

Appeal Decision

Hearing held on 26 and 27 April 2017

Site visit made on 27 April 2017

by G P Jones BSc(Hons) MA MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/M1710/W/16/3162359

Land at Upper Neatham Mill Farm, Upper Neatham Mill Lane, Holybourne, Alton GU34 4EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Lamron Developments (Holybourne) Ltd against the decision of East Hampshire District Council.
 - The application Ref 31580/002, dated 3 August 2015, was refused by notice dated 27 July 2016.
 - The development proposed is described as Motorists' Service Area, comprising: petrol filling station, 60-bedroom hotel and restaurant, and 2 x drive thru restaurant/coffee shop, together with associated access and landscaping works.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. For the sake of greater clarity, and as indicated at the Hearing by the appellant, I have used the name of the appellant and site address as provided on the planning decision notice.
3. Planning permission was granted in 1992 for a petrol filling station on part of the appeal site. However, a significant amount of time has elapsed since that permission was granted and both parties when questioned considered that limited weight could be attached to this lapsed 1992 permission. I concur with this view.

Main Issues

4. Taking into account all that I have read, seen and heard at the Hearing the main issues are as follows:
 - Whether the principle and nature of the development proposed would be acceptable in this location and would comply with relevant development plan policies and national guidance;
 - Whether sufficient information has been provided to assess properly the impact of the proposal on Alton and other town centres;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the setting of a heritage asset;
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- The effect of the proposal on the living conditions of nearby residents; and
- Whether sufficient evidence has been provided to assess the effect of the proposal on protected species.

Reasons

The principle and nature of the development in this location

5. Policy CP2 of The East Hampshire District Local Plan: Joint Core Strategy 2014 (CS) defines Alton as a 'Market Town', thereby representing the most sustainable location for most new development in terms of access to local services and facilities. However, it is not in dispute between the two parties that the proposal lies outside of the defined development boundary within an area designated as countryside. Policy CP19 of the CS states that the only development allowed in the countryside will be that with a genuine and proven need for a countryside location.
6. There are no specific policies in the CS concerning motorists' service areas but saved Policy T11 from the East Hampshire District Local Plan Second Review 2006 (LP) relates to road user facilities. It states that such facilities will be permitted on main routes, but subject to the provision that they do not give rise to amenity problems and it specifically states that in the countryside they will only be permitted if there is a proven need for the facility and no suitable site can be found elsewhere.
7. It is the view of East Hampshire District Council (the Council) that these policies, together with paragraph 31 of the National Planning Policy Framework (the Framework), mean that a proven need for the facilities has to be demonstrated. The appellant considers that need does not have to be demonstrated and that even if it did then there is a demonstrable need for the facilities proposed. The appellant argues that it is inevitable that a motorists' service facility would need to be in a countryside location and has produced an assessment¹ which examined alternative sites along the A31 between Alton and Alresford.
8. I agree with the appellant that the Framework does not specifically require the demonstration of need. In terms of relevant development plan policies, LP Policy T11 pre-dates the Framework, but it is a saved policy, and CS Policy CP19 post-dates the Framework. Both of these policies relate to restraining development within the countryside, and I see no conflict with such aims and the objectives of the Framework in this regard. As such I consider that these policies have significant weight, and accordingly due to the countryside location there is a requirement for the appellant to demonstrate a proven need for the proposed facilities.
9. Turning then to the issue of need, while the main parties disagree on the suitability of the appeal site, the parties do agree that there is a need for a budget hotel somewhere within the Alton area. There is some hotel provision within the locality for motorists traversing the A31 between Winchester and Farnham at the Premier Inn, Farnham and the Travelodge at Four Marks. However, I accept the evidence that has been presented that hotels in the area, and in particular budget hotels, are heavily subscribed with business denied at times.

¹ Draffin Associates - Landscape and Visual Impact Assessment (addendum)

10. As regards alternative sites within the development boundary for a hotel, the former Coors brewery site has been cited. The masterplan for the site incorporates a hotel on part of the site as a possible option. However, from the evidence I have seen and heard proposals for the re-development of the site are not at an advanced stage and, for example, a planning application has not been submitted to the Council. Therefore I attach only limited weight to the Coors brewery site as an alternative site for a hotel. In terms of other potential sites that were referred to, namely at Lynch Hill and Wilson Road, I consider that the weight of evidence suggests that neither of these sites would be likely to be available for a hotel.
11. For these reasons it is my view that, despite not being in accordance with the restrictively-worded saved LP Policy TM3, a need for a hotel has been demonstrated and also that there are no alternative sites that are currently available elsewhere within the Alton area. However, I deal with issues pertaining to the likely scale of the proposed hotel later on in my decision.
12. There is also dispute between the parties as to the need for the petrol filling station, restaurant and drive-thru facilities. There are two petrol filling stations within Alton town centre: the BP garage and Sainsbury's. Although these provide services for the residents of Alton and Holybourne they are of limited benefit for motorists traversing the A31, except in emergencies, as their use would entail a detour into the centre of Alton.
13. However, as detailed in the amended Appendix 5 of the Council's statement and discussed at length at the Hearing, there are petrol filling stations that are accessed off the A31 within a reasonable distance of the appeal site. These include the petrol filling stations at Four Marks and Upper Froyle. Although these do not provide the range of facilities and amount of car parking that the proposed development would, nevertheless I consider that there is already adequate provision for motorists as regards petrol filling stations along this stretch of the A31. Furthermore, I have not been presented with any substantive evidence that these existing petrol filling stations cannot be accessed safely.
14. My conclusions in regard to the adequacy of the existing petrol filling stations are supported by the fact that the guidance in Department for Transport Circular 02/2013 recommends motorway service areas at a maximum of distance of no more than 28 miles apart, with opportunities to stop at intervals of every half an hour on the strategic road network. Although not directly applicable, the level of provision as recommended in this Circular would already be met by those facilities already operational in the locality.
15. The GOAD report indicates that Alton town centre is under-represented in terms of cafes and takeaways but not public houses. However, this does not in itself demonstrate a proven need for the proposed facilities that would be in a countryside location some distance away from Alton town centre. The proposed restaurant and two drive-thru restaurants/coffee shops would provide a different offer from the cafes and restaurants in Alton town centre, and would be primarily aimed at the motorists' market. They would undoubtedly also be used by local residents and their out of centre location would be more likely to compete with, rather than complement, Alton town centre.
16. There is a similar Beefeater public house/restaurant accompanying the Premier Inn at Farnham and the existing petrol filling stations sell food and drink, albeit

not in the format of drive-thrus. Therefore there is already provision for motorists to obtain refreshments along this section of the A31.

17. Although I consider that paragraph 31 of the Framework does not specifically require a need test, it does state that the primary function of roadside facilities should be to support the safety and welfare of the road user. I am not convinced that the scale of the development proposed is either necessary or proportionate to support the safety and welfare of road users traversing this stretch of the A31. The appellant contends that this level of provision is required in order to make the scheme economically viable. However, I have not been provided with any substantive evidence in this regard.
18. CS Policy CP19 and LP saved Policy T11 specifically require a proven need for a development of this type in the countryside. This stretch of the A31 is not a trunk road and overall the existing level of services within the locality to my mind is commensurate with a route of this kind. Based on the written evidence and that presented at the Hearing I consider that a proven need for the overall range of facilities proposed has not been robustly demonstrated. Consequently it is my view that, when taken as a whole, the proposal would not comply in this respect with LP saved Policy T11 and CS Policy CP19 and I attach substantial weight to this conflict.

Effect on local centres

19. Both parties agree that the proposal cannot be disaggregated and that the sequential test has been complied with. The proposal would be outside of the default floorspace threshold set in paragraph 26 of the Framework. However, paragraph 26 also refers to locally set thresholds, and the accompanying text of LP saved Policy TC2 sets a lower threshold of 500 square metres and includes specific reference to leisure and entertainment uses.
20. Annex 2 of the Framework provides a definition of main town centre uses that includes: "...; *leisure, entertainment facilities the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos health and fitness centres, indoor bowling centres, and bingo halls);...*". The presence of a comma rather than a semi colon between the words 'leisure' and 'entertainment' leads me to conclude that the list of examples that follows could be considered within the category of both leisure and entertainment rather than specifically one or the other. Consequently, and despite leisure and assembly uses being designated Class D2 in The Town and Country Planning (Use Classes) Order 1987 (as amended), and restaurants and hot food takeaways being designated either Class A3 or A5, it is my view that the proposed restaurant and the two drive-thru restaurant/coffee shops would fall within a reasonable definition of leisure development in terms of paragraph 26 of the Framework.
21. In considering a motorists' service area in relation to main town centre uses it is realistic to assess the constituent parts of the overall proposal rather than only consider it as a bespoke development in its own right. In doing so, the cumulative floorspace of the restaurant, and two drive-thru restaurant/coffee shops would comfortably exceed the 500 square metres threshold. The proposal would not accord with a number of relevant saved LP and CS policies and thus the impact test requirements of paragraph 26 of the Framework are engaged.

22. I have already considered the requirement to demonstrate need for the proposal. As a result of the specific wording and status of the development plan, it is reasonable to apply both a need test and require an impact test since the former relates to the countryside location and the latter to the type of development proposed.
23. Turning then to the adequacy of the information provided by the appellant in regard to an impact test, I acknowledge that data sources are not as well-developed and therefore relevant information is more difficult to provide for the proposed uses than, for example, a retail use. In addition, the appellant has provided some information including actual and predicted increases in expenditure on leisure services, including food and drink uses.
24. Nevertheless the level of information provided falls significantly below that set out in the Planning Practice Guidance (PPG)². For example, the appellant has not established the state of the existing centres nor the 'no development' scenario, has not assessed the likely impact on centres beyond Alton and has not adequately assessed the proposal in terms of vitality and viability of the primary catchment area either at present or up to five and ten years from now. Furthermore, I give significant weight to the guidance in the PPG that it is for the applicant to demonstrate compliance with the impact test and that failure to undertake an impact test could in itself constitute a reason for refusal.
25. I give only limited weight in terms of the impact test to the fact that neither Alton Town Council nor the Council's own Economic Development and Tourism Officer objected to the proposal. Overall it is my view that the appellant has not provided sufficient information in regard to the potential impact of the proposal on Alton and other nearby town centres, and consequently the proposal does not accord with the PPG and paragraph 26 of the Framework, and it has not been adequately demonstrated that the proposal would comply with saved Policy TC2 of the LP.

Character and appearance

26. The appeal site is located on the eastern outskirts of Holybourne and is bounded by Montecchio Way and the A31 to the south-west and east respectively. The appeal site slopes from broadly the south to the north and has the character and appearance of an open area of partially managed grassland with areas of scrub.
27. There is a public right of way that crosses the site and at present there is the experience of travelling from Holybourne along the increasingly rural character of Upper Neatham Mill Lane and then out into the wider countryside beyond Upper Neatham Mill Farm. The presence of traffic noise was noticeable on the appeal site although the extent of this varied across the site. Nevertheless, I consider that the traffic noise does not detract significantly from what is currently an experience of being in the countryside. Consequently, the footpath through the appeal site provides a pleasant countryside recreational experience in itself and is not just a link from Holybourne to the wider countryside beyond. The proposal would place one of the drive-thrus and a large car parking area adjacent to one side of the footpath, thereby detrimentally altering the experience for users of this footpath.

² PPG Paragraphs 016 and 017: Reference ID: 2b-016-20140306 and 2b-017-20140306

28. The proposal would give rise to a significant urbanising effect as the majority of the appeal site, save for the proposed picnic area, the zone around the seasonal rill and landscaping around the site perimeter, would be replaced by the proposed buildings and car parking. In addition, there would be significant groundworks involved in order to achieve the proposed terraced levels across the site, as well as the introduction of lighting and signage. The proposed access and egress would serve to open up views into the site from Montecchio Way and the A31.
29. It is evident that the layout of the proposal has been carefully designed, including ensuring that the largest of the proposed buildings would be sited on the lowest ground, and that important landscape features such as the seasonal rill would not be encroached upon. However, the overall amount of development would substantially alter the landscape character and would not sit well with the surrounding area that, notwithstanding the presence of the A31 and Montecchio Way, retains an open and rural character.
30. The difference in levels between the appeal site and the nearest parts of Holybourne would serve to exacerbate the proposal's visual impact. Despite the presence of mature trees along most of the site boundaries and the proposed additional planting, the proposal, and especially the hotel/restaurant element, would be highly prominent initially and would remain visually intrusive within the landscape even after the landscaping has developed, particularly in the winter months. Consequently, my view accords with the Council's assessment of the proposal giving rise to a major adverse effect on the landscape character and a substantial adverse visual impact in the short term that would be reduced to a moderate adverse impact in the longer term.
31. Therefore I consider that the proposal would represent a significant intrusion into the countryside that would be contrary to CS Policies CP20 and CP29, LP saved Policy T4 and Policy DE2 of the Alton Neighbourhood Development Plan, 2015 (ANDP). Taken together these policies seek, among other matters, to protect and enhance natural features which contribute to landscape character, protect and enhance land at the urban edge, ensure development is appropriate and sympathetic to its setting and protect the amenity of footpath users.

Effect on the setting of a heritage asset

32. The Grade II listed building of Upper Neatham Mill House (hereafter referred to as the Mill House) lies to the west of the appeal site, just beyond the complex of buildings comprising Upper Neatham Mill Farm. Adjacent to the Mill House, on the other side of the listed building from the appeal site, is the mill race and also the mill pond lies close to the Mill House. These features have an important visual, historic and functional relationship with the listed building and thus the setting of this listed building is of particular importance to its significance.
33. The Mill House is situated at the end of Upper Neatham Mill Lane, which is a cul de sac that takes on an increasingly rural character heading east along its length. The Mill House has a large side garden and a walled garden to the front of it that in part adjoins the courtyard of Upper Neatham Mill Farm. In addition to the mill-related features the overall open and rural setting of the Mill House, that expands eastwards into the appeal site, is an integral part of its significance. Although the traffic from the nearby Montecchio Way is clearly

- audible and often visible, particularly in the side garden, this does not detract significantly from the overall rural character of the Mill House and its setting.
34. The proposal is an outline application with all matters reserved except means of access and layout. A number of plans have been produced which depict the layout, landscaping and potential design and scale of the proposed hotel. At the Hearing I heard that whilst the hotel plans were illustrative only they had been designed to accommodate the needs of a Premier Inn facility and the number of bedrooms would be unlikely to be reduced for viability reasons. As such, whilst the final design may alter, the scale of the proposal including the number of floors would be likely to be similar to that depicted on the submitted illustrative plans.
35. At the Hearing the appellant considered that the top floor of the proposed hotel would be visible from the Mill House, whilst the Council considers that at least the top floor and potentially other floors would be visible. I note that the appellant's Heritage Impact Study indicates that: *"...the upper storeys of the hotel will be the only part of the development to be visible in direct views from the listed building"*. However, it is not in dispute between the parties that, in terms of the Framework, the proposal would give rise to less than substantial harm to the significance of a heritage asset, and I concur with this view.
36. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special regard should be had to the desirability of preserving the setting of listed buildings. This means that considerable weight and importance must be given to any harm caused to heritage assets in the planning balance.
37. The appellant argues that in terms of weighing the less than substantial harm against the public benefits of the proposal, as required in paragraph 134 of the Framework, there would be considerable public benefits that would outweigh the less than significant effect to the significance of the heritage asset that has been identified.
38. In terms of public benefits, it would increase the supply of budget hotel accommodation within the Alton area thus potentially increasing visitor numbers using the services and facilities in Alton and Holybourne. The proposal would provide facilities for motorists that would be easily accessed off the A31, and thereby would make a contribution to road safety objectives and driver convenience whilst reducing unnecessary traffic in Alton town centre. Also the proposal would represent a significant capital investment that would provide some short-lived construction employment opportunities. It would also create longer term employment opportunities, both full-time and part-time, at the various facilities with an estimated 95 full-time equivalent jobs being provided. In addition, the proposal would utilise sustainable building principles and provide some ecological and landscape enhancements, including additional planting around the perimeter of the site and would improve public access to the site.
39. Although there would be some public benefits, I do not consider that such public benefits would outweigh the less than substantial harm to the setting of the Mill House that I have identified. In accordance with the guidance contained within the Framework I attach considerable weight to this identified harm. Therefore I consider that the proposed development would not accord

with the Framework or CS Policy CP30 and LP saved Policy HE12 that, among other matters, seek to conserve and enhance the setting of heritage assets.

Living conditions

40. The Council considers that the proposal would affect the outlook of the occupiers of the nearest residential properties of Upper Neatham Mill Farm and the Mill House. When questioned at the Hearing the Council stated that the proposal would give rise to an overbearing effect on the occupiers of these properties. Due to the distances involved between the nearest built part of the proposal and these properties I do not find this to be the case. In terms of the public footpath I have already considered the effect of the proposal on the character and appearance of the area including views for its users.
41. Overall I consider that the proposal would not significantly adversely affect the living conditions of the occupiers of the nearest residential properties and that the proposed development would comply with the objectives of the Framework in this regard.

Protected species

42. The Council's seventh reason for refusal related to whether sufficient information had been provided in order to assess the likely effects on protected species; particularly dormice, bats and reptiles. This was discussed at length at the Hearing and, while the issue of a suitable translocation site for reptiles was agreed, the Council considered that there was not sufficient information provided concerning the lighting scheme to allow for a proper assessment of the potential impact on bat species. Furthermore, the survey methodology in regard to dormice did not conform in its entirety to recommended best practice. Although the appellant's assessment found that dormice were not present on the appeal site, the Council considered that based on the evidence of neighbouring sites the presence of dormice was likely and therefore a mitigation strategy that accounted for such presence had to be provided in order to discharge its obligations in regard to a European protected species.
43. Consequently, it was agreed that after the Hearing had closed the appellant would provide the Council with a mitigation strategy, including additional lighting details, for its consideration. An Outline Protected Species Mitigation Strategy from Richard Tofts Ecology has now been provided, and as a result the Council considers that it has sufficient information in regard to its duties concerning protected species. Therefore the Council is now able to recommend a suitable planning condition should the appeal be allowed.
44. In the light of this additional information the Council has withdrawn its objection to this particular reason for refusal and I concur with this approach. Therefore I conclude that sufficient information regarding protected species has now been provided and thus the proposal would comply with the Framework and CS Policy CP21 in regard to the protection and, where possible, the enhancement of biodiversity.

Unilateral Undertaking

45. The appellant has submitted a Unilateral Undertaking (UU) that has been agreed with Hampshire County Council in its role as Highways Authority. At the Hearing the Council did not raise any objections to the submitted UU. However,

since I am dismissing the appeal for other reasons I do not need to consider these matters in detail, or whether the obligation would meet the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.

Other matters

46. A number of previous appeal decisions and court judgments have been cited by the appellant. In terms of the appeal decisions cited in pages 4 and 5 of the Sequential and Impact Assessment by MWA, although I do not know the full circumstances of these cases I note that these are of a significant vintage, pre-dating the Town and Country Planning Act 1990 in three of the cases. Consequently I attach very limited weight to these particular decisions. In addition, the cases cited pertaining to the sequential test have already been agreed by the Council as being applicable and I have taken this into account.
47. A small part of the appeal site lies within Flood Zone 2 and the issue of flooding and drainage has been raised by a number of members of the public in their representations. However, I note that Thames Water did not object to the proposal subject to the imposition of a planning condition. Furthermore I have not been presented with any firm evidence that it would not be possible to provide adequate surface and foul drainage.

Planning balance and conclusion

48. As the Council has an up to date development plan, the final bullet point of paragraph 14 of the Framework does not apply. In accordance with the first part of paragraph 14 of the Framework and CS Policy CP1 I have considered this proposal in the context of the presumption in favour of sustainable development. In terms of paragraph 7 of the Framework there are no other significant economic, social or environmental benefits beyond those already detailed in relation to the issue of the public benefits and a heritage asset.
49. However, the proposal would give rise to less than substantial harm to the setting of a listed building, would have a significant detrimental impact on the character and appearance of the area, and a proven need for the overall level of development has not been demonstrated. In addition some of the possible benefits of the proposal that have been cited would be tempered by associated disbenefits. For example, the proposed new facilities would be likely to compete to a degree with those already existing in Alton and Holybourne, and sufficient information has not been provided to allow for a robust impact test to be undertaken. Also the proposed ecological mitigation would largely be required to try to offset the loss of habitat that developing most of the site would entail.
50. I conclude that none of the benefits of the proposal in terms of sustainable development that I have previously identified would outweigh the significant harm that would arise and which I have also already identified. Consequently, for the reasons set out above, and having regard to all other matters raised including other relevant development plan policies, I conclude that the appeal should be dismissed.

GP Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Grant Audley-Miller

Adrian Draffin	Draffin Associates
Colin Lott	Fibonacci Architects
Malcom McPhail	Lamron Estates Ltd
Ian Sowerby	Bell Cornwell LLP
Richard Tofts	Richard Tofts Ecology
Mark Wood	MWA

FOR THE LCOAL PLANNING AUTHORITY

Julie Boschi	East Hampshire District Council
Matthew Ellis	Urban Vision
Peter Fellows	East Hampshire District Council
Julia Mansi	East Hampshire District Council
Tristan Norton	East Hampshire District Council
Nick Upton	East Hampshire District Council

INTERESTED PERSONS

Chris Bevington	Local resident
Alan Burbridge	Councillor and local resident
Allan Chick	Parish councillor and local resident
Alex Ferry	Local resident
Jeroen Hodges	Holybourne Village Association
Tessa Laughton	Local resident
Christopher MacColl	Local resident
John Tomalin	Local resident
Veronica Tomalin	Local resident
David Tomlinson	Holybourne Village Association
James Voller	Councillor and local resident
Helen Walters	Local resident

Glynis Watts

Councillor and local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Indicative Ecological Mitigation Areas – plan reference 635/03
2. Extract from 'Bats and Lighting: Overview of current evidence and mitigation' University of Bristol 2014.

DOCUMENTS SUBMITTED SUBSEQUENT TO THE HEARING

1. Richard Tofts Ecology – Outline Protected Species Mitigation Strategy, May 2017
2. Extract of Location Plan 4720 P 01 Location Plan with Hotel Overlaid 27.4.17
3. Extract of Location Plan 4720 P 01 Location Plan with Hotel Overlaid 27.4.17 – version 2