

Appeal Decisions

Site visit made on 6 January 2021

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal A Ref: APP/C1760/W/20/3258111

3 Church Close, Andover SP10 1DP

- 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 Ian Waight against the decision of Test Valley Borough Council.
 - The application Ref 20/00150/FULLN, dated 17 January 2020, was refused by notice dated 22 May 2020.
 - The development proposed is change of use from chiropractors clinic to dwelling; replace rear window with doors and enlarge bathroom on first floor.
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Appeal B Ref: APP/C1760/Y/20/3258114

3 Church Close, Andover SP10 1DP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Ian Waight against the decision of Test Valley Borough Council.
 - The application Ref 20/00151/LBWN, dated 17 January 2020, was refused by notice dated 22 May 2020.
 - The works proposed are change of use from chiropractors clinic to dwelling; replace rear window with doors and enlarge bathroom on first floor.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and listed building consent is granted for change of use from chiropractors clinic to dwelling; replace rear window with doors and enlarge bathroom on first floor at 3 Church Close, Andover SP10 1DP in accordance with the terms of the application Ref 20/00151/LBWN dated 17 January 2020 and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

3. The description of the proposed development and works as detailed on the application form has been amended in subsequent documents. I have adopted the descriptions included on the appeal forms, which detail the extent of the proposed development and works more precisely.
4. As both appeals relate to the same site and raise similar issues, I shall consider the Council's decisions to refuse planning permission and listed building consent in a single document, in the interests of brevity.

Main Issue

5. In respect of Appeal A, the main issue is the effect of the proposal on the Solent water environment.

Reasons

6. The water environment of the Solent region is one of the most important for wildlife in the United Kingdom, by supporting a variety of habitats and providing a home to a number of rare and declining species. As set out in the supporting text to Policy E5 of the Test Valley Borough Revised Local Plan Development Plan Document¹ (LP), the Solent region includes a number of internationally and nationally important areas designated as Special Protection Areas, Special Areas of Conservation and Ramsar sites, which benefit from the highest level of protection for their ecological value.
7. There is sound evidence that high levels of nitrogen and phosphorous are entering the Solent water environment, thus causing a dense growth of certain plants, otherwise known as eutrophication, which is having a detrimental impact on protected habitats and bird species living in this area. The advice provided by Natural England, which sets out an approach to achieve nutrient neutrality, explains that this issue stems from all types of developments resulting in a net increase in population served by a waste water system within the Solent region. This approach applies to development proposals where the treated effluent discharges into any of the Solent international sites, or any water body (surface or groundwater) that subsequently discharges into such a site.
8. The proposal would result in the creation of a self-contained residential unit within the Solent catchment area and could therefore, for the reasons detailed above, have a likely significant effect on the integrity of these sensitive areas, either individually or in combination with other plans or projects. In such circumstances, the Habitats Regulations require the decision-maker to carry out an Appropriate Assessment.
9. As detailed within Natural England's Advice Note, one of the solutions to ensure that new developments do not add to the existing nutrient burden is to demonstrate that the proposal would achieve nutrient neutrality. This provides the certainty that developments are deliverable in accordance with the requirements of the Habitats Regulations. Natural England recommend that Local Planning Authorities follow a precautionary approach. Commercial uses are generally excluded from the calculations to establish whether the development in question would be nutrient neutral, to prevent double counting of human wastewater arising from different planning uses.
10. The appeal scheme seeks to convert a chiropractic clinic into self-contained residential accommodation. The appellant's submissions suggest that there would be a reduction in nitrates as a result of the proposed change of use. This is based on the assumption that 30% of the visitors to the chiropractic clinic travelled to Andover from 'out of the area'. However, there is no detailed information before me demonstrating that patients were not travelling from within the Solent catchment, which covers a very large geographical area. Having regard to the available evidence, I therefore see no reason why the

¹ January 2016.

lawful use of the premises as a chiropractic clinic, which did not provide overnight accommodation, should be included within the calculations.

11. On this basis, there is no certainty that nitrogen levels as a result of the proposal would decrease, in which case mitigation would be required to achieve nitrogen neutrality. No additional information is however before me regarding possible mitigation measures or how they would be secured.
12. In the absence of substantive evidence to the contrary, I am unable to ascertain whether the proposal would achieve nutrient neutrality and the existence of significant adverse effect on the integrity of the Solent water environment as a result of the appeal scheme, in combination with other plans and projects, cannot be excluded. The appeal scheme would therefore fail to accord with LP Policies E5 and E8, which seek to conserve, and where possible restore and/or enhance biodiversity, but also ensure that development proposals do not have any adverse impact on human health, the natural environment or general amenity.

Other Matters

13. The appeal property is a Grade II listed building located within the Andover Conservation Area, and I have therefore had special regard to Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. No concerns have been raised regarding the effect of the proposed development and works on the Grade II listed building and the Andover Conservation Area, and I have no reasons to reach a different view. The proposal would ensure that the long term use of the appeal premises is secured, whilst causing minimal harm to the building's historic fabric. I am therefore satisfied that the proposed development and works would preserve the special interest of the Grade II listed building and the character and appearance of the Andover Conservation Area.

Conditions

14. In respect of Appeal B, I have considered the conditions suggested by the Council, making minor amendments where necessary, to ensure compliance with the tests as set out within paragraph 55 of the National Planning Policy Framework and the National Planning Practice Guidance².
15. In addition to the standard time limit, I shall impose conditions specifying the relevant drawings which the works must accord with, in the interests of certainty and to provide clarity. Conditions seeking further details of the proposed works are considered necessary to preserve the architectural and historic interest of the listed building.

Conclusion

16. For the reasons detailed above, and having regard to all other matters raised, I conclude that Appeal A should be dismissed, and Appeal B should be allowed.

S Edwards

INSPECTOR

² Paragraph: 003 Reference ID: 21a-003-20190723.

SCHEDULE OF CONDITIONS

- 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: 7062/3A/B, 7062/7A/B, 7062/10.
- 3) The cutting down of the existing window opening to form the enlarged opening for the French windows shall not commence until a detailed method statement has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details.
- 4) The French windows shall not be installed until full joinery details (including drawings of the proposed French windows at a 1:10 scale) have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details.
- 5) No new or replacement vent/flues shall be installed until full details (including locations and manufacturer's specifications) have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and maintained thereafter.
- 6) The re-opening of the archway between the ground floor rooms shall not commence until a detailed method statement has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 7) Full details of the finished appearance of the archway (e.g. timber trim or similar) at a 1:20 scale shall be submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details.

END OF SCHEDULE