



Appeal Decision

Site visit made on 13 July 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2020

Appeal Ref: APP/B1740/W/20/3251846

Station Garage, 44 Milford Road, Pennington SO41 8DU

- 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 Mr Tim Lincoln, Brightbeech Investments LLP, against the decision of New Forest District Council.
 - The application Ref 19/11555, dated 12 December 2019, was refused by notice dated 7 April 2020.
 - The development proposed is the change of use of a garage and car showroom (Sui Generis) to form 2no. retail units (A1 and A5) of 363 sqm and 123 sqm respectively with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Tim Lincoln, Brightbeech Investments LLP, against New Forest District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council's decision, it has adopted a New Forest District Local Plan Part 1: Planning Strategy, July 2020 (the LPP1). The New Forest Emerging Local Plan Policy 13 is now LPP1 Policy ENV3. The main parties have had the opportunity to comment on the LPP1 and Policy ENV3. I have dealt with the appeal on this basis.
4. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the Regulations) came into force, amending the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order). Having regard to regulation 4 of the Regulations, I have considered this appeal on the basis of the use classes specified in the Schedule to the Use Classes Order on 31 August 2020.

Background and Main Issues

5. The appeal site is part of a site referred to by the Council as the '*Fox Pond Dairy Depot and Garage*'. Saved Policy LYM5 of the New Forest District Local Plan Part 2: Sites and Development Management, April 2014 (the LPP2) allocates this land (the allocation site) for mixed use development '*primarily for*

residential development, with commercial uses on the ground floor'. Against this background, I consider the main issues are:

- The effect of the proposed development on the development potential of the allocation site, with particular regard to layout and design and to commercial and housing uses;
- Whether the proposal would provide a complementary retail use; and
- Whether it would provide satisfactory car parking and cycle storage, with particular regard to level of provision and layout, and consequently effect on highway safety.

Reasons

Development potential

6. The appeal site is located to one side of the Pennington shopping parade, which is a defined Local Shopping Frontage (LSF), in a mainly residential area. This row of broadly domestic scale buildings is situated relatively close to the A337 Milford Road, with shops and services at ground floor and flats above. The appeal proposal would retain the main garage building, sub-divided into two retail units, with car parking in an open front apron. Access would be via two existing junctions onto Milford Road, one being a service road also used by residential and other commercial uses.
7. Whilst it would face towards Milford Road, provide new ground floor commercial uses and its external design would be improved (compared to existing), it would nonetheless be a single large detached building set back behind the front building line of the shopping parade. There would therefore be a significant and noticeable discordant disconnect between the layout and appearance of these respective developments — an unsatisfactory adjunct to the shopping parade. As a result, the appeal proposal would not provide new commercial uses '*along Milford Road*' so as to '*extend a local shopping frontage*'.
8. Furthermore, while the appeal site is not the largest part of the allocation site, it is nevertheless a significant part due to its prominent position in public views and, moreover, because it is nonetheless about one third of its area. In this regard, I note that the allocation site, ie including the appeal site, '*will provide around 14 dwellings*', that the appeal site extends in depth towards the rear of the allocation site which '*should be for residential development*' and that it has a frontage near Milford Road with potential to provide homes above '*commercial uses on the ground floor*'. However, the appeal proposal contains no residential use.
9. I accept that development of the allocation site may not necessarily require a single proposal or development and/or developer, but it is necessary in the interests of good planning for any constituent though separate elements of a greater development to be well-coordinated and compatible. There is no evidence before me to explain why the respective landowners have not been able to achieve this, nor is there any indicative layout or design principles to show how the appeal proposal might be successfully integrated with the balance of the allocation site, including a possible suitable form and overall quantum of housing.

10. Irrespective of any particular proposals for the balance of the allocation site, I am therefore concerned about the effect that the appeal proposal would have on the overall development potential of the allocation site, with particular regard to layout, design and housing provision. Reinterpreting the existing building for retail use would not be an effective or genuinely plan led approach to the appeal site or to the allocation site. Granting planning permission for the appeal proposal would provide a new beneficial use to the landowner and likely have the opposite effect — perpetuate an unacceptable degree of uncertainty and/or delay to future satisfactory development of the entire allocation site. This would therefore frustrate the holistic aims of LPP2 Saved Policy LYM5 and be at odds with the Council's planning and housing objectives for the appeal site, the allocation site and Pennington.
11. Consequently, the proposed development would harm the development potential of the Fox Pond Dairy Depot and Garage site. It would be contrary to LPP2 Saved Policy LYM5 and contrary to LPP1 Policy ENV3, which includes that development should create buildings and places that are well connected to surrounding uses, make effective use of developed land, be sympathetic to context in terms of layout, scale, height, appearance and relationship to adjoining buildings and enhance a sense of place.
12. It would also conflict with the National Planning Policy Framework (the Framework) paragraphs 59, 117, 118(d), 122, 124, 127 and 130. These include that land for housing should come forward where it is needed, should promote an effective and efficient use of land in meeting the need for homes and development should create high quality places and optimise the potential of a site to accommodate and sustain an appropriate amount and mix of development.

Complementary retail use

13. The proposed smaller A5 unit would be a similar size to other takeaways in this LSF and could provide a different hot food offer. It would therefore be complementary in scale and nature to the Pennington shopping parade. However, the proposed A1 convenience store is speculative (no end-user or operator is identified) and would be appreciably larger than the other retail units, including the existing convenience store. I acknowledge that the appeal site is not within the LSF but even if, as the appellant suggests, it is considered against LPP2 Saved Policy DM19, it has not been substantiated that the A1 unit would provide for a need '*which otherwise would not be provided for*', including by the existing convenience store.
14. Notwithstanding my findings on the A5 unit and, in the main issue above, ground floor commercial use, in scale and nature the A1 unit would not therefore '*complement the commercial activity within the Pennington shopping parade*'. Consequently, the proposed development would not be a complementary retail use and would harm this LSF. It would be contrary to LPP2 Saved Policy LYM5 and would also conflict with the Framework paragraph 80, which includes that development should support economic growth taking into account local business needs.

Car parking, cycle storage and highway safety

15. The recommended level of car parking provision in the New Forest District Parking Standards Supplementary Planning Document, October 2012 (the SPD)

- is 23 spaces on-site (ie for the total proposed net food retail covered sales area, including the takeaway with no dining area). Nonetheless, a Parking Accumulation Assessment (the PAA) shows maximum demand is between 18:00 and 19:00 for 18 spaces. There would be 17 spaces on site and, on the evidence before me in this appeal, I saw that there are at least 8 public car parking spaces in nearby lay-bys, all with waiting time restrictions lifted by 18:00. I appreciate that this level of on-site provision is significantly below the Council's recommended provision, but the SPD figures do not take into account any site specific assessment, such as the PAA. I also note that the Highway Authority did not object to the proposed level of car parking provision.
16. However, while the on-site car parking spaces and isle widths would be to the requisite size, some spaces would be along one side of the service road, including one partly in the road. Others would be very close to its junction with Milford Road which has a relatively short verge crossing where vehicles turn in, near the proposed pedestrian access. I saw that this service road is already well used by traffic and people and that parking occurs along the other side, opposite the appeal site, which causes obstruction and reduced road width. It is also possible that this service road could provide access to future development elsewhere on the allocation site and in this regard be used by additional traffic.
 17. There is nothing before me in this appeal to prevent such parking, but even if there was, there would nonetheless be a high concentration and complexity of activity by all road users in this area, particularly with vehicles manoeuvring to use the proposed spaces. Furthermore, some customers could have to walk back along the service road, towards on-coming traffic, in order to enter the proposed retail units. In addition, despite the appellant's vehicle tracking diagrams, three spaces in front of the proposed A5 unit would nevertheless be tightly constrained by parked cars and boundary planting, and cars would have to manoeuvre towards, and across, pedestrian and cyclist flows. As a result, these spaces would be extremely difficult to use without tangible possibility of damage or injury. The proposed car parking layout would therefore unacceptably increase the risk of vehicular, pedestrian and cyclist conflict.
 18. The proposed A5 unit would have a satisfactory level of long stay staff cycle parking. However, even with a minimum of 20 staff for the proposed A1 unit, the SPD minimum long stay cycle parking standard is 4 spaces (rounded up), whereas only 2 spaces would be provided. Furthermore, the combined (gross external area) short stay customer standard is 4 stands (rounded up) so 8 spaces, whereas only 3 stands (6 spaces) would be provided, according to the proposed site plan. In addition, the short stay cycle stands would be next to the customer entrance of the A5 unit and also tightly constrained on three sides by the building and parked cars. As a result, these cycle spaces would be impractical and unduly difficult to use.
 19. Notwithstanding a sufficient level of car parking spaces overall, and a sufficient level of long stay cycle parking for the A5 unit, the A1 unit would not make sufficient provision for long stay cycle parking and there would be insufficient short stay cycle parking provision overall. Furthermore, the location and layout of some of the car parking spaces and the short stay cycle parking would not be satisfactory.
 20. Consequently, the proposed development would harm highway safety. It would be contrary to LPP1 Policy ENV3, which includes that development is required

to integrate sufficient car and cycle parking spaces so that realistic needs are met without prejudice to highway safety or pedestrian convenience and comfort. It would also conflict with the SPD and Framework paragraphs 108(b), 109, 110(c) and 127(f) which include that development should ensure safe and suitable access for all users, create places that are safe and accessible, minimise the scope for conflict between pedestrians, cyclists and vehicles, ensure that patterns of movement contribute to high quality places and avoid unacceptable impact on highway safety.

Other Matters

21. I acknowledge that the appeal site is accessible by a variety of transport modes, including walking and from nearby houses, and that the appellant suggests that the proposed development would increase employment and spending in the local area. Furthermore, I accept that retail use is otherwise generally more compatible with residential use than a garage. These would be benefits of the appeal proposal but these do not lessen, outweigh or overcome the substantial harm that I have identified in the main issues above.
22. I also appreciate that many local residents are concerned about the effect of traffic generation from the proposed development on local roads, including the appeal site junctions with Milford Road. However, the Highway Authority did not object to the appeal proposal for these reasons and I have no reason to reach a different conclusion on these matters. In addition, control of on-street parking, including yellow lines and lay-bys, is a matter for the Council and/or the Highway Authority and enforcement of the road speed limit is a matter for the Police. Furthermore, enforcement of commercial property opening hours and control of antisocial behaviour, including odour, litter and vermin, are also matters for the relevant responsible public authority.

Conclusion

23. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR