



Appeal Decisions

Hearing Held on 21 March 2023

Site visit made on 21 March 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2023

Appeal A Ref: APP/J1725/W/22/3310579

First Floor, The Granary, Royal Clarence Marina, Weevil Lane, Gosport PO12 1AX

- 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 Berkeley Homes (Southern) Ltd against the decision of Gosport Borough Council.
 - The application Ref 20/00273/FULL, dated 17 July 2020, was refused by notice dated 7 September 2022.
 - The development proposed is conversion of first floor to 6 x 2 bedroom residential apartments.
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Appeal B Ref: APP/J1725/Y/22/3310631

First Floor, The Granary, Royal Clarence Marina, Weevil Lane, Gosport PO12 1AX

- 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 Berkeley Homes (Southern) Ltd against the decision of Gosport Borough Council.
 - The application Ref 20/00274/LBA, dated 17 July 2020, was refused by notice dated 7 September 2022.
 - The works proposed are conversion of first floor to 6 x 2 bedroom residential apartments.
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Decisions

1. Appeal A is allowed and planning permission is granted for conversion of first floor to 6 x 2 bedroom residential apartments at First Floor, The Granary, Royal Clarence Marina, Weevil Lane, Gosport PO12 1AX in accordance with the terms of the application Ref 20/00273/FULL, dated 17 July 2020, subject to the conditions in the attached schedule.
2. Appeal B is allowed and listed building consent is granted for conversion of first floor to 6 x 2 bedroom residential apartments at First Floor, The Granary, Royal Clarence Marina, Weevil Lane, Gosport PO12 1AX in accordance with the terms of the application Ref 20/00274/LBA, dated 17 July 2020, and the plans submitted therewith, subject to the conditions in the attached schedule.

Procedural Matters

3. The appeals are accompanied by an Allocations Agreement (the AA) which addresses offsite mitigation for the potential effects of the scheme on nitrate levels within the Portsmouth Harbour Special Protection Area, the Solent and Southampton Water Special Protection Area, the Solent Maritime Special Area

of Conservation, the Solent and Dorset Coast Special Protection Area, and the Chichester and Langstone Special Protection Area (together the Solent Sites).

4. During the appeal an agreement by way of Unilateral Undertaking (the UU) was also submitted to secure financial contributions in relation to any adverse recreational affects arising from the scheme on the integrity of the Solent and Southampton Water Special Protection Area, the Portsmouth Harbour Special Protection Area and the Chichester and Langstone Harbours Special Protection Area. I return to the matter of the Solent Sites later in this decision letter.

Main Issues

5. The appeals relate to the first floor of a four-storey former granary within the historic Royal Clarence Yard. The granary forms part of the Grade II* listed building 'Granary, Bakery, Flour Mill, Stores, Attached Boiler and Engine House'. Against this background, the main issues in these appeals are:
 - the effect of the proposal on the special architectural and historic interest of the listed building; and,
 - whether or not the public benefits of the proposal would outweigh any harm to the listed building, including securing its optimum viable use.

Reasons

The special architectural and historic interest of the listed building

6. The Royal Clarence Yard (RCY) was formerly one of the Royal Navy's two, large scale victualling facilities, the other being the Royal William Yard (RWY) in Plymouth. The present guise of the historic buildings within the RCY is largely the result of its significant expansion over the Georgian period and, more recently following its subsequent disposal by the Royal Navy, an extensive process of conversion to commercial and residential uses.
7. The RCY's granary was designed by civil architect George Ledwell Taylor and engineer John Rennie the Younger and constructed by Hugh McIntosh around 1828-30. It projects towards the water and is the centrepiece of the yard. At ground floor is an undercroft supported by a grid of columns which now forms part of the public waterfront and allows an intimate appreciation of the engineered flooring of the granary, and a clear sense of its expansive scale. Beyond the undoubted quality of its architectural composition, the significance of the listed building is drawn from its scale, and its previous holistic layout of integrated industrial food processes in discrete but functionally linked areas.
8. The upper floors of the granary have been converted to dwellings. The first floor is inaccessible to the public but is the last largely untouched interior of the historic victualling operation. It is an expansive and impressive space with orderly spans of columns and the remnant section of a grain slide. Its openness is emphasised by an impressive triple aspect, including towards the waterside. This leads the first floor and the undercroft of the granary to epitomise the engineering feat of a naval victualling complex of this size and age, and to illustrate the scale and demands of the Royal Navy at the time. They are therefore important aspects of the significance of the listed building.
9. The proposed subdivision of the first floor would inevitably diminish its special interest through a reduction in openness and appreciation of its full pattern of

columns, and the loss of its triple aspect. When stood within the apartments, the expansiveness of the former space would be hard to fathom. That said, the lobby would be moderately successful in giving an impression of the former use and the scale of such, aided by the circulation space around the columns it would contain, and the way these columns would continue to be read together.

10. The grain slide is a surprisingly evocative object, and its position in the lobby would allow it to tell the story of the granary well to residents and their future guests. The stairway access would be subtly housed within the confines of a modest, later store building, which would double up as the cycle store. Locating the service runs within a new floor would also serve to preserve the very important public views of the engineered flooring from within the undercroft.
11. When these factors are taken together, the proposal would, in the parlance of the National Planning Policy Framework (the Framework), result in less than substantial harm to the significance of the listed building. Given the standard of preservation of the existing space and the paucity of well-preserved open floor areas elsewhere in the listed building, I find that the harm would occur at the upper end of a notional sliding scale of this less than substantial harm.
12. Consequently, I conclude on this issue that the proposal would have a harmful effect on the special architectural and historic interest of the listed building. In this regard, it would conflict with the design and heritage objectives of Policies LP10 and LP11 of the Gosport Local Plan (Adopted 2015) (the GLP).

Whether or not the public benefits of the proposal would outweigh any harm to the listed building, including securing its optimum viable use

13. There is a strong presumption against development/works that would have a harmful impact upon a listed building through S.16(2) and S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I must therefore attribute the harm in this case considerable importance and weight. The Framework itself explains that great weight should be given to the conservation of designated heritage assets. The more important the asset, the greater the weight should be. Paragraph 200 informs us that any harm to the significance of a designated heritage asset should require clear and convincing justification.
14. Paragraph 202 goes on to require decision makers to weigh any less than substantial harm to such an asset against the public benefits of the scheme, including securing the asset's optimum viable use. The Planning Practice Guidance states that if there is only one viable use, that use is the optimum viable use. It says that harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused, and provided the harm is minimised.
15. It was agreed by the main parties at the hearing that the first floor has a Class E use as a consequence of the early 2000s consents for the redevelopment of the yard¹. As part of these consents, access to the first floor of the granary was to be via a previous, prominent staircore and lift shaft within the undercroft, which has since been removed. This structure would have been highly unsympathetic to the significance of the listed building. In 2011, further planning permission and listed building consent were granted for an office use of the first floor². This scheme has lapsed so now only serves as an illustration

¹ Refs K15500, K16416 and K16416/1

² Ref 10/00470/LBA (K16416/36)

as to the potential effects of an office use on the significance of the listed building. It shows less intensive subdivision, with glazed panels sought to retain the triple aspect from the middle of the first floor to a reduced degree.

16. However, it was to be served by a staircore/lift which, if introduced now, would significantly harm the integrity of the undercroft. Privacy is sometimes required within office environments, so even if glazed panel walling was used, it may be blocked by blinds in practice. Office refits and layout changes may be costly for businesses to take on, so I do not prescribe to the idea that office layouts are compellingly reversible or flexible. As such, whilst office use was seen as preferable for this space at the time of the RCY's wider conversion, I am unconvinced that an office use would be less harmful to the listed building now.
17. I am equally unconvinced that an office use would be viable. The 2010 permission was speculative and immediately followed by marketing in order to find tenants. This marketing continues but, despite a reasonable amount of initial interest, nothing has proceeded. There has been much criticism of the marketing, but little to substantiate this criticism came my way before or during the hearing. Interested parties have referred to the proactive marketing of the Melville building in the RWY, but comparisons were little more than anecdotal.
18. Conversely, the appellant has supplied marketing particulars which show an array of marketing techniques. The Council was unable to explain how these could have been improved or augmented. The appellant's marketing evidence further highlights that there are offices in Gosport that are already fitted out but also remain vacant, such as the units at Haslar Marine Technology Park.
19. The site's former Class B1 use was effectively absorbed into the new, more diverse Class E in September 2020. The marketing does not expressly refer to Class E, but it does refer to the prospect of alternative, non-office uses. The other uses in Class E do not necessarily lend themselves to a residential complex anyway. A gym was discussed, but gyms can be noisy and operate at anti-social hours. In my view, the introduction of Class E has not undermined the integrity of the marketing; it has been sufficient, albeit unsuccessful.
20. This lack of success is down in significant part to the financial constraints that would be faced to renovate the space and provide it with proper access. This financial impediment was mentioned by several that expressed an interest in the site. Extensive work is needed because the first floor is in shell form and accessed only up a scaffold. There is no planning mechanism in place to oblige the appellant to improve the access to the first floor or its internal specification.
21. For the appellant to take on and second guess the fit-out for an as yet unknown tenant would also be highly speculative and, on the evidence before me, financially unviable. The Council did not dispute that to provide a permanent staircase (without a lift) and a basic outfitting of the space for office use, the estimated cost would be £343,000. Taking the rental charge of £8-10 per square foot per annum which would be competitive for this part of Gosport, the initial outlay would not be recuperated over the typical five-year term of a contract. Contracts also tend to now contain a three-year break clause, which further disincentivises such a significant initial outlay on a speculative basis.
22. It has been suggested that access could be gained via the adjacent, modern staircore serving the flats in the above floors of the granary. However, this would likely necessitate fabric loss in relation to a sensitive, original archway,

and it is not clear that the corresponding floor levels within the granary and the adjoining staircore could be connected without further, intrusive intervention.

23. UK Docks made a written representation stating an interest in the site. However, this organisation did not attend the hearing, and so I have limited information as to the depth of this interest. At the hearing the appellant clarified that UK Docks had previously been interested in the whole RCY but had not actually made an offer for the granary element itself. Possible arts funding was mentioned at the hearing, but it is clear from the marketing evidence that the Arts Council did not pursue the site in 2022 due to a lack of such funding.
24. Drawing this matter together, I am persuaded that the marketing sufficiently demonstrates an absence of feasible interest in the site, a speculative office scheme would not be viable, and an alternative reuse of the space would not necessarily be less harmful in any case. A less dense residential use was also discussed. Whilst this may be potentially less intrusive in terms of subdivision, I am mindful that, conversely, it would enable comparatively less public access to the first-floor space. Doing nothing is also not a suitable long-term outcome for the site, which would likely preclude it from public access altogether.
25. These factors clearly point to the conclusion that the proposal represents the optimum viable use of the listed building; a substantial consideration in favour of the works/development.
26. As to the other public benefits, it was agreed at the hearing that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. Given the nascent state of the emerging Gosport Local Plan Review, a plan led solution to the supply situation appears to be some way off. The provision of six dwellings is therefore a public benefit of moderate weight. The economic benefits that would flow from the scheme are of limited weight.
27. Taking all of these factors together, it is my opinion that the public benefits of the scheme, including securing the asset's optimum viable use, provide a clear and convincing justification for the harm that would arise to the listed building.

Appropriate Assessments

Nitrates

28. The site is within the hydrological catchment of the Solent Sites. The Habitats Regulations require that permission may only be granted having ascertained that the development will not affect the integrity of each of these sites. As the competent authority I must therefore carry out Appropriate Assessments to consider the implications of the proposal for the Solent Sites' conservation objectives, both alone and in-combination with other projects.
29. The Solent Sites are designated due to their internationally significant numbers of over-wintering waterfowl, supporting over 90,000 waders and over 10% of the global population of Brent Geese. Many of the birds travel thousands of miles to over-winter here. The intertidal habitats of mudflats, shingle and saltmarshes provide essential feeding and roosting grounds for these species.
30. Nutrient enrichment from elevated nitrogen levels in the water is one of the primary reasons for Natural England (NE) identifying the Solent Sites to be in an unfavourable condition. Essentially, excessive nutrient levels are accelerating the growth of certain plants through eutrophication, leading to the

loss of important habitat. Water discharge from residential development contributes to this. Given that the proposal would contribute further water discharge to the catchment of these sites, likely significant effects on the integrity of each Solent Site cannot be ruled out in the first instance.

31. The AA would offset nitrogen the scheme would generate with a corresponding reduction in nitrogen at the Whitewool Stream Wetland. In practical terms, land removed from agricultural use at Whitewool is allocated to the proposal for the lifetime of its use, subject to monitoring. NE is satisfied that the farmland taken out of use is proportionate to achieve nutrient neutrality and that the AA would secure this mitigation. This is subject to a condition also recommended by Natural England that the Government's National Calculation Methodology for assessing water efficiency in new dwellings is utilised to demonstrate that no more than 110 litres of water per person per day shall be consumed within the development. I agree with this advice and this approach.

Recreation

32. The Solent and Southampton Water Special Protection Area, the Portsmouth Harbour Special Protection Area and the Chichester and Langstone Harbours Special Protection Area are also together a popular recreational resource and would likely be visited by the occupants of the proposed dwellings.
33. Recreational disturbance can cause important habitat to be unavailable for use. Birds can be displaced by human activities and use valuable resources to find suitable areas in which to rest and feed undisturbed. This can affect the status and distribution of key bird species within the affected sites. It is therefore accepted by the main parties, and agreed by NE, that when considered alone or cumulatively with other schemes, the proposal would have likely significant effects on the features of interest of these particular Solent Sites. I agree.
34. It is also accepted that to mitigate against such effects, financial contributions should be secured to contribute towards the delivery of Strategic Access Management and Monitoring pursuant to the Council's SRMP Definitive Strategy document (2017) and the Gosport Bird Disturbance Mitigation Protocol. Relevant projects include the employment of rangers, the provision of communications, marketing and education initiatives, initiatives to encourage responsible dog walking, codes of conduct for a variety of coastal activities, site specific projects to better manage visitors and provide secure habitats for the birds, and a partnership manager to coordinate and manage all the above. The appellant has made requisite financial payments, which are secured by the UU.
35. As such, I am satisfied, on the basis of the evidence before me, that the UU provides a sufficient mechanism to secure and enable the delivery of proportionate and relevant mitigation pursuant to the Council's strategy for development which could affect the Solent Sites through recreation.

Construction

36. More directly, the construction phase has the potential to create adverse effects on the integrity of the adjacent Portsmouth Harbour Special Protection Area through noise and the discharge of pollutants. This can be addressed through the provision of a Construction Environment Management Plan (CEMP) to be agreed prior to the commencement of the construction works, and a separate condition controlling noise emissions from construction machinery.

Conclusion

37. I therefore find within my Appropriate Assessments that, with the provided mitigation, the proposal would not have adverse effects on the integrity of the Solent Sites. The proposal would accord with Policy LP42 of the GLP, the provisions of the Habitats Regulations and the Framework insofar as they seek to secure the long-term protection of such sites.

Other Matters

38. The site is within the Royal Clarence Yard Conservation Area (the CA). External works are limited to modest alterations to the later store building. This is not a sensitive component of the listed building, and subject to conditions relating to the detail, the character and appearance of the CA would be preserved.
39. I recognise that the parking arrangement at the RCY is rather convoluted, and residents of the scheme would face a fair round trip to access their vehicles, which would be at Cooperage Green. However, these constraints are part and parcel of living within a converted historic complex of this scale and sensitivity. In any case, residents would have the opportunity to park momentarily much closer to the appeal site, if they need to, for instance, drop off shopping. Similarly, the scheme would not provide lift access, but this shortcoming must be considered within the context of the constraints of this environment. There is no compelling evidence that future occupants would have unsatisfactory living conditions with reference to noise, within this mixed-use location.

Planning Balance

40. The harm to the special architectural and historic interest of the listed building draws the proposal into conflict with the development plan when read as a whole. The harm to the listed building is a powerful consideration which attracts considerable importance and weight against the scheme.
41. However, I have found that the proposed works/development likely represent the optimum viable use of the listed building. This is a compelling and ultimately decisive material consideration which leads me to conclude that the harm to the listed building has a clear and convincing justification, and that I must make a decision other than in accordance with the development plan.

Conditions

42. With regard to Appeal A, in addition to the standard time condition, a condition is required to confirm the approved plans in the interest of certainty. In order to promote cycling under the terms of Policy LP23 of the GLP, it is necessary to ensure the delivery of the cycle storage facility. In the interest of personal safety and the living conditions of future and existing occupants, a condition is needed to ascertain the external lighting to be provided at the entrance of the site. Given that the site is within Flood Zone 3, respective conditions are required to control the delivery of the mitigation measures as set out in the appellant's flood risk assessment and to allow for the implementation of a flood warning and evacuation procedure. In the interest of highway safety, a condition shall ensure that the proposed parking arrangement is delivered.
43. With reference to Appeal B, in addition to the standard time condition, conditions are required to secure the details of the works to the exterior and interior of the store building which will be altered to create the site entrance,

cycle store and access stair. Conditions are needed to secure the finer details of the works to the granary itself, particularly with reference to the new floor which is intended to house utilities. I have modified the Council's recommended conditions to remove references to 'development', in the interest of accuracy.

Conclusion

44. For the reasons outlined above, and taking all other matters raised into account, I shall allow the appeals.

Matthew Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tim Burden	Agent
Declan Carroll	Heritage Specialist

FOR THE LOCAL PLANNING AUTHORITY:

Trevor Campbell-Smith	Principal Planning Officer
Rachael McMurray	Heritage Specialist

INTERESTED PERSONS:

Richard Harrison	The Gosport Society
Jeffrey Knott	The Gosport Society
Alex Watson	Resident
Erica Dawtrey	Resident
Philippa Dickinson	Resident

DOCUMENTS SUBMITTED DURING THE HEARING

- 1) Appeal Ref APP/J1725/W/16/3157022

Appeal A – Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: S923-GRC-00; S923-GRC-01 REV E; S923-GRC-04 REV A.
- 3) Development shall not commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include: (i) details of measures designed to protect off-site ecological features; (ii) a method statement for control of dust and emissions; (iii) a method statement for the control of construction noise for the site; (iv) the provision of facilities for contractor parking; (v) the arrangements for deliveries associated with all construction works; (vi) the location of temporary site buildings, compounds, construction material, and plant storage areas; and (vii) working hours. The development shall be carried out in accordance with the approved CEMP.
- 4) No construction works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax) shall be undertaken during the bird over wintering period - October to March inclusive.
- 5) The development hereby permitted shall not be occupied until cycle storage facilities have been provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be installed as approved and thereafter retained.
- 6) The dwellings hereby permitted shall not be occupied until: a) a water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to and approved, in writing, by the Local Planning Authority; and, b) the water efficiency measures have been implemented in accordance with the approved details.
- 7) The dwellings hereby permitted shall not be occupied until an external lighting scheme has been installed at the entrance to the flats in accordance with a scheme that shall be submitted to and approved in writing by the Local Planning Authority. The approved external lighting shall thereafter be installed and retained in accordance with approved details.
- 8) The development shall be carried out in accordance with the submitted flood risk assessment (The Granary, Gosport, Flood Risk Assessment dated July 2020 ref: WIE17350-100-R-4-1-2-FRA) and the following mitigation measures it details: - [3.3] Finished floor levels of the residential aspect of this proposal shall be set no lower than 5.69 metres above Ordnance Datum (AOD). These mitigation measures shall be implemented prior to occupation of the dwellings and shall be retained thereafter.

- 9) The dwellings hereby permitted must not be occupied until a flood evacuation and warning plan is implemented, including any necessary areas of appropriate refuge, in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. The approved evacuation and warning plan shall be operational throughout the lifetime of the development.
- 10) The dwellings hereby permitted must not be occupied until provision has been made within the Royal Clarence Yard site for the parking of vehicles in accordance with the 'Transport Statement for Conversion to Residential Use' (Waterman Infrastructure & Environment Limited - September 2020) and parking permits have been made available (where requested) in accordance with the Royal Clarence Yard Car Parking Management Plan. The vehicular parking arrangements shall be retained as approved.

Appeal B – Schedule of Conditions

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) Full details of the method for re-facing the brickwork/flooring where it is left exposed by the internal staircase hereby approved shall be submitted to and approved in writing by the Local Planning Authority before those works are commenced. The works shall thereafter be carried out in accordance with the approved details.
- 3) Full details and the method of any repairs to the existing fabric shall be submitted to and approved in writing by the Local Planning Authority before those works are commenced. The works shall thereafter be carried out in accordance with the approved details.
- 4) Full details including sections and elevational drawings at a scale of 1:20 of new external doors and openings shall be submitted to and approved in writing by the Local Planning Authority before those works are commenced. The works shall thereafter be carried out in accordance with the approved details.
- 5) Full details of the method of fixing the temporary flooring to the original floor structure shall be submitted to and approved in writing by the Local Planning Authority before those works are commenced. The works shall thereafter be carried out in accordance with the approved details