



Appeal Decision

Site visit made on 3 January 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/W1715/W/22/3302097

Fairport House, Lands End Road, Bursledon, Hampshire SO31 8DN

- 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 Mark Keeling against the decision of Eastleigh Borough Council.
 - The application Ref F/22/92564, dated 4 March 2022, was refused by notice dated 27 April 2022.
 - The development proposed is use of existing home office building by non-resident of the property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the determination period of the planning application, the Eastleigh Borough Local Plan 2016-2036 (the Local Plan) was adopted (25 April 2022) and the Council determined the proposed development in accordance with the policies therein.

Main Issue

3. The main issue of the appeal is whether the location of development is appropriate, having regard to the local planning policies and the character and appearance of the area, taking into account the Old Bursledon Conservation Area (OBCA).

Reasons

4. The appeal site is a two storey building called 'The Haven' located within the boundary wall of Fairport House. It comprises four good sized rooms, two per floor, positioned either side of a central stairwell, with a kitchenette to the ground floor and a shower room on the first floor. The Haven is sited away from Fairport House, separate gated pedestrian access from Lands End Road leading to a front door facing the road. Therefore, the building is capable of functioning independently from the house.
5. The appeal site is located within the countryside for the purposes of local planning policy. Therefore, in accordance with Policy DM19 of the Local Plan "the change of use of existing buildings in the countryside that are demonstrably unsuitable for continued use for their existing purpose will be permitted subject to the general development criteria and transport policies of the Local Plan".

6. My attention has been drawn to a previous planning permission¹ for the partial use of the ground floor for office purposes by an independent occupier (defined as someone not resident at Fairport House). This permission was granted subject to a condition restricting the occupier to a specific company. However, as the company named in the condition vacated the property in 2018, a cessation condition was triggered, the permission ceased to exist² and the ground floor of The Haven reverted to its ancillary residential use. Furthermore, this permission was determined when a different planning regime was in place.
7. During my site visit I observed that, although vacant, the ground floor rooms plus the kitchen and bathroom facilities were in good condition and well maintained. As a result, there is no substantive reason for me to conclude that The Haven is demonstrably unsuitable for an ancillary residential use. Despite the diversification benefits to the rural economy from the re-use and adaption of rural buildings for employment purposes, the proposed development does not meet the overarching criteria of Policy DM19.
8. Additionally, Policy DM19 requires development to meet other, general development criteria. Although no physical alterations are proposed to The Haven, the proposed development would increase the activity associated within the appeal site. My attention has been drawn to the possibility of restricting the use of the ground floor of The Haven to a particular company, as per the previous planning permission. However, conditions should be considered in light of the advice contained within the National Planning Policy Framework (the Framework) and the National Planning Practice Guidance (the PPG). As planning permission usually runs with the land, the PPG states that it is rarely appropriate, unless exceptional circumstances have been justified, to limit the benefit of the permission to specific people. Furthermore "a condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company"³. Despite the proposed use of the ground floor of The Haven to be for the benefit of a local company, I do not consider these circumstances or the need to be exceptional.
9. I have also been referred to the potential to impose a condition limiting the occupancy of the ground floor to one person. Given the first floor of The Haven would remain as an ancillary residential use and the gated boundary wall restricts visibility of the building and driveway from the road, accurately monitoring occupancy would be difficult. As a result, such a condition would be hard to enforce and, despite the previous complaint, there would be no guarantee that the Council would be alerted of any breach. Furthermore, given the size, layout and facilities of The Haven, the appeal site is capable of accommodating a significantly greater number of occupiers than the proposed single occupant. Consequently, the effect of the proposed development on the character and appearance of the area should be considered based on the unrestricted use of the appeal site.
10. The appeal site is located within the OBCA therefore, I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The significance of the OBCA relates to

¹ Application ref: C/16/78768

² As concluded by the Inspector in APP/W1715/W/19/3241190

³ Paragraph: 015 Reference ID: 21a-015-20140306

the consistency in building height, pitched roofs with chimneys and materials including red/brown clay tiles, red Bursledon brick and white timber windows. Boundary brick walls and generous plot sizes are also significant contributors to the character of the OBCA. Located within character zone 1a, as defined in the Old Bursledon Conservation Area Appraisal and Management Proposals (the OBCA Appraisal), the appeal site side of Lands End Road comprises large plots with an open residential character. As a result, the OBCA Appraisal recommends that proposals that intensify development on this side of the road are discouraged as they would have a negative impact on the open character.

11. Lands End Road is a narrow road, largely single carriageway width or restricted to one lane by on street parking areas. It terminates a short distance beyond the access gates to Fairport House which results in drivers travelling to the nearby Jolly Sailor Pub and Restaurant and delivery vehicles needing to travel to the terminus of the road or use property access points to turn around. Although future occupiers of the appeal site could live locally and be able to walk, cycle or use public transport to get to The Haven, this cannot be guaranteed. The proposed development would, therefore, lead to an increase in traffic using the road and the activity associated with the additional vehicles. This would have a harmful urbanising effect on the local character of the area and erode the significance of the OBCA.
12. I therefore conclude that the appeal site is not an appropriate location for the proposed development and would cause unacceptable harm to the character and appearance of the area. Additionally, it would not preserve or enhance the OBCA. It would fail to satisfy the requirements of the Act, and conflict with policies DM1, DM12 and DM19 of the Local Plan. These policies, amongst other provisions restrict the conversion of buildings in the countryside and seek to ensure development does not have an unacceptable impact on the character and appearance of an area and respects the Council's heritage assets.

Other Matters

13. The appeal site is located within the Solent and Southampton Water Special Protection Area (the SPA), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017. Although not an issue raised by the Council, it is incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the SPA. As I have found that the development is unacceptable for other reasons, it is not necessary for me to further consider the implications on the SPA.
14. Although the appeal application was submitted prior to the adoption of the Local Plan, the decision notice was issued shortly after it was adopted. Given the advanced nature of the review of the Local Plan, the Council determined the appeal application based on the significant weight of the policies therein. Additionally, decisions made under delegated powers or by the planning committee hold the same status.
15. Even if I were to conclude that the proposed development would not harm the living conditions of existing neighbours, or that the previous planning permission did not lead to unacceptable impacts on the neighbourhood, these would be neutral factors.

Planning Balance and Conclusion

16. I have found that The Haven is suitable for its existing ancillary residential use and, as a result, is not an appropriate location for the proposed development. I have also found that the proposed development would unacceptably harm the character and appearance of surrounding area and would fail to preserve the character and appearance of the OBCA. I give this harm considerable importance and weight in the planning balance of this appeal.
17. Having regard to the advice in the Framework, I find that the proposed development would result in less than substantial harm to the character and appearance of the OBCA. As advised by paragraph 202 of the Framework, less than substantial harm should be weighed against the public benefits of the development. Whilst the proposed development would contribute to the diversification of the rural economy, such a benefit would be small and, consequently, would not amount to a public benefit that outweighs the harm I have identified above.
18. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Juliet Rogers

INSPECTOR