
Appeal Decisions

Site visit made on 5 December 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 28 December 2016

Appeal A Ref: APP/L1765/W/16/3158240

The Printworks (Rear Building), Ember House, Moorside Road, Winchester SO23 7RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Paragraph P.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr Nick Ekins of Gentian Projects against the decision of Winchester City Council.
 - The application Ref 16/00926/PNCOU, dated 19 April 2016, was refused by notice dated 17 June 2016.
 - The development proposed is conversion of the building from storage and distribution (Use Class B8) into 1 residential unit (Use Class C3) under Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.
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Appeal B Ref: APP/L1765/W/16/3158243

The Printworks (Middle Building), Ember House, Moorside Road, Winchester SO23 7RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Paragraph P.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr Nick Ekins of Gentian Projects against the decision of Winchester City Council.
 - The application Ref 16/00923/PNCOU, dated 21 April 2016, was refused by notice dated 17 June 2016.
 - The development proposed is conversion of the building from storage and distribution (Use Class B8) into 1 residential unit (Use Class C3) under Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.
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Decision

1. Appeal A and Appeal B are both dismissed.

Procedural Matters

2. The applications were submitted under Schedule 2, Part 3, Class P of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (hereafter referred to as Class P). This permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order¹ to a use falling within Class C3 (dwellinghouses) of that Schedule.

¹ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.

3. Permission for a change of use under Class P is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval will be required in relation to those matters listed under Paragraph P.2(b). The applications to the Council were made on that basis.
4. The two applications relate to separate buildings on the same site. The main issues in each case are identical and therefore I have dealt with both together.

Main Issues

5. The Council has raised no objections in relation to the impacts of air quality on the intended occupiers of the development; contamination risks in relation to the building; flooding risks in relation to the building; noise impacts of the development; or transport and highways impacts.
6. The main issues in this case are whether the buildings to which the developments relate are located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, and if so, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

Reasons

7. The appeal sites lie within the Winnall Industrial Estate, to the rear of a derelict three storey office building known as Ember House. Formerly occupied by Hampshire Constabulary, both buildings have been vacant since 2011. Ember House was granted prior approval for conversion to 12 residential units in September 2015 under Class O of the above Order.
8. The buildings in question are fairly typical warehouse units. Some investment would be required to bring them back into use but in my opinion they remain suitable for the purpose for which they were originally intended. That said, I accept that the age and condition of the buildings would make them less attractive to prospective occupiers, particularly given the availability of more modern alternatives in Winchester, Eastleigh and other nearby locations along the M3 corridor.
9. On the basis of the available evidence, I am not persuaded that the loss of the B8 floorspace provided in either building would be significant in employment land supply terms. Whilst this weighs in favour of the scheme it is not the primary matter for consideration. The Order² requires the decision maker to determine whether the introduction of, or an increase in, residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services. I must therefore look wider than the appeal sites to the industrial estate as a whole.
10. S38(6) of the Planning Act³ does not apply to prior approval cases. Nevertheless, the provisions of the development plan remain relevant to the planning judgements on the subject matter of the prior approval and can therefore be taken into account as a form of evidence for that subject matter. Policy CP9 of the adopted Winchester District Local Plan Part 1 – Joint Core Strategy (2013) seeks to resist the loss of existing employment land and floorspace within the B Use Classes.

² Schedule 2, Part 3, Paragraph P.2(b)(vi)

³ The Town and Country Planning Act 1990, as amended.

11. Policy WIN11 of the emerging Winchester District Local Plan Part 2 – Development Management and Site Allocations⁴ states that the Winnall area will remain as the main employment area in Winchester Town. The appeal sites are located within identified sub area 1 which is described as the core employment area in Winnall focussed on Moorside Road. Within this zone there is a presumption in favour of the retention of B Use Classes 'to ensure this area continues as a centre for more traditional employment opportunities'. The emerging policy has undergone examination and as such it has reached an advanced stage of preparation. I therefore attach it significant weight.
12. It is evident from adopted and emerging development plan policy, as well as my own observations, that Winnall is a strategically significant employment location within the Council's administrative area. It would thus fall within the definition of an area that is important for providing storage or distribution services or industrial services or a mix of those services. To my mind, any development which, individually or cumulatively, undermines this, could have serious implications for the future of the industrial estate as a whole.
13. I have not been given details of the Use Classes for those premises immediately adjoining the appeal site. However, I am confident that they would all fall within the B Classes, including an element of general industrial activity. In my view the introduction of residential use in this context would be inherently objectionable. Given surrounding uses, there is a significant risk that occupiers of the proposed dwellings would be subjected to unacceptable levels of nuisance.
14. Measures such as soundproofing the buildings could be secured by condition but this would not be sufficient on its own to prevent complaint to the Council's Environmental Health Service in relation to other impacts such as vibration, smell, fumes, smoke, soot, ash, dust or grit. Whilst negative impacts have not been identified by the submitted Air Quality Assessment and Noise Impact Assessment, my experience is that industrial estates are constantly evolving and therefore there can be no guarantee that such problems will not arise in future. In my view, businesses on the industrial estate should have the freedom to operate without fear of complaint from local residents.
15. I appreciate that Ember House has already had prior approval granted for conversion to housing. However, this does not justify a further increase in the residential use of premises in the area. There is a high probability that local businesses would be adversely affected by such development at some future stage and this may lead to additional controls being placed upon those operations, a greater likelihood of the firms vacating as a result and a reduction in the attractiveness of their premises when marketed.
16. My attention is drawn to an appeal decision relating to a proposal for purpose built student accommodation elsewhere on the industrial estate. Full details of that case are not before me. Nevertheless, it is clear from the decision letter that the scheme would bring social, economic and environmental benefits which in the Inspector's view would outweigh the loss of a relatively small amount of poor quality employment floorspace. The present appeal proposals would bring considerably fewer benefits. Moreover, it seems to me that the minimum expectations of transient student occupiers in terms of living environment would not necessarily equate to those of permanent residents. For these reasons I do not consider the cases to be directly comparable.

⁴ Submission Local Plan incorporating Proposed Modifications (2016)

17. It has been suggested that the change of use of Ember House would somehow prejudice the reoccupation of the B8 units to the rear. As it stands, the building has not been converted and therefore there is no conflict between uses. Even if the development did go ahead, and there is no firm evidence to persuade me that it will, I do not consider that reuse or redevelopment of the buildings behind for B8 purposes would be impossible. They would also be suitable for B1 use.
18. Having regard to the above, I conclude that the appeal proposals would have an unacceptable adverse impact on the sustainability of the provision of storage or distribution services and industrial services in the surrounding area.
19. For the reasons given above, and having regard to all other matters raised, I conclude that both appeals should be dismissed.

Robert Parker

INSPECTOR