

Town and Country Planning report

to support and explain a planning application
(resubmission) for the residential conversion and new
build residential on a site at Hursts Yard, Bank Street,
Cheadle, Staffordshire

for J.P.Properties

Access to site for construction vehicles. Suitable planning controls
addressing reason for refusal 4 of application 09/00923/FUL

Report 3 of 3

Prepared by G Willard M.R.T.P.I

Date October 2010

1.0 Access Management Plan

1.1 Background and planning policy

- 1.2 The previous planning application was resisted on the ground that it failed to demonstrate how it would impact on highway safety during the construction phase.

The reason for refusal (4) read as follows:

4.It is has not been demonstrated that the proposed development during its construction phase will not have an adverse impact on highway safety. The development is therefore considered to conflict with the requirements of 'saved' policy T16 of the Staffordshire Moorlands Local Plan and national planning guidance in the form of PPG.13.Furthermore, the Highway Authority also advise that the submitted details are insufficient to evaluate the proposed development.

1.3 Staffordshire Moorland (saved) Local Plan

- 1.4 Saved Policy T16 of the adopted local plan states the following:

Policy T16 Roads and Development

DEVELOPMENT PROPOSALS WILL BE EXPECTED TO INCORPORATE ADEQUATE ROADS, CAR PARKING FACILITIES IN ACCORDANCE WITH THE DISTRICT COUNCILS CURRENT STANDARDS AND OTHER FACILITIES FOR VEHICLES, CYCLISTS AND PEDESTRIANS.

1.3 National Planning Policy

1.4 PPG13

- 1.5 PPG 13 is largely silent on the matter of planning consideration during the construction phase. However it does indicate (at 7) that a suitable condition can control deliveries to a site:

Planning Conditions

82. Where clearly justified and in accordance with the usual statutory and policy tests 23, conditions may legitimately be used to require on-site transport measures and facilities as part of development or to prohibit development on the application site until an event occurs²⁴, including:

- 1. provision of secure cycle parking and changing facilities and safe pedestrian and cycle routes;*
- 2. provision of facilities for public transport, such as bus stops and lay-by;*
- 3. specifying the number of parking spaces, and their size, including those for disabled people;*
- 4. the management and use of parking spaces, so that, for example, priority is given to certain categories of people, e.g. disabled people, people with children, visitors, or cars with more than one occupant;*
- 5. the removal of parking spaces (other than those for disabled people) after a specified period, or when access to the site is improved by public transport, walking and cycling (such as when a bus route is introduced to the site);*
- 6. the provision of information to staff and visitors about public transport, walking and cycling access to the site, including information for disabled people;*
- 7. arrangements for deliveries to the site and removals from the site, covering specification of types of vehicles and hours of operation, design of delivery areas and specifications for lorry parking and turning spaces; and**
- 8. new or improved junction and road layouts.*

1.6 Circular 11/95

- 1.7 This guidance advises in respect of planning conditions and the need to ensure that they are soundly imposed and relate to land use planning matters. With regard to access routing for lorries to a site the guidance advises as follows:

Lorry routing

71. Planning conditions are not an appropriate means of controlling the right of passage over public highways. Although negatively worded conditions which control such matters might sometimes be capable of being validly imposed on planning permissions, such conditions are likely to be very difficult to enforce effectively. It may be possible to encourage drivers to follow preferred routes by posting site notices to that effect, or by requiring them to use a particular entrance to (or exit from) the site. But where it is essential to prevent traffic from using particular routes, the correct mechanism for doing so is an Order under either section 1 or section 6 (as appropriate) of the Road Traffic Regulation Act 1984.

- 1.8 PPG13 offers the following guidance in respect of lorry routes to sites.

Planning Conditions

82. Where clearly justified and in accordance with the usual statutory and policy tests 23, conditions may legitimately be used to require on-site transport measures and facilities as part of development or to prohibit development on the application site until an event occurs²⁴, including:

- 1. provision of secure cycle parking and changing facilities and safe pedestrian and cycle routes;*
- 2. provision of facilities for public transport, such as bus stops and lay-by;*
- 3. specifying the number of parking spaces, and their size, including those for disabled people;*
- 4. the management and use of parking spaces, so that, for example, priority is given to certain categories of people, e.g. disabled people, people with children, visitors, or cars with more than one occupant;*

- 5. the removal of parking spaces (other than those for disabled people) after a specified period, or when access to the site is improved by public transport, walking and cycling (such as when a bus route is introduced to the site);*
- 6. the provision of information to staff and visitors about public transport, walking and cycling access to the site, including information for disabled people;*
- 7. arrangements for deliveries to the site and removals from the site, covering specification of types of vehicles and hours of operation, design of delivery areas and specifications for lorry parking and turning spaces; and*
- 8. new or improved junction and road layouts.*

2.0 Planning Inspectorate

2.1 The planning inspectorate has also issued guidance to its inspectors on the imposition of planning conditions offers the following suggested condition:

2. Before any development commences a Construction Method Statement will be required to be submitted to and be approved by the Local Planning Authority. The statement shall provide details for;

- The routing of construction vehicles to the site,
- Storage of materials, plant and materials used in constructing the development,
- parking of vehicles for site operatives and visitors.

The development shall thereafter be carried out in accordance with the approved Construction Method Statement.

CONSTRUCTION METHOD STATEMENT

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 parking 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. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

3.0 County Council and conditions precedent

- 3.1 The County Council do recognise the potential to control construction and delivery traffic via a suitably worded planning condition. Below is a condition that, earlier in 2010, they recommended that a district council impose on a development elsewhere in Staffordshire.

4.0 Planning considerations

- 4.1 It is clear from the previous report to planning committee and the decision of the council that the Highway Authority, officer of the Council and members of the planning committee were satisfied with the proposal in terms of its internal layout and car parking provision. They were clearly satisfied with the site being served via a new access with Meadow Drive.

- 4.2 The officer's report makes the following comment on this point:

The resultant proposal seeks to secure vehicular access off the head of the existing cul-de-sac in Meadow View. This has raised a number of complaints from local residents, concerned about the impact of the development on existing congestion associated with the nearby school. The narrow width of the carriageway is also of concern. Whilst these concerns are noted, the proposed access itself off Meadow Drive is considered to be acceptable to the Local Highway Authority.

- 4.3 For this reason this planning application does not propose any alteration to the site access and this remains to be via Meadow Drive. There is no reasonable alternative and Council officers and members are clearly fully satisfied with this proposal to be served via Meadow Drive.

- 4.4 There concern relates to construction traffic and a concern that in using the existing highway network it could cause danger. The officer's report made the following observation on this point:

"They have nevertheless recommended refusal at this current stage as the applicant has not explained how they will go about constructing the access and enabling construction vehicles to enter the site, which the Local Highway Authority would not wish to see using Meadow View. It is anticipated that some form of temporary access would need to be provided off Bank Street along the line of the proposed emergency access, but in the absence of any firm proposals, a recommendation of refusal has been forthcoming from the Local Highway Authority."

- 4.5 Saved Policy T16 does not deal with the matter of construction traffic. Accordingly and with respect it is contested that this policy is not breached by the proposal.

- 4.6 The council cite PPG13 as being offended by the lack of detail on this matter. It advises caution on the matter of controlling vehicles using the public highway. It is suggested that Traffic Regulation Orders (TRO'S) can control routing to sites. Up to date advice on planning conditions does indicate that planning conditions can be imposed to control developments.
- 4.7 Planning applications should only be refused where they conflict with policies in the development plan or there are other overriding material planning objections and that the matter that causes concern cannot be addressed by a suitably worded planning condition. It is contested that it is not reasonable to refuse this proposal on the grounds of potential harm to highway safety and that it is clear that the proposal does not breach policy T16 or PPG 13.
- 4.8 A suitably worded and lawful planning condition can be imposed that will require in due course a developer to prepare and submit a Construction Access Plan to indicate how this development can proceed without causing highway danger or nuisance to local people.
- 4.9 The applicant is the owner of the site. They are not developers. Accordingly they cannot possibly foresee how a developer will undertake the construction of this development and manage delivery vehicles.
- 4.10 However in the spirit of co-operation and to assist this planning application a draft Construction Access Plan pro-forma is submitted and attached to this report. A planning condition can be imposed as the planning inspectorate model conditions and cited precedent show that requires the submission and approval of such a plan before any commencement on the development is made.
- 4.11 Key matters that are likely to be included within any Construction Access Plan are the following.
- 1 Avoid routing via Meadow Drive of any delivery vehicles
 - 2 Avoid parking in Meadow drive of any works or construction traffic
 - 3 The access to Meadow drive shall not be opened to vehicular traffic until 7 days before the first dwelling is occupied
 - 4 The emergency access via Bank Street shall be formed and made available for use by construction traffic before development commences

- 5 The developer shall install at their own cost a temporary traffic management regime along Bank Street to ensure that all vehicles can safely enter and leave the site.

5.0 Conclusion

- 5.1 In accordance with appropriate appeal precedence, good planning practice and taking into account that the applicant is the land owner and not developer it is suggested that it would be appropriate and reasonable to attach a planning condition that deals with the matter of access for construction traffic. The condition might read as follow:

Before construction commences a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Plan shall be thereafter implemented as approved. The Construction Access Plan shall provide that no construction works, including any demolition and any delivery of equipment or materials, shall be carried out outside the hours of 08:00 to 18:00 Mondays – Fridays; 08:00 to 13:00 on Saturdays; and no work shall be carried out on Sundays or Public Holidays.

- 5.2 If the council is so minded (see example in Appendices) the following condition or similar could be imposed:

Unless otherwise agreed in writing with the Local Planning Authority the development hereby permitted shall not be commenced until a temporary Traffic Regulation Order (to run for 3 years or until the development is complete) has been implemented to prohibit the parking of vehicles in Meadow Drive during the hours of 0900 to 1700 Monday to Friday.

- 5.3 The condition allows for flexibility. In the event that no suitable TRO can be agreed and bearing in mind it would not be reasonable to unreasonably prevent this development proceeding, it would allow the council to agree alternative means of controlling construction traffic and this is highly likely to be resolved in the Construction Access Plan.
- 5.4 To assist the council still further a pro forma for such a construction management agreement is attached to this submission

Appendices

- a Construction Access Plan pro-forma
- b Appeal decision in respect of site at Kingston Park, Newcastle upon Tyne
- c Extract from committee report to Havant
- d Planning condition on construction traffic example from Staffordshire

A Construction Access Plan - pro-forma

| Heading | Response |
|--------------|----------|
| Site | |
| Developer | |
| Application | |
| Project date | |

1. Introduction
2. Plan of site
3. Staff parking arrangements
4. On site material storage
5. Construction of access for delivery vehicles as a sub base to emergency access via bank street
6. Proposals for safe delivery via Bank Street or other alternatives
7. Hours of delivery and working hours
8. Site screening
9. Plan of preferred routing for delivery traffic

Appendix

- ★Copy of letter to all contractors and delivery firms
- ★Copy of any Considerate Constructors award
- ★Copy of neighbour notification re works

Appeal decision in respect of site at Kingston Park, Newcastle upon Tyne

| | | |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Appeal Decision | The Planning Inspectorate 4/11 Eagle Wing Temple Quay House 2 The Square Temple Quay Bristol BS1 6PN ☎ 0117 372 6372 email: enquiries@pins.gsi.gov.uk Decision date: 11 January 2008 |
| | Inquiry opened on 4 December 2007 Site visit made on 5 December 2007 by P J Asquith MA (Hons) MA MRTPI an Inspector appointed by the Secretary of State for Communities and Local Government | |

Appeal Ref: APP/M4510/A/06/2031640

Kingston Park Shopping Centre, Newcastle-upon-Tyne, NE3 2FP

- 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 Newcastle Property Developments (one) Ltd and Newcastle Property Developments (two) Ltd against the decision of Newcastle-upon-Tyne City Council.
- The application Ref. 2006/0558/01/DET, dated 22 December 2005, was refused by notice dated 26 May 2006.
- The development proposed is the partial redevelopment and improvement to the Kingston Park Shopping Centre to provide 8 new Class A1 shop units.

Summary of Decision: The appeal is allowed and planning permission granted subject to the conditions set out in the Formal Decision below.

Procedural Matters

1. At the Inquiry an application for a partial award of costs was made by Newcastle Property Developments (one) Ltd and Newcastle Property Developments (two) Ltd against Newcastle-upon-Tyne City Council. This application is the subject of a separate Decision.
2. As agreed in the Statement of Common Ground, in addition to the eight shop units, four office units at first floor level are proposed as part of the scheme and, for the avoidance of doubt, it is on this basis that I have considered this appeal. In this regard I consider that it is therefore more accurate to describe the proposed development as the partial redevelopment and improvement to the Kingston Park Shopping Centre to provide eight new Class A1 shop units and four office units.
3. Within the context of the appeal the appellants requested that four plans be substituted for those which formed part of the application. These relate to minor alterations to the internal car parking and access arrangements, improvements at the Brunton Lane/Kingston Park Avenue junction and removal of a small amenity area. The Council indicated that it had no objection to the substitution of these plans. Whilst these plans did not form part of the application, in my view the modifications shown are such that no prejudice to any party would arise from my consideration of them as part of the appeal process and accordingly this is what I have done.
4. Following the lodging of the appeal a request was also made by the appellants to amend the description of the development so that the proposed four new ground floor units to the side of the Springs Health Club could be used by operations falling within Classes A1 to A5 of the Town and Country Planning

Use Classes Order 1987 (as amended). The Council was not agreeable to this modification and I have not determined the appeal on the basis of any such modification.

Main issues

5. From all I have seen, read and heard I consider the main issues in this case to be: first, the effect of the proposals on the character, appearance and function of the Kingston Park Shopping Centre; and second, the scheme's impact on highway safety, traffic flow and residential amenity.

Reasons

First issue – character, appearance and function of the Kingston Park Shopping Centre

6. Together with the Tesco Extra store and its associated car park to the eastern side of Brunton Lane, the Kingston Park Shopping Centre forms the Kingston Park District Centre, one of six such principal shopping centres within the Newcastle metropolitan area. The proposals envisage the demolition of an existing parade of nine retail units, and their replacement with four larger units. Additionally, there would be a two-storey new build element providing four smaller retail units at ground floor level with office accommodation over. There would be a re-ordering of the existing car parking and circulation arrangements, with improvements in the connectivity between the main parking area and what is now an overspill parking area. Also, there would be improvements to Kingston Park Avenue, which provides access to this part of the shopping centre, and to the Kingston Park Avenue/Brunton Lane/Belvedere Parkway roundabout (the 'Tesco roundabout') to increase capacity, lane utilisation and safety for both car users and pedestrians.
7. The Council's decision notice alleged in the first reason for refusal an erosion of the character of the District Centre, the loss of small retail units and a harming of the vitality and viability within the centre. However, this reason was not contested by the Council at the Inquiry. This was in light of the appellants' contention, supported by a recently granted Lawful Development Certificate, that if the appeal was to fail it would be likely that the existing smaller retail units would be amalgamated into fewer larger units anyway.
8. The proposal is to effectively modernise the parade of older retail units, several of which are currently unoccupied, permission having originally been granted in 1979. It would bring them up to the same standard as the other units on the eastern part of the Kingston Park Shopping Centre that were constructed in 2001 and which currently house national retailers such as Next and Boots. The modern design would visually reflect and tie the redeveloped units to this more-recently constructed part of the centre. The addition of new units to the south-western part of the centre would provide continuing availability of smaller retail outlets. Their presence, and the re-ordering of the access/egress arrangements, would be likely to make better use of the overspill car park, which is currently visually unappealing and is accepted as currently under-utilised. I consider that the scheme would be likely to provide an enhancement to this part of the shopping centre, reinvigorating its somewhat tired and dated appearance and character, and strengthening its functioning and attraction as a primary shopping area of the defined District Centre. Having regard to its

scale, layout, appearance and likely diversity of use, the scheme would not be objectionable. In my view, the proposals would accord with the thrust of advice within Planning Policy Statement 6, (PPS 6) *Planning for Town Centres*. Furthermore, they would accord also with saved Policies R1.1 and R1 of the Newcastle upon Tyne Unitary Development Plan (UDP), which seek to maintain and enhance such shopping centres. I also consider there would be no conflict with UDP saved Policies EN1 and EN1.1, which broadly require developments to be of a high standard of design.

Second issue - Highway safety, traffic flow and residential amenity

9. The Council's second reason for refusal alleges that the proposals would be detrimental to road safety. However, at the Inquiry the Council's highways witness accepted that his evidence should not be taken as supportive of any contention that the proposals should be dismissed on any grounds of impact on road safety.
10. In terms of alleged impact on residential amenity the Council's case advanced at the Inquiry was not on the basis of noise, disturbance or pollution that might arise from the proposals. Rather, it was on the basis of the impact of additional traffic that would result from the proposed scheme creating difficulties for local residents accessing the highway network at certain times of the day; this would be caused by the addition to queuing traffic at certain junctions within the highway network. The Council maintains that more traffic would result from the additional trips generated by the re-invigorated retail centre. This would include vehicle movement resulting from an inability to find car parking space within the area served by Kingston Park Avenue, thereby causing vehicles to re-enter the highway network in search for spaces elsewhere. These issues are addressed in turn.
11. The Council commissioned a transportation study at Kingston Park in 2004, part of which included the use of a VISSIM micro-simulation model to assess the existing and proposed highway network operation within the area. It is apparent from the scoping study drawn up in advance of the preparation of a Transport Assessment for the appeal proposals that it was intended that they be assessed and audited against the VISSIM model. This would demonstrate the impact of the predicted increase in traffic on the local highway network. There is no dispute between the Council and the appellants in terms of input data in respect of the assessment of the proposals, including 2004 base flows, growth factors to achieve base flows in 2007, the level of traffic likely to be generated by the proposed development and its distribution on the highway network. The Council's conclusions flowing from the application of the VISSIM model are that the existing highway network within the Kingston Park area is heavily congested, with queues blocking back into other junctions along Brunton Lane. Its concern is that additional traffic from the appeal proposals would detrimentally affect this constrained network.
12. As agreed between the Council and the appellants, the proposal has been assessed at the weekday afternoon peak hour of 16.30-17.30 for an opening year of 2007 and five-year design horizon of 2012. The predicted additional trips within this peak period associated with what would be an increased floor area of 1,843 m², (an almost 20% increase), is some 37 arrivals and 40 departures.

13. The appellants consider these predicted increases need to be compared with the additional 25 additional one-way vehicle movements in the afternoon peak hour that might be generated with the implementation of extant planning permissions, which would provide for an alternative increase in floor area at the Kingston Park Shopping Centre of 1,148 m². In this latter regard I consider that, whilst there may be an increase in gross floor area associated with the extant permissions, it is unclear whether there would be an actual increase in net retail floorspace which could have the effect of increasing vehicle generation. Be that as it may, whichever figures are used they have to be seen within the context of measured and predicted 2007 two-way peak hour flows on Brunton Lane north of the Tesco roundabout ranging from some 1246-1269 vehicles and on Brunton Lane south of this roundabout of some 1456-1656, (the range depending on whether the appellants' June 2007 survey results are adopted or those predicted by VISSIM).
14. The predicted increase in link flows as a result of the proposed development compared to 2004 base flows is, with the exception of Kingston Park Avenue, less than 3%. The increase is less than the VISSIM model variation in flows. Recommended link flow calibrations relate to a tolerance of + or - 15%. The 3% predicted increase in traffic as a result of the proposals is well within this. It is also significantly less than the growth in traffic that was predicted for the period 2004 - 2007. The increase is also well within the generally accepted day-to-day variation of traffic flow which may be in the region of +/- 10%. The reliance that can be placed upon VISSIM as a predictive tool in such circumstances is to my mind somewhat undermined. Further doubts as to the predictive capabilities of VISSIM, when dealing with very small increases in flows on a network, stem from what appear to be somewhat anomalous outputs in certain instances where little or no alteration in absolute vehicle numbers appears to have a dramatic effect upon queue lengths.
15. Having regard to congestion, the Council's concerns appear to centre round the impact on the Tesco roundabout and on Brunton Lane, which splits the Kingston Park Shopping Centre and provides access to the adjoining retail warehouse parks of Belvedere Retail Park and Kingston Retail Park. Only at the time of the Inquiry does the Council's concern seem to have broadened to take in more remote road junctions within the Kingston Park area and which were not within the scope of the original Transport Assessment. Brunton Lane is claimed to be operating over capacity during peak periods, resulting in queuing. However, in support of this contention reliance is placed on peak flows within the agreed peak hour of the week. By contrast, average flows are much lower, as are average queue lengths, which the Council accepted at the Inquiry, were at least as important to consider as peak queues.
16. Even looking at the VISSIM maximum queue length predictions in the peak hour, comparing the development including the proposed mitigation measures at the Tesco roundabout with the 2007 base results, shows virtually no changes for several arms and sections on and off Brunton Lane and a maximum increase of about 16 metres on other sections. Given the caution that should be exercised about the predictive capabilities of VISSIM when dealing with small absolute additional numbers of vehicles as outlined above, I consider these increases would not be material. In my view if there is unlikely to be any material impact on roads closest to the development it is equally the case, if

not more so, that impact on roads and junctions further removed (such as Ponteland Road/Brunton Lane to the south and Brunton Lane/Kingston Park Road to the north) would be also insignificant; the effect of any additional traffic arising from the proposed development is likely to be partially dissipated before it reaches these.

17. Concern has been expressed about the danger of queuing back along Brunton Lane and over the barrier-free Metro level crossing. Queuing along this road back to the level crossing, which is only some 150 metres from the Tesco roundabout, already occurs. The Council considers that more sustained queuing would be unsatisfactory and that the Metro operator is justified in raising objections. The proposals may account for an increase of about one vehicle every four minutes approaching the level crossing in each direction. This would be within the daily variation of traffic flow. In my view such a level of increase would not be likely to materially impact on the safe operation of the level crossing, whose lights are said to operate for one minute for the passage of each train. Any increase as a result of the proposals would therefore equate to less than one additional vehicle being held at the lights.
18. The Council has expressed concern that there may be an under-provision of parking within that section of the Kingston Park Shopping Centre to the west of Brunton Lane. There are around 300 spaces currently within this part of the centre and a similar number would remain with the proposed scheme. As part of the Transport Assessment accompanying the appeal application a car parking accumulation assessment indicated a requirement for 334 spaces. However, subsequent car parking surveys indicated a maximum occupancy of 76% and 84% on a Friday and Saturday respectively, with under-utilisation of the overspill parking area in the south-west of the site. No substantive evidence has been produced that parking currently associated with the shopping centre takes place in nearby residential streets to the detriment of living conditions of occupiers there.
19. With the additional proposed gross floor space, and assuming normal peak trading periods, the appellants consider there would be an operational requirement for some 249 spaces. There is no indication of the level of retail occupancy when the car parking surveys were carried out and therefore the results might not reflect what might be expected under full trading conditions. Nevertheless, PPG 13 *Transport* indicates that developers should not be required to provide more parking than they consider appropriate other than in exceptional circumstances. No such exceptional circumstances have been advanced in this case in respect of a shopping centre which is very well served by public transport (bus and Metro). Indeed, the re-ordering of the circulation and parking arrangements would be likely to make more efficient use of what provision exists.
20. Furthermore, it is proposed (and can be ensured through an appropriate condition) that a variable message sign system be installed which would inform drivers approaching the Tesco roundabout junction of the availability of parking spaces within this part of the Kingston Park Shopping Centre. Particularly in times of peak trading this would assist in preventing additional manoeuvring within the highway network caused by drivers searching for parking space. It would help to directly divert any overspill parking at times of peak demand to what is an under-used part of the Tesco car park – also part of the Kingston

Park Shopping Centre – which is closest to the western part of the Centre and which benefits from pedestrian crossing linkage across Brunton Lane. In addition, a condition has been suggested, in the event of permission being granted, requiring the provision and implementation of Travel Plans, which could be beneficial in reducing car-borne journeys by employees of units within the site.

Conclusions on highway matters

21. Overall, it is clear that congestion occurs at times within the road network close to the appeal site and that this is perceived as problematic by the Council, a view shared by certain residents within the area who have attended local meetings and who have objected to the present proposals. Notwithstanding these concerns, I do not consider that it has been robustly demonstrated that the proposals would have any adverse impact in respect of materially exacerbating this congestion or inconvenience to the travelling public, either within the immediate vicinity of the Kingston Park Shopping Centre or on the broader network near to Kingston Park. I consider that the likely increase in traffic associated with the proposals would, in the context of the traffic situation which exists, be imperceptible to local residents. The proposals would have no material impact on residential amenity as a result of greater inconvenience and reduction in access or safety, or increases in noise or general disturbance.
22. For these reasons I do not consider the proposals to be contrary to saved UDP Policies T4.5, requiring development to provide parking which satisfies operational requirements; T7.1, requiring development to not result in traffic generation which would cause demonstrable danger or inconvenience; or H2, that seeks to prevent development which would result in harmful impacts for residents as a result of additional accesses, traffic or parking.

Conditions

23. I have considered the necessity for the imposition of conditions in light of the discussion that took place within the Inquiry when there was a large measure of agreement between the parties as to those conditions that would be required if permission was to be granted. In the interests of appearance and general amenity, I shall impose conditions requiring agreement of external materials, car park retaining walls, hard and soft landscaping, and lighting. To ensure highway safety and the provision of sufficient parking, a condition is necessary requiring the provision of car parking areas as shown on the approved plans prior to the occupation of the proposed retail and office units. Also, in respect of highway and pedestrian safety, conditions are required relating to the approval of servicing arrangements for the proposed units and the implementation of improvements to the Kingston Park Avenue/Brunton Lane junction. To assist in promoting alternative means of travel to the car I shall impose conditions relating to cycle parking provision and the need for agreement of Travel Plans.
24. In the interests of residential amenity, conditions are required to control external plant, hours and methods of construction work, storage and disposal of refuse, opening hours and times of deliveries. To ensure the vitality and vibrancy of the shopping centre by retaining a mix of retail uses and size of

units, I shall impose conditions restricting the Use Classes of the proposed smaller units and their amalgamation. I do not consider the suggested condition relating to the need for agreement of access arrangements for the disabled to be necessary as this is covered by other legislation.

Overall conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

26. I allow the appeal, and grant planning permission for the partial redevelopment and improvement to the Kingston Park Shopping Centre to provide eight new Class A1 shop units and four office units at Kingston Park Shopping Centre, Newcastle-upon-Tyne, NE3 2FP in accordance with the terms of the application, Ref. 2006/0558/01/DET, dated 22 December 2005, and the plans set out in the Annex below, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of three years from the date of this decision.
2. No development shall take place until sample materials to be used in the construction of the external surfaces, together with samples of the proposed canopies and the stanchions of the buildings hereby permitted, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved materials.
3. The development hereby permitted shall not be occupied until the car parking area indicated on the approved plans or otherwise agreed in writing by the local planning authority, including disabled parking spaces contained therein, has been surfaced, sealed and marked out in parking bays.
4. Before the development hereby permitted is occupied a scheme for the provision of cycle parking shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use and shall thereafter be retained.
5. The development hereby permitted shall not be brought into use until details of the proposed external lighting of the buildings, car parking and service areas have been submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details.
6. Notwithstanding the approved drawings no development hereby permitted shall commence until details of the retaining walls within the car park marked as existing overspill car park on Drawing No. 03053 (--) 20B have been submitted to and approved in writing by the local planning authority. Thereafter the buildings shall not be occupied until the retaining walls have been constructed in accordance with the approved details.
7. Development shall not commence until details of any external plant, including extract ventilation facilities, air conditioning equipment and their

noise generation levels and any noise attenuation measures have been submitted to and approved in writing by the local planning authority. Thereafter, these works shall be carried out in accordance with the approved details.

8. Before construction commences a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Plan shall be thereafter implemented as approved. The Construction Management Plan shall provide that no construction works, including any demolition and any delivery of equipment or materials, shall be carried out outside the hours of 08:00 to 18:00 Mondays – Fridays; 08:00 to 13:00 on Saturdays; and no work shall be carried out on Sundays or Public Holidays.
9. No part of the development hereby approved shall be occupied until facilities for the storage and disposal of refuse, including walls, fences or other means of enclosure, have been installed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The approved facilities shall be permanently retained thereafter.
10. No development shall take place until full details of both hard and soft landscape works, including the number, species, height and position of trees, a programme of planting and details of post-planting maintenance, have been submitted to and approved in writing by the local planning authority. These works shall be carried out as approved. If within a period of five years from the date of planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, another tree 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.
11. No unit hereby permitted shall be occupied until details of a Travel Plan in respect of that unit has been submitted to and approved in writing by the local planning authority. The provisions of the approved Travel Plan for each unit shall be maintained in operation at all times unless otherwise agreed in writing by the local planning authority.
12. Units 1 - 4 hereby permitted shall not be open to customers outside the following hours: 08:00 to 21:00 Mondays to Saturdays and 10:00 to 17:00 on Sundays, or as otherwise agreed in writing by the local planning authority. Units 5 – 8 shall not be open to customers outside the hours 08:00 to 22:00 Mondays to Sundays.
13. No deliveries shall be taken at or dispatched from the site outside the hours 07:00 to 18:00 Mondays to Saturdays or at any time on Sundays or Public Holidays.
14. The units hereby permitted at ground floor level shall be used for no other purpose than those within Class A1, whereas units 9 - 12 inclusive shown on drawing No. 03053 (2-) 21A shall be used for no other purpose than those in Class A1, A2 or B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order with or without modification.

15. Notwithstanding the approved drawings development shall not commence until details of improvements to the Kingston Park Avenue/Brunton Lane junction, including car park signage, have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development hereby approved the improvements shall be implemented in accordance with the approved details and shall be retained thereafter.
16. Notwithstanding the approved drawings no development shall commence until details showing the servicing arrangements, including tracking plots, for the units 5 - 12 shown on drawing No. 03053 (--) 20B have been submitted to and approved in writing by the local planning authority. The servicing arrangements shall be implemented and retained in accordance with the approved details.
17. None of the units 5 – 8 inclusive shown on drawing No. 03053 (--) 20B shall be amalgamated.

Annex

Agreed list of drawings relating to the proposals.

03053 (--) 01A Location plan.
03053 (--) 02 Existing site plan.
03053 (--) 03 Existing east and west elevations.
03053 (--) 04 Existing rear elevation – north.
03053 (--) 05 Existing rear elevation – west.
03053 (2-) 02A Proposed south elevation.
03053 (2-) 03B Proposed east and west elevations.
03053 (2-) 04B Proposed rear elevations.
03053 (2-) 05B Proposed rear elevation – west.
03053 (2-) 06A Proposed small units elevations.
161:17 Setting out coordinates (units as existing).
400:02 Existing floor plans Units 7 & 8
105 Rev VV Existing floor plans, Spring Health Club and Netto.
03053 (2-) 21A Proposed first floor plan.
03053 (2-) 20A Proposed ground floor plan.
03053 (--) 20B Proposed site plan.
03053 (9-) 03A Bin store.

PJ Asquith

INSPECTOR

Extract from committee report to Havant

HAVANT BOROUGH COUNCIL

THE EXECUTIVE

7 FEBRUARY 2007

Report from the Head of Development & Technical Services

THE BOROUGH OF HAVANT (BEDHAMPTON HILL, BEDHAMPTON HILL CUL-DE-SAC AND MAPLE WOOD) PROHIBITION OF WAITING ORDER 2006

1.0 INTRODUCTION

- 1.1 The Development Control committee at their meeting on the 28 July 2005 considered planning application number 04/61302/007 for the subdivision of the existing 49 Bedhampton Hill dwelling into 6 self contained one-bedroom flats with associated parking utilising the existing access to Bedhampton Hill.
- 1.2 The officers written report accompanying the planning application contained a précis of the public objections. One of the objections stated "One (car parking) space per dwelling is inadequate as some of the flats could have more than one car and will have visitors. This will lead to parking on Bedhampton Hill restricting visibility to drives and Maple Wood near the brow of the hill, resulting in a hazard and congestion. Maple Wood has a right turning lane, but there is insufficient space for one opposite the proposed access for the flats. Overspill parking will also occur in Maple Wood, again blocking drives."
- 1.3 The Highway Authority's response was that the proposal had been assessed in terms of likely traffic impact and given the likely low usage of the access and the on-site parking provision meeting the local planning authorities standards the proposal was acceptable subject to the developer entering into a legal agreement for the promotion of a Traffic Regulation Order (TRO) to regulate on-street parking on Bedhampton Hill should it prove necessary.
- 1.4 The planning application was refused on planning grounds.
- 1.5 The Development Control committee at their meeting on 18 August 2005 considered the committee's resolution of the 28 July to refuse the planning application on amenity grounds and clarification was sought as to whether additional reasons should be added to the refusal to reflect the fact that there was no binding agreements in place to the secure the Green Transport Contribution of £415 and the funding of the TRO of £5,000.
- 1.6 The committee added to the decision notice relating to the planning application additional reasons for refusal relating to not entering into binding arrangements to secure the Green Transport Contribution and funding of the TRO. The reason for refusal for the TRO stated;

"The proposal without completion of the appropriate binding arrangements is contrary to the Council's approved policy which, in accordance with PPG13, seeks to secure safe vehicular access to new and adapted existing development. The development

proposed could not guarantee to provide the required unobstructed visibility splays on the public highway to meet the vehicular needs of the new residents and the highway users of Bedhampton Hill. The proposal is therefore contrary to Policies T5 and T6 of the Hampshire County Structure Plan 1996-2011 (Review), Policy T1 of the Havant Borough Local Plan 1994 and Policy T14 of the Havant Borough District-Wide Local Plan 1996-2011."

- 1.7 The applicant went to appeal and pre-inquiry a unilateral agreement was signed by the developer relating to making a financial contribution towards the promotion and implementation of a TRO.

- 1.8 The Planning Inspector in his reasons for making his decision stated:

"With regard to the second main issue (the development's effect on the safety and free flow of traffic in Bedhampton Hill), it is proposed to use the existing access adjacent to Chase Cottage to serve the proposed development. Given that the existing development is served by two accesses, one of which would not be available to the proposed development, and bearing in mind also the increased frequency of traffic movements that would arise, I consider that the proposal includes new access arrangements to which Structure Plan policy T6 and Local Plan Policy T7 apply.

I observed at the site visit several vehicles parked nearby on Bedhampton Hill which in relation to the access to the proposed development obscured the visibility of traffic approaching from the north-east. The Council's evidence indicates that this parking is indiscriminate and occurs during daylight and darkness in association with the residential properties fronting the road. In my opinion, because of this restricted visibility, vehicles emerging from the proposed development would have to move out into the carriageway to obtain sight of, and be seen by, traffic approaching from the north-east.

Bedhampton Hill is a busy road linking the urban area to the nearby strategic network of the A27 and A3(M). Therefore, given the nature and volume of traffic involved, I consider that the restricted visibility from the access to the appeal site could give rise to conditions significantly harmful to the free flow and safety of traffic on the highway.

The appellant has submitted a planning obligation by unilateral undertaking, indicating that no development shall take place unless and until a contribution not exceeding £3,000 plus indexation has been paid to the Council towards a TRO that would secure visibility sightlines at the access to the appeal site. I agree with the Council's view that the TRO should secure a sightline of 70 metres north-east from the access serving the proposed development, and I note that the TRO would also define an alternative on-street parking area to accommodate the displaced vehicles.

In my opinion, such a TRO would deal adequately with the concerns about highway visibility at the access to the site, and therefore the contribution of a sum of money to enable it to be promoted and implemented is necessary. Also, taking account of the submission I consider that the sum of not more than £3,000 is reasonable in order to achieve the TRO, and in other respects the planning obligation meets the relevant tests of Circular 05/2005 – Planning Obligations.

However, the payment of a financial contribution would not itself secure the implementation of the TRO. In my opinion, because of the importance of the TRO in overcoming the concerns about highway visibility, it would be necessary for this matter to be controlled by planning condition. Reference is made in the Council's highway evidence (part of the submission dated 8 November), that an appropriate "trigger" would be the development could not be occupied until the TRO had been implemented. I consider that this would be reasonable, bearing in mind the submitted evidence that a TRO of this nature should take 6 to 9 months to promote and implement, and also that a financial contribution is available that would assist in dealing with the matter within a reasonable period of time.

Subject to such a condition, I consider that the proposal would not adversely affect the safety and free flow of traffic in Bedhampton Hill and would accord with Structure Plan Policy T6 and Local Plan Policy T7."

1.9 The Planning Inspector in his "Formal Decision" statement stated:

"I allow the appeal and grant planning permission for the subdivision of existing dwelling into 6 No. self-contained 1 bedroom flats with associated parking utilising the existing access to Bedhampton Hill at 49 Bedhampton Hill, Havant, Hampshire, PO9 3JN in accordance with the terms of the application ref: 04/61302/007 dated 15 July 2004 and drawings submitted therewith, as clarified in paragraph 2 above, subject to the following conditions:

(8) The development hereby permitted shall not be brought into use until a Traffic Regulation Order has been implemented to prohibit the parking of vehicles along the south-east side of Bedhampton Hill for a distance of 70 metres north east of the vehicular access to the development."

1.10 The Highway Authority has prepared a waiting restriction Order that meets the Inspector's decision. The Highway Authority decided that in this instance it would be inappropriate on safety grounds to merely promote the restriction in isolation and that a holistic approach should be adopted that reflects the likely impact the measure would have on the displaced on-street parking and ensuring that this parking relocates to locations where it would not interfere with the free flow of traffic and affect the safety of highway users. The waiting restriction (No waiting, at any time) scheme that evolved met the following objectives:

- (a) secured the sight line on the south east side of Bedhampton Hill for a distance of 70 metres north east of the vehicular access to the development,
- (b) provided an on-street parking area on the north east side of Bedhampton Hill to accommodate a proportion of the displaced parking,
- (c) cleared the junction of Bedhampton Hill cul-de-sac thereby ensuring displaced parking did not compromise road safety at this location, and
- (d) cleared the junction of Maple Wood thereby ensuring displaced parking did not compromise road safety at this location and deter the use of the road for parking non-local drivers.

The waiting restriction scheme is shown on drawing number Hi 12/223. The waiting restriction proposals have been advertised for public comment from July 11 2006 for a 21 day period.

2.0 OBJECTIONS RECEIVED

- 2.1 The local County Councillor (Mrs Ann Buckley), Borough Councillor (Jenny Wride) have submitted letters of objection along with 33 letters from residents or their representatives, a letter from a charity and a letter from a business. The pertinent reasons for objecting have been precised and along with the officers' comments are shown on the attached schedule with an additional schedule identifying the objectors and their addresses.
- 2.2 Copies of the objections have been placed in the Members' Library.

3.0 HIGHWAY CONDITIONS

- 3.1 B2177 Bedhampton Hill is a single carriageway road which performs the function of a local distributor road linking the residential areas of Bedhampton and Leigh Park to the strategic road network (A3(M) and A27(T)). The road also forms part of the Hampshire Lorry Route network. The road is a bus route and has a system of streetlights. The road is subject to a 30mph speed limit in the vicinity of the proposed development's access.
- 3.2 The road carries on a typical weekday approximately 1200 and 1400 vehicles (two-way) in the morning and evening peak hours respectively.

4.0 PERSONAL INJURY ACCIDENTS

- 4.1 The Hampshire Constabulary personal injury accident database has been interrogated to identify those accidents reported to the Police on Bedhampton Hill.
- 4.2 In the 5 year period from 01/07/2001 to 30/06/2006 there have been 4 recorded personal injury accidents on the section of Bedhampton Hill 100m either side of the proposed new vehicular access. These accidents resulted in 4 casualties of slight severity.
- 4.3 One accident occurred immediately to the north east of the proposed vehicular access and involved a heavy commercial vehicle travelling south-west which collided with a car parked on the nearside. This car then was pushed into rear of a further parked car.

5.0 POLICE COMMENTS

- 5.1 The proposals have been discussed with the Police officer (P.C. K Joyner) in charge of traffic management measures for the Havant area.
- 5.2 The Police have raised no objection to the proposal but have concerns that the proposal could result in traffic speeds increasing on this section of Bedhampton Hill. If

this were to occur and this resulted in a speed enforcement or road safety problem the Police would need to be certain that the Highway Authority in consultation with the Police would introduce appropriate measures to ameliorate such problems. The Highway Authority are happy to give this undertaking and on this understanding the Police are happy to stand by their comments.

6.0 LEGAL OPINION - PLANNING

- 6.1 In legal terms the Council, in exercising order making powers under the provisions of the Road Traffic Regulation Act 1984, is not bound to make the Order for double yellow lines as envisaged in the Planning Inspector's decision letter: the merits of the proposal will fall to be considered in traffic management terms according to the 1984 Act and in particular sections 1, 2 and 122 of that Act.

- 6.2 The relevant planning condition contained in the Planning Inspector's decision letter dated 6th January 2006 reads:

" (8) The development hereby permitted shall not be brought into use until a Traffic Regulation Order has been implemented to prohibit the parking of vehicles along the south-east side of Bedhampton Hill for a distance of 70 metres north-east of the vehicular access to the development."

The effect of this condition is, therefore, that the development permitted by the planning permission (ie the subdivision of the existing dwelling at 49 Bedhampton Hill into 6 no. self-contained 1 bedroom flats with associated parking utilising the existing access to Bedhampton Hill) can lawfully be constructed and completed but the use/occupation of the development will be unlawful under the Town and Country Planning Act 1990 unless and until a Traffic Regulation Order embodying or including the restriction envisaged by the Inspector is made. The proposed Order, as advertised, includes that restriction together with further waiting restrictions in the immediate locality.

- 6.3 If, ultimately, the Council's Executive were to resolve, on traffic grounds, not to make a Traffic Regulation Order which meets or fully meets the stipulation in this planning condition, it would be open to the owner/developer of no. 49 to make a further application to the Council for planning permission to proceed with the development without complying with the condition. The Council, as local planning authority, would be bound to consider such an application on its planning merits in the usual way. If, however, for whatever reason, the owner/developer were to decide to go ahead and use/occupy the development in breach of the planning condition, this would amount to a breach of planning control and the Council would need to consider, according to the requirements of the planning legislation, whether it would be expedient to take planning enforcement action to remedy the breach by requiring the use/occupation of the development to cease. "

7.0 CONCLUSIONS

- 7.1 The Highway Authority objected to the proposed redevelopment of 49 Bedhampton Hill on safety grounds. The Highway Authority was concerned that the likely increased vehicular use of the development's access would be compromised by the

indiscriminate on-street parking that takes place on Bedhampton Hill to the south-east of the development's access.

- 7.2 The traffic conditions prevailing on Bedhampton Hill, the personal accident history record of this section of Bedhampton Hill and the level and location of on-street parking has not significantly changed since the planning application was first considered and the present time.
- 7.3 The objector's have raised no material considerations that would change the Highways Authority's view, subsequently endorsed by the Planning Inspector, that if the Traffic Regulation Order is implemented as proposed then the likely traffic generated by the redevelopment of 49 Bedhampton Hill could be catered for in a safe manner by the proposed vehicular access.

8.0 RECOMMENDATIONS

- 8.1 That the proposals for Bedhampton Hill, Bedhampton cul-de-sac and Maple Wood be implemented as advertised and shown on drawing number Hi 12/223.

Head of Development & Technical Services

Author: Andrew Maclean

Background Papers

Planning Application 04/61302/007

Planning Appeal Decision (Appeal Ref: APP/X1735/A/05/1187811)

Signed: Paul Griffith
Solicitor to the Council

Planning condition on construction traffic example from Staffordshire



Form X (ii)

Development Services Department
Highways and Transport Service
Town and Country Planning Act, 1990
General Development Order 1995

To: MR GR Benson
Newcastle - Under - Lyme Borough Council
Civic Offices
MERRIAL STREET
NEWCASTLE - UNDER - LYME
ST5 2AQ

Applicant: MR RJ MOTTERSHEAD
Address: RJ & MR MOTTERSHEAD
ASTON FARM
ASTON
MARKET DRAYTON
TF9 4JF

Application Type: FULL
Application Number: N1000122
Date Received: 03-MAR-2010
Road Number:

Officer: Barry Alcock
Date: 18-MAR-2010

Particulars of Development:
ERECTION OF AN AGRICULTURAL BUILDING FOR FREE RANGE HENS.

Location of Development:
ASTON FARM, ASTON, MARKET DRAYTON, TF9 4JF.

CONDITIONAL:

Recommendations: There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:-

1. Before the proposed development commences the site access shall be designed to a standard that provides:

- a minimum width of 7.3m for the first 20m rear of the D2037 carriageway edge;
- surfaced in a bound material for the first 20m rear of the D2037 carriageway edge;
- kerbed junction radii;
- surface water drainage interceptors sited across the access immediately to the rear of the highway boundary;

in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be fully completed in accordance with the approved details before any development commences on site.

2. Before any development commences a Construction Method Statement will be required to be submitted to and be approved by the Local Planning Authority. The statement shall provide details for;

- The routing of construction vehicles to the site,
- Storage of materials, plant and materials used in constructing the development,
- parking of vehicles for site operatives and visitors.

The development shall thereafter be carried out in accordance with the approved Construction Method Statement.

3. Before any development commences a routing agreement shall be submitted to the Local Planning Authority for approval, detailing the proposed highway routes for all HGVs which are to be used in connection with the proposed development including;

- the restriction of all HGV access / exit to the site via the A51 and Aston Lane;
- the use of rigid type HGV vehicles for all feed deliveries and egg collection;

The agreed routing agreement shall remain in operation for the life of the development.

