



Appeal Decision

Site visit made on 24 January 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/B1740/W/22/3302668

Anchor House, Bath Road, Lymington SO41 3YL

- 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 Berthon Boat Company against the decision of New Forest District Council.
 - The application Ref:22/10236 dated 22 February 2022, was refused by notice dated 21 April 2022.
 - The development proposed is front and side extension to provide additional showroom and workspace.
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Decision

1. The appeal is allowed and planning permission is granted for front and side extension to provide additional showroom and workspace at Anchor House, Bath Road, Lymington SO41 3YL in accordance with the terms of the application, Ref:22/10236 dated 22 February 2022, subject to the conditions set out at the end of this decision letter.

Main Issues

2. The main issues in this appeal are:
 - a) The effect of the proposal on the character and appearance of the local area, including the setting of nearby designated heritage assets which include listed buildings and the adjacent Conservation Area;
 - b) The effect of the proposal on the amenities of residential neighbours opposite the site; and
 - c) The effect of the proposal on pedestrian and highway safety.

Reasons

Issue a) Character and Appearance

3. The appeal site is on the east side of Bath Road, leading southwards away from the town centre. It forms part of a much larger site owned by the Appellant Company, leading down to Lymington River. The building the subject of this appeal is two storeys in height and in use as commercial offices and associated space. The appeal site also extends to part of the adjoining building which is physically separate and is also in commercial use. The site lies outside of but immediately adjacent to the Lymington Conservation Area which extends to include the section of Bath Road outside of the appeal site, but excluding the

commercial properties on the eastern side of Bath Road. There are residential dwellings opposite the appeal site on the western side of Bath Road, including Nos 9, 10 and 11 Bath Road which are all listed Grade II.

4. The proposal would seek to build a lightweight, flat roofed single storey showroom across the existing forecourt attached to Anchor House, extending the whole width of the main building and part of the adjoining Seaforth House and infilling the gap between for use as a showroom.
5. Section 66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural interest which it possesses, in considering whether to grant planning permission for development which affects a listed building or its setting. Section 72 (1) of the same Act sets out in respect of development within Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 195 of the National Planning Policy Framework (Framework) also makes reference to the impact of a development proposal on the setting of a heritage asset.
6. The three listed buildings opposite the appeal site are individually varied in height and appearance but all have narrow frontages to the street reflecting the historic form of development which continues, with a few exceptions of more modern redevelopment, further along Bath Road towards The Quay. The scale and individual form of the houses contributes to their significance and the historic development of the town of Lymington.
7. There is a very marked visual divide between the generally more modern and much larger commercial buildings on the east side of Bath Road and the predominantly smaller residential dwellings on narrow plots, on the west side and within the Conservation Area. Although still associated with the boat building industry, the historic layout and form of buildings closer to the river has been replaced with more modern commercial developments to meet modern requirements. The boundary of the Conservation Area in this location reflects the very clear divide between the historic fabric of smaller plots and built development and the more modern commercial development. This visual divide between the scale, form and massing of the two sides of the street contributes to the characteristic form of this part of Lymington.
8. The proposed development would be seen in the context of the larger commercial buildings on the east side of Bath Road. Notwithstanding its length, its modest single storey height and lightweight design with large glazed areas would not be an over intrusive addition to the street scene. Furthermore, it is my view that the addition of this extension would improve the appearance of this part of Bath Road, by removing the open displays in front of the building at present. The existing building is utilitarian in appearance, and I also consider that the proposed extension, in terms of its design, lightweight appearance and materials would be a visual improvement to the street scene.
9. It would bring built development closer to Bath Road, but I do not consider that it would be unduly prominent in the street scene given the siting and significantly greater massing of the existing commercial buildings immediately to the north. I am satisfied that there would not be any harm to the setting of the individual listed buildings or to the setting of the Conservation Area, given the existing very clear visual divide between the commercial area (outside of

the Conservation Area) and the smaller scale of the historic buildings within the Conservation Area.

10. I am therefore satisfied that there would be no harm to the character and appearance of the local area, including the setting of the designated heritage assets adjacent the site as a result of the proposed development. The proposal would preserve the setting of the three listed buildings opposite the site (Nos 9, 10 and 11 Bath Road) and would preserve the character and appearance of the Lymington Conservation Area, including its setting. There would be no conflict with Policy ENV3 of the New Forest Local Plan Part 1 (LP Part 1), Policy DM1 of the New Forest Local Plan Part 2 (LP Part 2) and the Framework and in particular Section 16, all of which amongst other things seek development to be of high quality which respects the local context, including the setting of designated heritage assets.

Issue b) Amenities of Neighbours

11. There are residential properties opposite the site, with windows facing towards the appeal site. Their outlook at the front is already towards the larger scale commercial premises opposite and contrary to the views of the Council, I consider that the proposed development of a single storey light weight showroom would be a visual improvement over the existing open frontage with a boats and associated objects on display and the commercial two storey building behind. Given their existing relationship with and proximity to Bath Road, I see no reason why the proposed development would result in a material increase in overlooking and loss of privacy.
12. I have not been provided with any information regarding any controls on existing lighting from the building. However, the proposal would be largely glazed and would bring the development forward to the edge of the site and therefore closer to the residential dwellings opposite, on the west side of Bath Road. I agree with the Council that there could be a concern over excessive lighting, especially during late evenings and at night, but I consider that this matter could be properly and effectively controlled through the imposition of a condition to control the time and illumination levels to protect the amenities of the neighbours.
13. Subject to the imposition of an appropriate condition to protect the amenities of the neighbours from excessive lighting I am satisfied that the proposal would not materially harm the living conditions of the local residents opposite the site, including in respect of outlook, overlooking and disturbance. There would be no conflict with Policy ENV3 of LP Part 1 and the Framework and in particular paragraph 130 both of which, amongst other matters, seek for development to respect the amenities of existing and future occupiers.

Issue c) Pedestrian and Highway Safety

14. The footpath outside the appeal site would not be reduced as a result of the proposal. The road is relatively narrow along this stretch of Bath Road and there are double yellow lines on either side, and the footway is only on the eastern side.
15. I am satisfied that there would continue to be room on the pavement outside of the proposed development for people to continue to pass each other, as existing. Whilst I understand the point being made, there is no evidence before

me to substantiate the Council's concerns. The concerns raised by the Council could equally apply at the current time, given that there are boats and associated boat equipment displayed on the existing forecourt, but my attention has not been drawn to any such incidents which have led to pedestrian or highways safety concerns.

16. The Council has not referenced any particular policy in respect of this matter in its reason for refusal or in its appeal statement. I am satisfied that the scheme proposals would not result in an unacceptable impact on highway and pedestrian safety in accordance with the Framework and in particular Section 9 including paragraph 111. A number of objectors have referred to conflict with Policy CCC2 of the LP Part 1 relating to Safe and Sustainable Travel but, in not affecting the existing highway and pavement and given my findings set out above, I find no conflict with this policy.

Other Considerations

17. I have considered the comments raised by surrounding residents and the local community, including the Town Council, most of which I have addressed above under my main issues. Given the orientation of the proposal in relation to the adjoining residential dwellings, I do not consider that there would be any material harm in respect of loss of light or overshadowing. Concerns relating to possible damage to properties through construction works would need to be addressed under other legislation. It is not for me to consider whether there might be alternative locations for the proposed development, but whether the proposal before me is satisfactory in planning terms, and this has been the basis of my decision.

Conditions

18. The Council has requested a number of conditions in the event that planning permission is granted. I agree that details/ samples of external materials should be approved prior to their use, but consider that this need not be pre-commencement, but to be approved before development progresses beyond ground level. I agree that the development should be undertaken in accordance with the submitted flood resilience and flood warning and evacuation plan as detailed in the submitted Flood Risk Assessment to mitigate the impacts of flood risk. I have already set out that I agree that a condition should be imposed to control the lighting from the building to safeguard the amenities of the neighbours and I have specifically referenced illumination levels and hours of illumination. I shall also list the approved plans for the avoidance of doubt and in the interests of good planning
19. I shall impose a condition to require site investigation works in respect of potential contamination and to set out the steps to be taken should contamination be found to ensure that potential risks from contamination are properly addressed. In order to be effective, it is my view that this condition requires to be a pre-commencement condition. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have therefore requested and received the Appellant's written agreement to the imposition of this condition.

Conclusion

20. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions (Nos 1 – 6 inclusive)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9825.100 Rev A; 9825.101 Rev A; 9825.102Rev A; 9825.105 Rev A; 9825.104 Rev A; 9825.103; 9825.106.
- 3) Before development commences above ground level, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 4) No development shall take place until a site investigation of the nature and extent of contamination has been carried out to the standards described in BS10175: 2011 and has been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available and signed off by the Local Planning Authority before any development begins.

If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.

The site shall be remediated in accordance with the approved measures before development begins. If the site is required to be remediated, a validation report shall be submitted to and approved in writing by the Local Planning Authority prior to occupation.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures, including validation.

- 5) Development shall be carried out in full accordance with the Flood Resilience (Mitigation Measures) and the Flood Warning and Evacuation Plan, as detailed in the submitted Flood Risk Assessment (SHA, February 2022) and the measures shall be retained and maintained thereafter.

- 6) Before development commences above ground level, a scheme of measures to control and prevent undue light transmission to adjacent residential properties shall be submitted to the Local Planning Authority and approved in writing. The scheme shall include levels of illuminance and hours of lighting. Development shall be carried out in accordance with the agreed scheme and retained thereafter.