



Appeal Decision

Site visit made on 9 February 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2024

Appeal Ref: APP/W1715/W/23/3318315

1 Rope Walk, Hamble-le-Rice SO31 4HB

- 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 A Loizou against the decision of Eastleigh Borough Council.
 - The application Ref F/21/91037, dated 24 June 2021, was refused by notice dated 9 December 2022.
 - The development proposed is described on the application form as 'proposed change of use from restaurant to 2 No. residential dwellings (1 No. 5-bedroom and 1 No. 1-bedroom) with two-storey rear extension, removal of existing pitched roof, new pitched roof, external alterations to openings and internal alteration only as necessary to facilitate change of use.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development above, which is taken from the application form, the proposed development is more accurately described as conversion from restaurant to 2no. residential dwellings (1no. two-bedroom and 1no. four-bedroom) with two-storey rear extension, addition of pitched roof to existing single storey rear projection, elevational alterations and internal changes to facilitate conversion. The Council determined the application on this basis and so shall I. I also note that the appellant used this description of development in their appeal form.
3. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (December 2023). This does not materially change the planning policy context in respect of the main issues.
4. As the appeal relates to development to a listed building located within a conservation area, I have had special regard to Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. The main issues are:
 - the effect of the proposed development on the vitality and viability of the Hamble-le-Rice Local Centre;
 - whether the proposed development would preserve or enhance the character or appearance of the Hamble Conservation Area;

- whether the proposed development would have sufficient parking provision; and
- whether a satisfactory standard of accommodation would be provided for future occupiers with particular regard to private amenity space.

Reasons

Vitality and viability

6. The appeal site comprises a prominent 2/2.5 storey building positioned at the junction of Rope Walk with High Street/The Quay. The building was most recently in use for commercial purposes, namely a restaurant. The building is currently vacant but retains the fixtures and fittings of the previous tenant. The proposed development seeks to conversion of both ground and upper floors of the property to residential.
7. Policy DM22 of the Eastleigh Borough Local Plan 2016-2036 (LP, 2022) sets out that a change of use or redevelopment involving the loss of a Class E use, amongst other commercial and leisure uses, where the ground floor is concerned, must demonstrate that a) the new use retains an active ground floor frontage; b) it does not adversely affect the amenity of an area or the appearance of the frontage; and c) it does not have a negative impact on the provision of services or on the sustainability of a key shopping area. In addition, amongst other requirements, such change of use proposals should provide proof that there is no demand for the Class E use, including evidence that the site has been effectively marketed.
8. The appeal property is not overtly commercial in character or appearance in that it does not have a traditional shopfront or 'active frontage'. I also accept that the appeal site is positioned towards the edge of the Local Centre. Nevertheless, the property is in commercial use, as it has been historically, and is positioned in a prominent waterfront location. I have not been provided with any evidence to demonstrate that the building, or any part of it, has been actively marketed for a Class E or commercial use, as required under LP Policy DM22.
9. I appreciate that economic conditions have not been favourable in respect of some town and local centre uses during the past few years, particularly when considering the effects of the COVID-19 pandemic. I also acknowledge, based on my site observations, that a small number of other commercial properties within Hamble-le-Rice are vacant. On the other hand, many other units are occupied by a range of commercial uses. Moreover, at the time of my weekday site visit, Hamble-le-Rice appeared relatively busy in terms of footfall. I have no doubt that this would be higher in spring and summer months and on weekends.
10. I have some sympathy for the appellant who, it would appear, has presided over a commercial property with high tenant turnover in recent years. Nevertheless, as short as some tenancies appear to have been, the unit has proven to be successful in the recent past, insofar as it has been occupied. I have no substantive evidence before me to demonstrate why those business operations ended or to confirm what measures the appellant took to mitigate any matters within their control.

11. I saw during my site visit the atypical layout of the building, comprising a series of separate rooms on the ground floor, which have historically been used for dining or bar areas, with further seating areas and a commercial kitchen on the first floor, via a set of stairs. I can understand the management challenges of this layout for a restaurant. However, as above, I have insufficient information before me to draw conclusions as to whether this arrangement, either in part or full, was reason for the previous tenants to cease operations, or that it has put off future tenants, including alternative Class E and commercial uses. Moreover, the existing arrangement is unlikely to be the only possible layout for a commercial use here.
12. Overall, based on the evidence before me, I conclude that the proposed change of use away from commercial, with particular regard to the ground floor, would likely harm the vitality and viability of the Local Centre. As such, the proposal would be contrary to the relevant provisions of LP Policy DM22 which, in summary, seeks to sustain the vitality and vibrancy of local centres.

Heritage assets – conservation area

13. The site is located within the Hamble Conservation Area. Statute places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The special interest and significance of the CA lies, insofar as the appeal is concerned, in its preserved historic core, focussed around narrow, winding central streets. Commercial uses form an important part of the streetscape character of Hamble-le-Rice, adding interest and articulation to the street scene at ground floor level. The concentration of commercial uses, largely within High Street and including the appeal site, contributes to the vibrancy and bustle of the place.
14. Although the current commercial use would be lost through the proposed development, the appearance of the building would appear largely the same. The building may be less active as a result of the proposed residential use, particularly insofar as regular comings and goings are concerned. However, this could be the case with a range of potential commercial uses here. In this regard, the commercial character of the CA as a whole would not be harmed.
15. For the reasons given above, I conclude that the proposed development would have a neutral effect on, and thereby preserve, the character and appearance of the CA. The proposed development would therefore be in accordance with the requirements of Section 72(1) of the Act and the relevant provisions of LP Policy DM12, which in summary seeks to preserve or enhance the character and appearance of conservation areas.
16. In finding no harmful effects to the special interest and significance of the designated heritage asset, it is not incumbent on me to consider any public benefits that would flow from the proposal in this respect.

Parking provision

17. LP Policy DM14 requires new development to provide off-highway parking, with reference to the Council's Residential Parking Standards Supplementary Planning Document (SPD, 2009).
18. The proposed development would provide two on-site car parking spaces. While this figure falls under that desired by the SPD, the appeal site forms an existing development that is highly constrained, positioned in an historic part of the

settlement, with limited on-site space available. Moreover, the Council's transport specialists have acknowledged that the trips associated with the proposed development compared with that of a commercial, particularly hospitality, use would be significantly less. I concur with those findings.

19. I have no evidence before me to demonstrate that any potential, and likely small, 'overspill' parking at nearby car parks would have a detrimental impact on broader parking provision for visitors to Hamble-le-Rice. During my site visit, I noted that the two nearby public car parks were around 50% occupied. While this is likely to increase in spring and summer months, the use of the car parks by any future residents, subject to permits, would be of a significantly reduced amount relative to the recent use of the appeal site for hospitality.
20. Based on the evidence before me, and my observations on site, the proposed development would provide appropriate parking provision for the context, in accordance with the principles of LP Policies DM1 and DM14, which in summary seek to ensure appropriate parking provision is provided and designed into schemes. This is in a similar vein to the SPD.

Living conditions

21. The Council's Quality Places Supplementary Planning Document (Quality Places, 2011) sets out that external private amenity spaces need to be sunny and well connected to interior spaces to encourage use, will need to allow at least 2 people to sit out in comfort and be relatively private. For flats, 3 square metres of private amenity space should be provided per unit. This amount increases where dwellings are concerned. However, Quality Places sets out that these amounts may be reduced in urban areas when the dwelling is within 100m of a public open space.
22. Although precise measurements are not provided, the evidence before me illustrates that both units would have access to outdoor amenity space in the form of courtyards and decked areas. In my view, these spaces would be useable and suitably private, and similar to nearby properties in this historic and urban location. Moreover, the appeal site is located close to public open space.
23. Overall, I conclude that the proposed development would provide a satisfactory standard of accommodation, with particular regard to outdoor amenity space, in accordance with the relevant provisions of LP Policy DM1 and Quality Places. These, in summary, seek to achieve a high-quality standard of accommodation for future residents.

Other Matters

24. The appeal property is a Grade II listed building¹. I have therefore had regard to my duties under Section 66(1) of the Act. Bearing in mind the nature and extent of the proposals, taken together with the need for a separate application for works in connection with the change of use of the building, I consider that the proposal would preserve the special interest and significance of the Grade II listed building. I note the Council had no concerns in this regard either. Nevertheless, the lack of harm in this respect does not alter my conclusion on the main issues.

¹ List Entry Number: 1111925

25. I note the appellant's comment that the appeal decision was overturned at planning committee. However, the planning committee is not bound to take the advice of its officers. In any case, I have considered the matters in dispute based on the evidence before me.
26. In respect of the Solent and New Forest Special Protection Areas and Ramsar, I note the Council's officer report, which sets out that the appellant has contributed towards the mitigation scheme to the satisfaction of the Council. Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent or permission, must make an appropriate assessment of the implications of the plan or project for that site. However, given my reasoning in respect of viability and vitality, and that the appeal is dismissed, there is therefore no requirement upon me in that regard. Even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

Conclusion

27. For the above reasons, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR