public transport and within walking distance of a large residential catchment, is also a factor to be taken into account. Nevertheless, on the basis that the context for each store is unique, and the parties' analyses are based on extrapolations from survey data, I also accept that it is possible that, at certain times, albeit possibly for short durations, demand for parking spaces could exceed nine spaces.
12. The Council points out that no provision would be made for employee parking. Of the 20 – 25 total staff, the appellant states that between two and four would usually be on-site at any one time. The company's policy is to endeavour to employ mainly local people and, through implementation of a travel plan, to encourage the use of sustainable modes of transport. The opening hours of the proposed store would be 07.00 – 23.00 Mondays to Saturdays and 08.00 – 22.00 Sundays but some employees would need to be there slightly earlier and later. Whilst the evidence indicates that there is limited availability of bus services at the extremes of those hours, the location is, as I have noted above, generally accessible by non-car modes of transport. All in all, employees would be unlikely to contribute significantly to overall parking demand in the locality.

² Maldon District Local Development Framework – Adopted Supplementary Planning Document: 14- Maximum Vehicle Parking Standards (extract)

13. The proposed car park would be to the side of the store, accessed from Cross Road. The nine spaces would have adequate dimensions. If all spaces were occupied, there would be restricted space to move a shopping trolley, pushchair or wheelchair between the car park and the entrance to the store but, given that trolleys would be likely to be used exceptionally and given the short alternative route along the pavement, the layout would be adequate in that respect. I am also satisfied that, although limited by the general constraints of the site layout, acceptable locations could be found for the eight cycle parking spaces required to meet the Council's standard and that this could be addressed by a condition.
14. From drivers' perspectives, however, the car park's internal layout would be irregular and constrained, leaving limited space within it for manoeuvring to enable vehicles to enter and leave all spaces in forward gear. The appellant's swept path analysis³ shows that it is possible for a medium sized car to manoeuvre in and out of one particular space but there is a risk that customers with larger vehicles, lacking in confidence or time or arriving at the same time as another is leaving would encounter some difficulty. Given that and the quick, top-up nature of many of the shopping trips, I consider that the constrained layout of the car park would deter some drivers from attempting to use it, particularly at times when it appeared almost full. That adds to the likelihood that, certainly at busy times and potentially quite frequently, some customers would be likely to seek to park other than in the designated car park.
15. The Council and residents argue that parking in the area is already under stress, due to residents and their visitors, the two existing shops, local schools and people visiting the nearby promenade park, and that the proposed development would significantly exacerbate the problem. However, the Council's parking beat survey of the four arms of the junction indicates that, within 100 metres of the junction, there would be likely to be a sufficient number of spaces to accommodate overspill from the proposed car park.
16. Parking near the junction is restricted by a number of factors, including double yellow lines, advisory parking restrictions across residential driveways, bus stops in Cross Road and Mundon Road and actual or perceived road width. Whilst the parking survey identifies some instances of parking on double yellow lines and across dropped kerbs, these are relatively few in number. I accept that illegal and inconsiderate parking may currently be concentrated around the junction, and the Cross Road leg in particular, due to the existing uses and layout. I also accept that some customers may be reluctant to park up to 100 metres away when calling for a few items, particularly in inclement weather. I do not condone illegal or inconsiderate parking or underestimate its potential to affect highway safety and cause strong feelings among affected residents. However, there are legal means beyond planning powers to enforce parking regulations. Moreover, it would be unreasonable to assume that an unusually large proportion of the store's customers would have a high propensity to park in such a way. Consequently, the evidence does not lead me to place undue weight on the risk of illegal or inconsiderate parking in this case.
17. Clearly, on street parking spaces are not abundant in this location and the proposed development would be likely to add to the pressure on them. However, on the evidence before me, including the Council's survey and my

³ Drawing No. Figure RL-12

observations during my site visit, I consider that the demand for parking likely to be generated by the proposed development would be capable of being accommodated by a combination of the proposed car park and on street provision.

18. I am mindful, also, that the existing lawful use of the site is as a public house and retail unit. Furthermore, the main parties agree that the conversion of the public house to A1 retail use could be carried out under permitted development rights and that, following such a conversion, an extension of a significant size could also be achieved within permitted development limits. Such lawful uses of the site could result in more intensive activity than currently, with consequences for the capacity of the existing, informal parking arrangements and movements on the highway. This factor represents a material planning consideration which weighs in favour of the appeal.

Servicing

19. Servicing is proposed to take place from the frontage of the site, in accordance with a Servicing Management Plan (SMP). It would involve, among other smaller vehicles, articulated vehicles entering the forecourt from the south and exiting northwards onto Wantz Road, taking a diagonal path across the pavement in each direction. A swept path analysis⁴ for a 14.25 metre articulated vehicle indicates that such a manoeuvre could be achieved, albeit with very limited clearance. It would necessitate slight encroachments across the existing give way line at the eastern end of Cross Road and the markings in the centre of Wantz Road. In addition, the vehicle when parked would leave limited space between it and both the back of the pavement and the front entrance of the store.
20. The proposed servicing arrangement poses some potential risk to highway safety, particularly in the event that parked vehicles were to interfere with the delivery vehicle path or highway users act with insufficient caution. However, in view of the existing road conditions around the junction, drivers, cyclists and pedestrians could be expected, in any case, to take particular care in this location. Such large vehicles would be visiting once each day, for around 45 minutes, and the appellant proposes that the SMP would specify that this took place outside peak hours and times when children are going to and from school. I note, also, that the SMP could specify physical and other management measures which could be taken to prevent customers' cars parking on the frontage in such a way as to interfere with delivery vehicles. These factors serve to considerably reduce the potential risk.
21. The proposed large delivery vehicles would exceed an existing 7.5t Weight Restriction Order affecting Wantz Road to the north of the site. However, the appellant has provided evidence indicating that access to collect or deliver goods to the appeal site, being within the order area, would be exempt. Enforcement of the order would be for the relevant authorities, indicating a reduced bearing on the planning merits of the current appeal. With regard to further concerns raised by residents, I have no firm evidence from the Highway Authority or any other source to indicate that the vehicles would be unable to safely negotiate Wantz Road or its junction with High Street or that the structural stability of properties in Wantz Road or of underground utilities would be affected.

⁴ Drawing No. Figure RL-11

22. The current unrestricted use of the forecourt for servicing of the existing uses on the site must be taken into account, together with the potential impact that an intensification or change of those uses, within permitted development limits, as referred to previously, could have on highway safety. Overall, therefore, I am satisfied that the proposed servicing arrangements, subject to a SMP, which would include a safety audit and for which the Council's and the Highway Authority's approval would be sought, would be acceptable.

Pedestrian safety

23. The Highway Authority raises no fundamental objection to the scheme, subject to a number of conditions and the submission of a scheme regarding relocation of the pedestrian crossing on Cross Road, consequent alterations to Traffic Orders to extend parking restrictions and provision of a new pedestrian crossing point on Wantz Road, together with reinstatement of the highway where necessary. The Highway Authority also requires the access to the car park to be not less than 5 metres in width, which the submitted plans and my observations on my site visit indicate can be achieved whilst providing adequate visibility. I have not been provided with any strong evidence to convince me that those changes would be unlikely to be physically achievable or would necessitate the removal of the existing school crossing patrol.
24. There are a number of schools in the area and I understand that the junction becomes busy at particular times. Notwithstanding a recent fatal traffic accident on Cross Road and residents' perception that near misses frequently occur, the junction's accident record does not indicate a significant risk to highway safety resulting from its layout. There is no strong evidence that the proposed changes to pedestrian crossings and the introduction of a new car park access would make the layout of the junction inherently less safe, provided that the alterations to parking restrictions on Cross Road, referred to above, were carried out. I note that the Highway Authority does not require a pedestrian guard rail at the Cross Road/Wantz Road corner and I see no strong reason to take a contrary view.
25. Furthermore, there is no strong evidence to indicate that the appeal scheme would increase pedestrian flows at the junction to the extent that safety would be significantly harmed. I have not been provided with convincing evidence that increased traffic and parking congestion would lead to frustration to the extent that drivers or pedestrians would be significantly more likely to take risks, to the detriment of highway safety.
26. Before the hearing, the appellant provided a draft s106 Agreement in order to address the Highway Authority's requirements. This had been the subject of prior discussion with the Council and the Highway Authority but, at the hearing, the former stated that it would be unable to sign such an agreement in the absence of a resolution of the full Council. I have subsequently been provided with an amended agreement which does not require the Council's signature. It is signed by all other relevant parties, including Essex County Council as Highway Authority, and is certified and dated. Part of the agreement would involve a financial contribution to the costs of amendment of Traffic Orders by the Highway Authority. I am satisfied that the agreement is reasonable and necessary in relation to the appeal proposal and would satisfy the statutory tests in Regulation 122 of the *Communities Infrastructure Levy Regulations* and paragraph 204 of the Framework.

Conclusion with regard to the main issue

27. Overall, with regard to the first issue, I conclude that, provided the alterations and improvements to the highway, as required by the Highway Authority, together with the other proposed measures regarding provision and management of parking and servicing as referred to above, were carried out, the appeal scheme would be acceptable with regard to highway safety, having regard to its impact on parking, servicing and traffic.
28. As a result, the proposal would comply with LP Policy T2, which requires new developments, where appropriate, to, among other things, provide safe access and road layouts, off-site improvements to the highway and priority to pedestrians. Nor would it conflict with LP Policy BE1, particularly with regard to parts (vii) and (x), regarding safety and amenity and traffic impact and access arrangements, or fail to provide safe and suitable access to the site or adversely affect residents' amenities in that respect, as set out in paragraphs 32 and 17 of the Framework respectively. Part (b) of LP Policy SH5 seeks to ensure that change of use of shop units in local shopping centres is not detrimental to the general amenities of the area or occupiers of neighbouring residential properties. The Council considers that the scheme's impact on parking, traffic congestion and comings and goings would conflict with the policy. However, for the reasons set out, I have found no significant harm in that regard.

Other matters

29. The proposed development has the potential to affect the living conditions of nearby residents, particularly in the adjoining dwellings at 4 Cross Road and 210 Wantz Road, due to noise and disturbance arising from the coming and going of customers and deliveries. In the light of the appellant's noise assessment report, the Council's Environmental Health Officer (EHO) considers that potentially adverse noise from deliveries, which could mainly affect 210 Wantz Road, could be mitigated by means of a condition limiting the hours during which deliveries take place. The EHO also considers that the potential impact on 4 Cross Road, which has side windows in the main dwelling and an annex facing the site, of noise from vehicles using the car park would be mitigated by the design of an acoustic barrier along part of the common boundary and by the proposed opening hours of the store. A condition is also recommended requiring a post-operation noise validation report, potentially leading to a remediation plan if required.
30. This is a reasonably busy urban location and the lawful uses of the site also have the potential to generate noise and disturbance. I consider that, from all the evidence and subject to the imposition of suitable conditions as described above, noise and disturbance would be unlikely to be unduly harmful to residents' living conditions or adversely impact on the character of the area.
31. I note that external lighting has been revised, in the light of the EHO's advice, to make it acceptable and could also be subject to a condition. I see no strong reason why the proposed development should give rise to significantly greater litter problems than would be expected within a local shopping centre.
32. The Council raises no objections with regard to the scale (other than with regard to the highway safety implications) and appearance of the proposed development and, taking account of its context, I see no reason to disagree. I

have not been given any strong evidence to indicate that the existing buildings have any heritage significance which might be adversely affected by the proposal. I have considered all of the other matters raised but none of them leads me to alter my overall conclusion with regard to the appeal.

Conditions

33. I have considered the conditions suggested by the Council, set out in the SCG, in the light of the advice in Circular 11/95: *Use of Conditions in Planning Permission* and for succinctness and clarity, and have amended them accordingly where necessary. In addition to the usual commencement condition, it is necessary, in the interests of proper planning and for the avoidance of doubt, to specify the approved plans. Conditions requiring details and samples of external materials and of hard and soft landscaping to be submitted are necessary in the interests of the character and appearance of the area.
34. A number of conditions, as follows, are necessary in order to protect the living conditions of nearby residents. It is necessary to restrict the proposed hours of opening to customers and delivery and collection times. Whilst the Council maintains that all deliveries should be so restricted, in order to limit impact of noise and disturbance on residents - and the occupiers of 210 Wantz Road in particular, the appellant wishes newspapers and magazines to be excluded. Given that early morning availability of newspapers is a normal aspect of such retail operations, the location within a local shopping centre, the absence of any such restrictions on the existing lawful retail use of the site and evidence that such deliveries would be carried out by small vehicles, I consider that exempting newspapers and magazines would have very limited adverse impact on residents. A condition restricting hours of operation of the goods entrance and service yard is also required. I have imposed conditions to secure the provision of acoustic and screen fencing and with regard to external lighting. A condition requiring a noise monitoring and validation report, together with any necessary mitigation measures, is also required.
35. In the interests of highway safety, a SMP should be submitted. Third parties argue that all contractors' vehicles should be excluded from the site during construction. That seems to me to be impractical and, given the temporary nature of the works, excessive. The Council officer at the hearing considered that the suggested condition, requiring details to be submitted of access arrangements during demolition and construction, to be practicable and enforceable. I have, however, substituted a variation of the standard condition requiring submission of a Construction Method Statement which achieves the same ends. I have also imposed conditions relating to details of the proposed permanent car park access, cycle parking and means of discharge of surface water.

Conclusion

36. For the reasons set out above, and having considered all matters raised, the appeal should be allowed.

Nicholas Taylor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Benoist	Tesco
David Brown	G L Hearn Ltd
Rupert Lyons	Transport Planning Associates
Rhys Scrivener	K R Associates

FOR THE LOCAL PLANNING AUTHORITY:

Debi Bunkell BA Hons MA MRTPI	Planning Officer
Steve Williamson BEng MCIHT	Intermodal Transportation

INTERESTED PERSONS:

Lynda Beveridge	Resident
Jean Jackson	Resident
Judith Lea	The Maldon Society
Rosalind Oakley	Resident
Councillor Stephen Savage	Ward Councillor, Malden District Council
J Sims	Resident
Mr R Still	Resident
Chris Tibballs	Resident
Robert Wyness	Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 *Maldon District Local Development Framework – Adopted Supplementary Planning Document: 14 Maximum Vehicle Parking Standards* (extract)
- 2 Extract from Essex County Council Vehicle Count Report Nov 2007
- 3 Car Park Survey- Tesco Express Burnham-on-Crouch October 2013
- 4 Extract from Essex County Council website re: Weight Restriction Orders 30 March 2012
- 5 Illustrative drawing No. Figure RL-10
- 6 Illustrative drawing No. Figure RL-11
- 7 Illustrative drawing No. Figure RL-12
- 8 Email dated 4 Nov 2013 from Essex County Council to appellant re s106 agreement
- 9 Undated s106 agreement signed by the appellant, the owners and the mortgagee

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 S106 agreement dated 5 December 2013 signed by the appellant, the owners, the mortgagee and Essex County Council as Highway Authority.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered (P)102, (P)103 Rev F, (P)202, (L)203 Rev E, E90 External Lighting Layout, E92 External Lighting 150W Fittings and E92 External Lighting 150W Floodlight Fittings.
- 3) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The premises hereby permitted shall not be open to customers outside the following times: 07.00 to 23.00 Mondays to Saturdays and 08.00 to 22.00 Sundays and Bank or Public Holidays.
- 5) No deliveries, with the exception of newspapers and magazines, shall be taken at or collections made from the site outside the hours of 09.00 to 19.00 Mondays to Saturdays nor at any time on Sundays and Bank or Public Holidays.
- 6) No external access to the goods entrance and service yard identified on drawing no. (P)103 Rev F shall take place outside the hours of 20.00 to 09.00.
- 7) The works comprised in the remainder of the development hereby permitted shall not begin before the acoustic barrier shown on drawings nos. (L)203 Rev E and (P)103 Rev F has been completed. The barrier shall be constructed of a plywood core with sealed absorption panels, melinex and waterproof covering to be over-boarded both sides with softwood treated lapped timber vertical boards, unless otherwise agreed in writing by the local planning authority, and shall be maintained in that form thereafter.
- 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall comprise fencing not less than 2.1 metres in height and shall be erected, in accordance with the approved details, on the northern and western boundaries of the site adjacent to 210 Wantz Road and 4 Cross Road respectively prior to the commencement of any other development on site except for the requirements of condition no. 7. The boundary treatment shall be retained as approved thereafter.
- 9) No external illumination of the site shall be provided other than in accordance with the approved lighting plan produced by South Eastern Electrical PLC and shown on drawings nos. E90 External Lighting Layout, E92 External Lighting 150W Fittings and E92 External Lighting 150W Floodlight Fittings. No external lighting shall be erected at a height in excess of 1.8 metres measured from ground level. The external lighting shall be retained in the approved form thereafter.

- 10) Within 3 months of first occupation of the building a scheme and methodology, including timescales for its implementation, for the preparation of a report validating and monitoring noise levels shall be submitted to and approved in writing by the local planning authority. In the event that the report shows that noise levels exceed the levels predicted in the Noise Assessment Report by KR Associates (UK) Ltd reference KR02953 version V1.2, a plan of remediation, including timescales for mitigation, shall, within 21 days, be submitted to and approved in writing by the local planning authority. Any required remediation measures shall be carried out as specified in the report and retained thereafter.
- 11) No development shall take place until a Service Management Plan, as set out in principle in Appendix D of the Transport Statement, has been submitted to and approved in writing by the local planning authority. The plan shall include but not be limited to limits on the size of delivery vehicle and their direction of travel to the site. The plan shall be complied with thereafter.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the access, turning, parking and off-loading within the confines of the site of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities
 - v) measures to control the spread of mud and debris and emission of dust and dirt during construction.
- 13) The building shall not be occupied until a means of vehicular access to the car park from Cross Road, has been constructed in accordance with the approved plans. The access shall be at right angles to the highway boundary and existing carriageway and its width across its junction with the highway shall be not less than 5 metres and shall be provided with an appropriate dropped kerb crossing of the footway.
- 14) No development shall take place until details of the number, location and design of cycle parking facilities have been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details and the facilities shall be retained thereafter.
- 15) No development shall take place until details of measures to prevent discharge of surface water from the development onto the highway have been submitted to and approved in writing by the local planning authority. The measures shall be carried out in accordance with the approved details and shall be retained thereafter.
- 16) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include the layout and proposed surfacing materials of

the hard landscaped areas and schedules of shrubs and trees to be planted, noting the species, size, numbers/densities and the planting scheme's implementation aftercare and maintenance programme. The hard landscaped works shall be carried out prior to the first occupation of the building and the soft landscape works shall be carried out within the first available planting season (October to March inclusive) following the commencement of the development or in accordance with the programme agreed with the local planning authority. If within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

End of Schedule

APPENDIX G

Appeal Decisions

Site visits made on 9 October 2022 and 23 March 2023

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2023

Appeal A Ref: APP/V0510/W/21/3287481
The Crown Inn, 14 Church Street, Fordham CB7 5NJ

- 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 28 Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 21/00250/FUL, dated 25 February 2021, was refused by notice dated 4 October 2021.
 - The development proposed is the erection of two dwellings (use class C3) adjacent to The Crown public house (use class Sui Generis) utilising existing access with associated parking and landscaping with reconfiguration of the pub's car park.
-

Appeal B Ref: APP/V0510/W/22/3303436
The Crown Inn, 14 Church Street, Fordham CB7 5NJ

- 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 28 Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 21/01800/FUL, dated 15 December 2021, was refused by notice dated 30 March 2022.
 - The development proposed is the erection of two four-bedroom dwellings (use class C3) adjacent to The Crown public house (use class Sui Generis) utilising existing access with associated parking and landscaping including reconfiguration of the pub's car park.
-

Appeal C Ref: APP/V0510/W/22/3309056
The Crown Inn, 14 Church Street, Fordham CB7 5NJ

- 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 28 Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 22/00774/FUL, dated 24 June 2022, was refused by notice dated 21 September 2022.
 - The development proposed is the erection of two four-bedroom dwellings (use class C3) adjacent to Indian Garden 2 restaurant (use class E) utilising existing access with associated parking and landscaping including reconfiguration of the restaurant's car park.
-

Decisions

1. Appeals A and B are dismissed.
2. Appeal C is allowed and permission is granted for the erection of two four-bedroom dwellings (use class C3) adjacent to Indian Garden 2 restaurant (use class E) utilising existing access with associated parking and landscaping including reconfiguration of the restaurant's car park at The Crown Inn,

14 Church Street, Fordham CB7 5NJ, in accordance with the terms of the application, Ref 22/00774/FUL, dated 24 June 2022, subject to the attached schedule of conditions.

Applications for costs

3. In relation to Appeals B and C, applications for costs have been made by Cordage 28 Ltd against East Cambridgeshire District Council. In relation to Appeal C, an application for costs has been made by East Cambridgeshire District Council against Cordage 28 Ltd. These applications are the subject of separate Decisions.

Preliminary matter

4. The Crown Inn was a public house until recently but planning permission was granted for a change of use to a restaurant in February 2022¹.

Main Issues

5. The main issues are:
 - the effect of the proposals on the character and appearance of the area, including the effect on the significance of the adjacent Grade II listed building and the Fordham Conservation Area (CA);
 - whether the proposals would lead to highway safety risks as a result of the restaurant delivery arrangements or insufficient parking spaces leading to on-street parking in the vicinity;
 - whether the loss of parking spaces would threaten the long-term viability of the restaurant; and
 - whether the proposals would provide acceptable living conditions for future residents with regard to access to their dedicated car parking spaces and/or noise and disturbance from the restaurant car park.

Reasons

Character and appearance

6. The appeals are for three alternative schemes for a pair of detached dwellings on part of the car park to one side of the Crown Inn, now the Indian Garden Restaurant, on the northern side of Church Street. In each case a strip of car parking would be retained adjacent to the restaurant with the remainder of the car park developed with 2 no. two-storey houses. These would face towards Church Street behind the existing tall flint wall with their access shared with the restaurant car park to one side. In the case of Scheme A their car parking would be provided to the front with the houses set back, whilst in Schemes B and C their car parking would be to the rear with the houses set forward behind the wall. The house designs also differ in each case.
7. Other than their layout and detailed house designs, the three schemes raise very similar issues and unless specifically stated otherwise are dealt with together in this decision.

¹ Reference 21/0104747/FUL

8. The site lies within the Fordham CA which extends along both sides of Church Street from the River Snail as far as The Crown Inn and on the other side of the road the Church of St Peter and St Mary Magdalene. The Grade II listed Crown Inn, of timber and plaster construction, dates from the 16th century and fronts onto the road with an ancillary 19th century outbuilding behind, whilst the Grade I listed church is set well back within a large treed churchyard. Towards the village centre to the west, beyond and opposite the appeal site, lie a wide variety of buildings, several modern dwellings including bungalows set back behind front gardens or parking, but also individual properties of more character including No 32 and the listed No 31. Overall, the relevant part of Church Street displays an informal village character, with flint walls a feature, but no consistent architectural design themes.
9. The Crown Inn was an important public house in the village from the 1760s but obviously without a large car park until the late 20th century. The 1809 parish inclosure map shows frontage buildings on the appeal site but by the 1887 Ordnance Survey map these had been demolished and after that the site was left open until used for car parking. Contrary to the Council's view, in its village street setting the significance of the listed building would not be diminished by development on the appeal site. Buildings previously lined the site frontage and the proposals would not block the important view of the gable end when approaching from the west. The outbuilding and principal southern elevation would be unaffected. Overall, the appreciation and understanding of the building as an historic village roadside inn does not depend on an open setting to the west and would be unaffected by two new dwellings. Indeed, the large expanse of empty car park and/or parked cars detract from its setting.
10. In relation to the character and appearance of the Fordham CA more generally and this section of Church Street in particular, unfortunately no CA appraisal has been prepared and the Council's evidence includes no analysis. However, it is clear from the inclosure and later Ordnance Survey maps that Church Street was once characterised by frontage development, with that on the southern side (up to and including the car park) only lost between 1927 and 1953. No 19 on the street frontage opposite the appeal site is the sole remnant. The pattern of mainly modern, set back buildings and the lack of enclosure along the street is thus a relatively recent phenomenon which dissipates the character of the area. In this section of Church Street, without any consistent architectural character, the proposal for a pair of two-storey houses on the appeal site would be an appropriate response. All of the three proposals take this form.
11. Turning to the relative merits of the schemes, Scheme A² would comprise a handed pair of brick built houses, gable end to the road and set back behind car parking. Whilst there would be some brick and stone sill details, these would be unimaginative designs, lacking variety between themselves, with narrow front elevations and long, unrelieved flank elevations. Together with the set back position adding little enclosure along the street, the result would not contribute positively to the CA or the setting of the listed building.
12. In contrast, the two houses in Scheme B would be double fronted, with ridges parallel to the street, set forward with their parking behind. Providing an

² As determined following amendments during the course of the application.

- improved sense of enclosure, these would also be more traditional designs with some variety - one rendered, one brickwork, different fenestration, door and porch details. The flank elevations would be narrower and relieved with chimneys and small first floor windows. However, except for the detailing they would have the same handed form, with their ridgelines, albeit lower and set back compared to the listed building, in alignment with each other.
13. Scheme C includes further refinements, retaining the variation in materials but with Plot 1 and its ridge set back slightly in relation to Plot 2 and the house made asymmetrical with a front facing gable. More fenestration is included to break up the flank elevations of both houses. Whilst the Council consider the recessed porch on Plot 1 would be an odd feature, overall the increased variety in the street scene would be a benefit. The further revised scheme would positively enhance the CA and the setting of the listed building.
 14. For these reasons, Scheme C would enhance the character and appearance of the area, would not detract from the significance of the adjacent Grade II listed building and would enhance the Fordham CA in compliance with Policies ENV2, ENV11 and ENV12 of the East Cambridgeshire Local Plan 2015 (ECLP). These require high quality design, enhancing and complimenting local distinctiveness, respecting village character, relating sympathetically to the surrounding area, preserving or enhancing the character or appearance of a CA and preserving or enhancing the setting of listed buildings in relation to their significance. Scheme C would also comply with Policy 2 of the Fordham Neighbourhood Plan 2018 (FNP) which seeks high quality design that delivers a quantum of development appropriate for the site, responds to important characteristics of the surrounding area and introduces visual interest through the orientation and position of buildings, architectural details and materials.
 15. Granting planning permission for Scheme C would also comply with the legislative duty under Sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of a CA and the setting of listed buildings.
 16. Scheme A would not satisfy these policy or legislative criteria, whilst Scheme B would be more marginal than Scheme C and should not be permitted to ensure the heritage benefits of the development are maximised.

Highway safety

17. Currently the appeal site forms part of a large car park serving the adjacent restaurant which is not laid out but provides about 20 spaces, maybe more. Under the proposals 14 marked out spaces would be provided, including one disabled space. The Council argue that 44 spaces should be provided for the restaurant to meet the 1 space per 5 m² parking standard set by ECLP Policy COM8 and the shortfall will lead to on-street parking and a danger to highway safety in the vicinity at peak times. However, this shortfall is based on the floorspace of the whole building, about 220 m², whereas the floorspace of the ground floor restaurant is just 119 m², suggesting the provision of 24 spaces. In addition, the standard is a maximum figure, not a requirement, allowing a lower level of provision depending on the circumstances.
18. To inform the position, the appellant has carried out parking surveys over two

weekends in October 2021 and March 2022, the first showing a maximum of 15 parked cars at 15.00 on the Friday and the second a maximum of 12 cars at 19.30 on the Saturday. The first survey can only be explained by parking for the nearby primary school at pick-up time³, but the second was carried out in a suitably neutral month, when concern about Covid was tailing off. This shows peak evening demand within the proposed provision of 14 spaces.

19. Even if demand were to exceed this figure from time to time the survey also demonstrates ample unused capacity in the vicinity with the large open and unregulated car park opposite and long stretches of unrestricted kerbside parking on Church Street. Any overspill on-street parking is thus likely to be limited and infrequent, with inconsiderate on-street parking leading to highway safety issues correspondingly unlikely.
20. Delivery vehicles would be able to use the parking area and tracking shows they can turn to leave in forward gear. This would involve use of the parking spaces and momentarily the access drive to the houses. However, as now, deliveries would be made during the day outside opening hours when the car park would be empty, and their timing could be controlled by condition.
21. Contrary to the Council's concerns, the local highway authority is satisfied that highway safety would not be compromised, concluding that the car park would be an adequate size to accommodate the demand from the restaurant and, subject to conditions, the delivery arrangements would be satisfactory.
22. For these reasons the proposals would not lead to significant highway safety risks as a result of insufficient parking spaces leading to on-street parking in the vicinity or unsatisfactory delivery arrangements. The proposals therefore comply with ECLP Policies COM7 and COM8 and FNP Policy 11 which require development to accommodate the efficient delivery of goods and provide adequate levels of car parking to avoid unplanned on-street parking.

Viability of restaurant

23. The Council are concerned that the long-term viability of the restaurant could be affected by the loss of car parking. However, as explained above, the proposed provision of 14 spaces would be sufficient to support the use in addition to the alternative parking options in the vicinity. It follows that the long-term viability of the use, and therefore the future of the listed building, would not be prejudiced by the loss of car parking. The need for car parking to support any future changes of use can only be speculative but there is no reason to suggest that significantly more off-street parking would be a critical factor in securing an alternative use for the listed building, or indeed use as an alternative community facility.
24. Since the long-term viability of the use would not be affected, the proposal complies with ECLP Policy COM3 and FNP Policy 9 which seek to protect valued community facilities. The appellant argues that that this designation does not apply, but the Crown Inn is specifically listed as such a facility in paragraph 4.33 of the FNP and the decision to grant permission for the change of use to a restaurant was on the basis that it would remain a valued community facility comparable to the Chequers and the White Pheasant, other restaurants in the

³ Indeed, this was observed on 23 March 2023, with cars arriving before and leaving after pick up time.

village included in the paragraph 4.33 list⁴. The Inspector's conclusion as to the status of a restaurant in Bottisham⁵ is not relevant in this case as it is a professional judgement in relation to the circumstances of the individual restaurant concerned. In addition, the premises were not definitively listed in a made neighbourhood plan as in this case.

Living conditions

25. Plot 2 would lie alongside the restaurant car park leading to some noise and disturbance for the occupiers, but only from time to time during opening hours. Suitable conditions would control lighting to minimise spillage and ensure the use of a bound material for the car park surface to minimise noise.
26. The dedicated car parking for the new dwellings would be accessed through the restaurant car park, potentially leading to some conflict with manoeuvring vehicles. The issue would be reduced if the parking were to the front of the houses (Scheme A) rather than to the rear (Schemes B and C) when the full length of car park would be involved, but this factor is outweighed by the design benefits of the latter schemes. Whilst not ideal, the arrangement would be acceptable and obvious to prospective occupiers.
27. For these reasons the proposals would provide acceptable living conditions for future residents with regard to noise and disturbance from the restaurant car park and access to dedicated car parking in compliance with ECLP Policy ENV2. This seeks to ensure the occupiers of new buildings, especially dwellings, enjoy high standards of amenity.

Other matters

28. Scheme A was also refused due to a lack of a biodiversity enhancement plan but an acceptable plan was submitted in the case of Schemes B and C. The dwellings would be sufficiently far away from nearby properties to avoid any significant loss of privacy.

Conclusion

29. Unlike Scheme A and more definitively than Scheme B, Scheme C would enhance the character and appearance of the area, would not detract from the significance of the adjacent Grade II listed building and would enhance the Fordham CA. All three schemes would provide two additional dwellings with social and economic benefits for the village whilst none would cause significant highway safety risks, affect the long-term viability of the restaurant or provide unacceptable living conditions for future residents. In the circumstances permission should be confined to Scheme C to maximise the heritage benefits of the development.
30. The Council have suggested conditions should an appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty. Further conditions are necessary to define the materials to be used, to remove permitted development rights, to require and control boundary treatment, hard landscaping and soft landscaping together with its

⁴ Officer report for the change of use application 21/01047/FUL

⁵ Appeal APP/V0510/W/19/3223227331

maintenance, all to ensure the satisfactory appearance of the development in the conservation area and adjacent to a listed building.

31. Conditions are necessary to protect against contamination and to control foul and surface water drainage to prevent flooding and pollution, also to control any piling, hours of working and the surfacing/lighting of the restaurant car park to protect the amenities of nearby residents. The appellant objects to a condition removing permitted development rights for the erection of gates across the site access but this is necessary to ensure access at all times for resident's cars and restaurant delivery vehicles without the inconvenience and highway safety risks of stopping to open gates. A condition to limit restaurant deliveries to outside opening hours is also necessary in the interests of highway safety. Finally, conditions are necessary to ensure any archaeological remains are investigated and biodiversity enhancements are secured to protect the interests concerned.
32. Having regard to the above Appeal C should be allowed and Appeals A and B should be dismissed.

David Reed

INSPECTOR

Schedule of Conditions for Appeal C

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:
 - 22.3337.100 P2 Proposed Site Plan
 - 22.333.000 P1 Site Location Plan
 - 22.3337.001 P1 Topo Survey
 - 22.3337.105 P2 Proposed Landscaping Plan
 - 22.0007.106 P2 Proposed Street Scene
 - 22.3337.002 P1 Existing Elevations
 - 22.3337.107 P1 Proposed Biodiversity Plan
 - 22.3337.104 P2 Proposed Elevations - Plot 2
 - 22.3337.103 P2 Proposed Floor Plans - Plot 2
 - 22.3337.102 P2 Proposed Elevations - Plot 1
 - 22.3337.101 P2 Proposed Floor Plans - Plot 1
 - Arboricultural Implications Assessment
3. No above ground construction shall take place on site until details of the external materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be

undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
 - (iii) An appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as approved in writing by the Local Planning Authority.

5. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken and following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority.

6. No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to the first occupation of either dwelling.

7. In the event of the foundations of the proposed development requiring piling, prior to the commencement of development a report/method statement shall be submitted to and approved in writing by the Local Planning Authority detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration. Noise and vibration control on the development shall be carried out in accordance with the approved details.

8. The scheme of biodiversity enhancements shown on Drawing Ref. 22.3337.107 Rev P1 shall be installed prior to the first occupation of either dwelling hereby approved and shall be thereafter maintained in perpetuity.

9. No development shall take place on site until the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

10. Construction times and deliveries, with the exception of internal fit-out, shall be limited to the following hours: 07:30-18:00 on Monday-Friday, 07:30-13:00 on Saturdays and at no time on Sundays, Public Holidays or Bank Holidays.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modifications), no

development within Classes A, B, C, D & E of Part 1, or Class A of Part 2, of Schedule 2 of the Order shall take place on site unless expressly authorised by planning permission granted by the Local Planning Authority.

12. Prior to first occupation of either dwelling a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following first occupation of either dwelling. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place unless the Local Planning Authority gives its prior written consent to any variation.

13. No above ground construction shall commence until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include finished floor levels, means of enclosure, car parking layouts, hard surfacing materials. The works shall be carried out in accordance with the approved details prior to the first occupation of either dwelling or in accordance with an implementation programme submitted to and approved in writing by the Local Planning Authority.

14. No above ground construction shall commence until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be in place in accordance with the approved details prior to the first occupation of either dwelling.

15. All works shall be carried out in accordance with the Arboricultural Implications Assessment and Method Statement (report ref. 211333 - AIA 4). If, during construction, it becomes apparent that further works or changes are required, work shall not progress any further on site until the applicant has secured a site meeting with a suitably qualified professional to agree the details and phasing of any tree surgery works not detailed in the submitted report. A written schedule shall be submitted to and approved in writing by the Local Planning Authority.

16. Notwithstanding the approved plans, prior to first occupation of either dwelling hereby permitted, the restaurant car park, driveways, parking and turning areas shall be surfaced and any lighting installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

17. Notwithstanding the provisions of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any order revoking, amending or re-enacting that order) no gates, fences or walls shall be erected across the approved vehicular access unless expressly authorised by planning permission granted by the Local Planning Authority.

18. Deliveries to the restaurant shall not take place during restaurant opening hours.

APPENDIX H



Appeal Decision

Site visit made on 14 September 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2021

Appeal Ref: APP/N1025/W/21/3271965

Land to the west of the Navigation Inn, Risley Lane, Breaston, Derbyshire, DE72 3BP

- 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 Punch Partnerships (PML) Limited against the decision of Erewash Borough Council.
 - The application Ref ERE/1020/0035, dated 9 October 2020, was refused by notice dated 4 March 2021.
 - The development proposed is described as erection of a detached dwelling (Use Class C3) utilising existing public house access, creation of a new access to the public house and reconfiguration of public house car park, and associated parking and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling (Use Class C3) utilising existing public house access, creation of a new access to the public house and reconfiguration of public house car park, and associated parking and landscaping at land to the west of the Navigation Inn, Risley Lane, Breaston, Derbyshire, DE72 3BP in accordance with the terms of the application, Ref ERE/1020/0035, dated 9 October 2020, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Punch Partnerships (PML) Limited against Erewash Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. The site address given above is taken from the Council's Decision Notice rather than the planning application form, as it provides a more precise description.

Main Issues

4. The main issues are:
 - (a) The effect of the development on the character and appearance of the area;
 - (b) The effect of the development on the living conditions of neighbouring occupiers with regard to noise and disturbance, loss of outlook, light, and privacy;

- (c) Whether the development would prejudice the restoration of the Derby and Sandiacre Canal; and
- (d) Whether the development would prejudice highway safety.

Reasons

Character and appearance

- 5. The appeal site fronts onto Stevens Lane, which is a quiet residential street. The majority of the surrounding properties are single storey bungalows, although the house immediately opposite is 2 stories in height, as are nearby properties fronting Risley Lane. The public house itself is 3 stories in height. There is significant variation in the design and style of properties in the vicinity.
- 6. The development would introduce a detached 2 storey dwelling onto part of the existing car park next to No 121 Stevens Lane. The relationship between the new property and No 121 would broadly mirror that between Nos 108 and 106, which are positioned opposite. The height of the proposed dwelling would be similar to No 108 and to other nearby 2 storey properties, and it would also be seen in the context of the 3 storey public house. In this regard, it would be situated at a transition point between predominantly single storey dwellings to the south west and taller properties immediately to the south and east. Its 2 storey height would not appear out of keeping in this context.
- 7. The rear garden of the dwelling would be enclosed by a close boarded fence, that would follow the rear boundary line of the adjacent properties. Given the relatively small size of the proposed garden, and the presence of a footpath, a boundary treatment such as this would be necessary to protect the privacy of future occupiers. I do not consider that this feature would detract from the canal side environment or the setting of the public house, nor would the loss of a short section of the existing brick wall be harmful in this regard.
- 8. For the above reasons, I conclude that the development would not significantly harm the character and appearance of the area. It would therefore accord with Policy 10 of the Erewash Core Strategy (2014) and saved Policy H12 of the Erewash Local Plan (2005). These policies seek to ensure, amongst other things, that new development is in scale and character with its surroundings and has regard to local context. It would also accord with the National Planning Policy Framework ('the Framework') in this regard, which requires new development to be sympathetic to local character.

Living conditions

- 9. The proposed dwelling would be positioned next to No 121 Stevens Lane, which is a single storey bungalow. It would broadly align with the front and rear building lines of that property, aside from a modest 2 storey projecting element at the rear. The dwelling would also be set back from the boundary and would not extend significantly beyond the rear of No 121. This arrangement would ensure that no significant overbearing impact to the adjacent garden area would arise. Any overshadowing in the early part of the day would also be limited by the proposed setback and position of the dwelling. Whilst No 121 has a glazed door and window facing the development, the Council states that these do not serve a habitable room. Accordingly, there would be no harmful loss of outlook.

10. Views from the proposed first floor windows over the rear of No 109 Risley Lane would be at an oblique angle, which would limit any direct overlooking. This arrangement would not result in any significant loss of privacy to the occupiers of No 109 in my view.
11. Whilst the development may result in some additional on-street parking in the vicinity, this would be limited in scale and frequency. Any additional disturbance caused by customers returning to their vehicles during the evening would be unlikely to be significant compared to the existing situation.
12. For the above reasons, I conclude that the development would not significantly harm the living conditions of neighbouring occupiers. It would therefore accord with Policy 10 of the Erewash Core Strategy (2014) which seeks to ensure, amongst other things, that new development has regard to any impact on the amenity of nearby residents. It would also accord with the Framework in this regard which requires that new development does not undermine quality of life.

Derby and Sandiacre Canal

13. The alignment of the former Derby and Sandiacre Canal is located to the north of the public house, in close proximity to the appeal site. It is subject to Policy R4 of the Erewash Local Plan (2005), which seeks to prevent development that would prejudice its reinstatement. In this regard, outline planning permission (Ref ERE/0410/0042) was granted in August 2011 to construct and reinstate the canal.
14. The 1939 Ordinance Survey map shows the former canal towpath running along the northern side of the pub building and crossing part of the appeal site. However, the development would only encroach a short distance beyond a high brick wall that separates the pub garden from the car park. Moreover, it would align with the rear boundaries of the adjacent properties, and the northern wall of the pub. These properties would restrict the establishment of a towpath across the appeal site in any case. I further note that an indicative scheme for the restoration of the canal, submitted by the Derby and Sandiacre Canal Trust, does not include the appeal site. In these circumstances, and based on the information before me, it appears highly unlikely that the development would prejudice the reinstatement of the canal.
15. For the above reasons, I conclude that the development would not prejudice the restoration of the Derby and Sandiacre Canal. It would therefore accord with saved Policy R4 of the Erewash Local Plan (2005) in this regard.

Highway safety

16. The development would result in the loss of 9 parking spaces and would reduce the capacity of the remaining car park to 16 spaces. The access into the car park would also be relocated a short distance to the east.
17. Compared to the existing situation, the development could result in up to 9 additional vehicles being parked on the surrounding streets during busy times. However, a submitted parking survey¹ indicates that there is more than sufficient capacity to accommodate this additional demand. Whilst the parking survey was undertaken during the ongoing pandemic, the capacity identified (127 spaces) is well above the maximum of 9 vehicles that would be displaced

¹ Transport Statement (TPA, October 2020)

by the proposal. In this regard, I note that most of the surrounding streets have unrestricted parking, and the majority of neighbouring properties benefit from off-street parking. Given the availability of on-street parking in the vicinity, pub customers would not need to resort to dangerous parking by the junction with Risley Lane / Stevens Lane junction. I further note that the Highway Authority has not objected to the development on these grounds.

18. Whilst this section of Stevens Lane is relatively narrow, cars are able to park along it without preventing the free flow of traffic. Blockages to the highway are in any case a police matter, and it is open to the Highway Authority to introduce parking restrictions should this be considered necessary.
19. With regard to the relocated car park entrance, this would be only a short distance to the east of the existing access, which would still be at a safe distance from the junction between Risley Lane and Stevens Lane.
20. For the above reasons, I conclude that the development would not prejudice highway safety. It would therefore accord with the Framework, which seeks to avoid any significant impacts on highway safety.

Conditions

21. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. Conditions relating to the existing and proposed accesses are necessary in the interests of highway safety and to ensure that the car park is capable of being accessed during the construction period. Further conditions relating to landscaping, the proposed materials, and any redundant part of the existing access, are necessary in order to protect the character and appearance of the area.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20.3221.100 Rev P4; 20.3211.101 Rev P2; 20.3211.102 Rev P2; 20.3211.103 Rev P3; 20.3211.104 Rev P4.
- 3) Prior to the commencement of any other operations associated with the development, the new vehicular access to Stevens Lane to serve the public house car park shall be laid out and completed. The completed access shall be served by 2.4m x 43m visibility splays in both directions, and 2m x 2m x 45° pedestrian visibility splays on either side, in accordance with plan Ref 2009-037 VS01. The visibility splays shall thereafter be kept free of any obstacles or obstructions greater than 1m in height (or 0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
- 4) Prior to the first occupation of the dwelling, the existing access onto Stevens Lane shall be modified in accordance with the approved plans and completed with 2.4m x 43m visibility splays in both directions. The visibility splays shall thereafter be kept free of any obstacles or obstructions greater than 1m in height (or 0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
- 5) Prior to the first occupation of the dwelling, any redundant part of the existing access onto Stevens Lane shall be permanently closed and reinstated as footway and verge with full face kerbing in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
- 6) Prior to the first occupation of the dwelling, full details of both hard and soft landscaping works, including an implementation timescale, shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and timescale. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 7) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.