



Appeal Decision

Site visit made on 20 February 2019

by Martin S. Lee, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2019

Appeal Ref: APP/M1710/W/18/3215690

Frith End Lodge, Frith End Road, Frith End, Bordon, Hampshire, GU35 0QZ

- 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 Mrs J Smith (Healthy Hounds Canine Hydrotherapy) against the decision of East Hampshire District Council.
 - The application Ref 28541/003, dated 7 March 2018, was refused by notice dated 7 September 2018.
 - The development proposed is described as the “replacement of existing stables with new building housing canine hydrotherapy pool. Change of use from horses stables to business use”.
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Decision

1. The appeal is allowed and planning permission is granted for the “replacement of existing stables with new building housing canine hydrotherapy pool. Change of use from horses stables to business use” at Frith End Lodge, Frith End Road, Frith End, Bordon, Hampshire, GU35 0QZ in accordance with the terms of the planning application Ref 28541/003, dated 7 March 2018, subject to the conditions on the attached schedule.

Preliminary Matters

2. As part of the appeal submissions the appellant has submitted a revised site layout plan, modifying the parking arrangements to increase the number proposed parking spaces from 3 to 4, effectively dealing with a shortfall in the level of on-site parking required by East Hampshire District Council Vehicle Parking Standards SPD (the SPD) and thus resolving that component of the single, stated reason for refusal.
3. In deciding whether to accept this amended plan, I am mindful of the principles set out in *Wheatcroft*¹. In this case, I note from the application form that the Appellant is the owner of the appeal site and do not consider there would be prejudice to any party should I accept the amended plan at this stage as in forming an integral part of the initial appeal submission it has been open to comment by both neighbours, the Council and other consultees. On this basis, I accept the amended plan and confirm I have determined the appeal on the basis of the originally submitted plans as amended by the revised site layout plan.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

Main Issues

4. The main issues are the effect of the development on:

- highway safety, and;
- sustainable development in a rural location outside any defined settlement development limit.

Reasons

Highway Safety – Parking Provision

5. The amended plans submitted as part of the appeal submissions show two residents parking spaces for the existing dwelling and two visitor parking spaces for the canine hydrotherapy facility. This revision to the proposals means they would be in accordance with the standards required within the SPD. This would be likely to preclude any resultant increase in demand for on-street parking within Frith End Road as a consequence of the operation of the new facility.
6. For these reasons the proposals would provide suitable on-site parking provision capable of effectively mitigating the risk to highway safety of additional on street parking within Frith End Road. It is in accordance with CP31 of the East Hampshire District Local Plan: Joint Core Strategy 2014 (JCS) and SPD and the advice contained in paragraph 108 of the National Planning Policy Framework (the Framework), which seek, amongst other things, to ensure adequate parking and manoeuvring provision.

Sustainable Development – Commercial Enterprise in Open Countryside

7. It is clear that the proposal represents the expansion of an existing, established enterprise already operating from the site. That existing enterprise is one of a resident professional whose operational base is also their current home, providing an animal health consultancy service, and which has no other fixed place of operation. That work requires the appellant to travel daily and extensively to animals, their homes or other professionals facilities where physical assessment and treatment may be provided, but the operational base for that work is the existing dwelling on site and the appellant wishes to expand the range of animal health care provided from that base into a more home-based service with on-site treatment facilities.
8. The proposal by merit of falling within the existing domestic curtilage/garden of a dwellinghouse within the open countryside would involve the redevelopment of previously developed land, as currently defined in Annexe 2: Glossary to the NPPF. The priority accorded to such development within the Framework overrides current adopted development plan policies relating to sustainability and development in the open countryside as this current definition and the emphasis placed upon it post-dates the adoption of the current local plan and the policies contained in that plan take no account of same.
9. The replacement of the existing private, domestic stables with the proposal will remove large animal accommodation from within a domestic garden area which lacks any associated pasture to provide feed and exercise for such animals. This would obviate the need for use of a vehicle and trailer to transport feedstuffs, bedding and horses (to and from pasture, acknowledging a degree of exercise

potentially undertaken within the surrounding highway and public rights of way network) or vehicles used for veterinary visitations.

10. Dogs that require hydrotherapy are likely to be suffering with restricted mobility and are typically recovering from injury or living with long term congenital defects or progressive conditions which necessitate the form of therapy on offer in order to recuperate fully or alleviate established conditions. Patrons will, therefore, by the very nature of their dogs health conditions, transport their animals by vehicle, regardless of the location of the facility, endeavouring to reduce the travel distance (and distress experienced by their animals during such journeys) to and from other such facilities further afield. A hydrotherapy facility of this type cannot be mobile and thus requires a permanent base. The difference between traffic movements foregone by the appellant (for both her work and own private horses) and traffic movements generated by patrons (bringing dogs to the site) will likely represent a net balance, even as a worst case scenario.
11. CP19 of JCS requires enterprises in the countryside to have a genuine and proven need for a countryside location and also aims to protect the countryside for its own sake. Both the requirement and the aim are at substantial variance from and therefore conflict with the subsequent guidance provided in paragraph 84 of the current Framework in that they fail to recognise local business needs may extend to sites beyond existing settlements and encouraging the use of previously developed land.
12. As the proposal relates to an extension of an existing enterprise operated from a private residence, the rural location of the proposal may be considered reasonably justified by the ancillary nature of the development to the current residential occupation of the existing dwellinghouse whose private domestic curtilage/garden forms the entire appeal site. That this enterprise is intended to take the appellant into retirement from their current level of work does not obviate this association, as it still represents a continuation of their current enterprise. Policy IB3 of the East Hampshire District Local Plan: Second Review sets out five key criteria for assessing adverse impacts of expanding or intensifying an existing established business use within any site.
13. The Local Planning Authority have not assessed the proposals fully against all the criteria in this policy due to their principle view that they did not relate to an established business use within the site. However, in their broader assessment of the impacts of the proposal it is clear they have confirmed the proposed proposal would not: represent over-development of the site; harm the character or appearance of the site or the wider rural landscape; generate unacceptable traffic (or improvements to the highway network), or; adversely affect the residents of neighbouring properties.
14. I agree, from my own assessment, that the proposal would satisfy the first four criteria of this policy. On the fifth and final criteria the Local Planning Authority consider the proposal would lead to excessive use of the car. However, I consider the difference between traffic movements foregone by the appellant (for both work and horses) and traffic movements generated by patrons (transporting dogs to and from the site) will, as outlined above, at the very least represent a likely net balance, if not a genuine reduction. It would be feasible for patrons to consider making journeys using public transport, bearing in mind the proximity to the A325, even though animals in need of therapy are not likely to be walked

or cycled to any premises due to the nature of their condition and/or highway safety concerns. I consider the proposals may therefore be deemed to satisfy all five criteria from Policy IB3 of the East Hampshire District Local Plan: Second Review and that the appellant has considered the requirements of paragraph 102(c) of the Framework in relation to promoting alternative forms of transport.

15. For the reasons given above I conclude the development would represent positive redevelopment of previously developed land in accordance with priority attached to same within the Framework and an expansion of an existing established enterprise with a genuine need for its open countryside location in accordance with CP19 of the East Hampshire District Local Plan: Joint Core Strategy (JCS) and Policy IB3 of the East Hampshire District Local Plan: Second and the advice contained in paragraphs 83 (enabling the sustainable growth and expansion of all types of business in rural areas, including through well-designed new buildings), 84 (recognising local business needs may extend to sites beyond existing settlements and encouraging the use of previously developed land) and 104 (minimising travel to work) of the National Planning Policy Framework.

Conditions

16. The Council have in their statement advised there are certain conditions which they consider could ameliorate the principle objections to the proposals. The appellant's submission has set out preferred hours and days of working. Both parties were given the opportunity to comment on a draft schedule of suggested conditions. Only the appellant chose to respond with a request to consider extending hours of operation on a Saturday beyond those they had originally proposed so they would be able to start an hour earlier at 0900 hrs, based on further market research the appellant had undertaken since lodging the appeal.
17. This proposed extension of hours, although only small, did not form part of the original application or the subsequent appeal statement. Neighbouring property owners who might be most affected by any such extension have not had the chance to comment. Accordingly, I am not able to agree to this suggested extension of hours.
18. I have set out below a schedule of conditions (including those relating to the standard commencement period and compliance with plans). I consider these are essential to provide the necessary protection for neighbouring residential amenity and potential impact on traffic generation and highway safety in accordance with the advice provided within the Planning Practice Guidance and the Framework
19. I consider the additional conditions will provide reasonable and enforceable controls to: (a) enable the Local Planning Authority to consider alterations to the approved building (such as insertion of new openings) and control hours and days of operation which might (if unregulated) otherwise have the potential to adversely impact upon the private amenities of neighbouring residents; (b) ensure adequate parking and manoeuvring facilities are provided and maintained on site to preclude the need for on street parking, and; (c) specify the nature of the use and to tie its operation to the occupation of the existing residence not only to protect the private residential amenities of future occupants of that dwelling but also to minimise the need for travel to and from work.

Conclusion

20. For reasons give above, having regard to the development plan read as a whole, I conclude the appeal should be allowed.

Martin S. Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be commenced within 3 years of the date of this decision.
- 2) The development hereby permitted shall be constructed, completed and thereafter maintained in strict accordance with the following plans:
 - (a) 020A - Location and block plan
 - (b) 023B - Proposed elevations
 - (c) 022B - Proposed floor planAs amended by:
 - (d) 024A – Proposed Pool House - Site Plan
- 3) The building hereby approved shall not be subject to any extension, addition or alteration (including insertion/creation of new windows and doors) without prior written approval from the Local Planning Authority.
- 3) The canine hydrotherapy business hereby permitted shall not be used:
 - i. outside the hours of 09:00 to 18:00 Monday to Friday inclusive and 10:00-16:00 on Saturday, and/or;
 - ii. at any time on Sunday, Public or Bank holidays.
- 4) The development hereby permitted shall not be brought into use until the 4 car parking spaces and manoeuvring facility shown on drawing 024A – Proposed Pool House - Site Plan have been fully provided. These spaces and the associated manoeuvring facility shall thereafter be maintained and kept available for use at all times.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (As Amended) and any subsequent replacement provision, the building hereby permitted shall be solely used for canine hydrotherapy and no other purpose(s) without the benefit of prior formal planning permission granted by the Local Planning Authority or on Appeal by the Planning Inspectorate.
- 6) The canine hydrotherapy business hereby permitted shall not be owned or operated separately or independently of the permanent residential occupation of the existing dwellinghouse as a main residence by the sole owner/operating member of staff. No additional staff shall be employed within the site at any time.