



Appeal Decision

Site visit made on 19 February 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/C1760/W/23/3324854

Hollom Down Bungalow, Hollom Down Road, Lopcombe SP5 1BP

- 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 & Mrs John Head against the decision of Test Valley Borough Council.
 - The application Ref 22/00019/FULLN, dated 5 January 2022, was refused by notice dated 3 February 2023.
 - The development proposed is conversion of rural building to residential dwelling, installation of package treatment plant, cycle store, vehicle charging point and landscaping scheme.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's description of the development in the refusal notice includes several ancillary aspects of the proposal such as the package treatment plant, cycle store and charging point. I have used this description in the interests of completeness and consistency.

Main Issues

3. The main issues are:
 - whether the conversion of the rural building to residential purposes would accord with local policies that principally seek to promote the growth of the rural economy; and
 - the effects of the proposal on the Solent Protected Sites, including the Solent and Southampton Water Special Protection Area/Ramsar and Solent Maritime Special Area of Conservation.

Reasons

Compatibility of use

4. The appeal building is situated on Hollom Down Road and the host dwelling, Hollom Down Bungalow, is situated behind it. The area of Hollom Down Road has a cluster of dwellings and commercial businesses but is largely rural in nature. It is treated as being within the open countryside for planning policy purposes under the Test Valley Borough Revised Local Plan (adopted 2016) (Local Plan).

5. The building is single storey in height but with a high pitched roof covered with profiled metal sheeting. It is constructed of blockwork and is long and narrow, presenting a narrow gable end to the road. The window openings are numerous but vary between small, squat windows and relatively square four pane openings. There are two timber door openings. From my site visit, I could see that the building is currently in use for domestic storage purposes.
6. From the submitted evidence, the appeal building and surrounding area were formerly a part of *Lopcombe Corner Airfield/Aerodrome*. Map regression exercises indicate that it was built between around 1925 and 1937 and has associative connections with the armoury and coal store buildings which are also more ruinous structures within the appeal site. It is suggested that these structures were repurposed to use in connection with military activity during WWII. It is not a designated heritage asset, nor does it have any particular architectural merit, but it is of local interest and can be regarded as a *non*-designated heritage asset (NDHA). This position was confirmed by the Council's conservation consultee.
7. The proposal seeks to convert the building to a dwelling, comprising 3 bedrooms and open plan kitchen and living space. It would have its own parking and garden area.
8. Under Policy LE16 of the Local Plan, the reuse of buildings in the countryside is permissible for commercial use (including tourist accommodation), where it fulfils a range of criteria. Criterion (a) requires that the building is structurally sound and suitable for conversion. Criterion (b) indicates that the proposal should not result in the need for another building to fulfil the function of the building being converted. Criterion (c) requires the proposed use to be restricted primarily to the building; and (d) requires the development to lead to an enhancement of its immediate setting.
9. In my view, save for the fact that the scheme is not proposed for a commercial use, the proposal would fulfil the criteria under LE16 (a) – (d). It is a structurally sound building, suitable for conversion, would not need to be replaced, would be contained primarily within the building and lead to an enhancement of its immediate setting. These matters are not in dispute between the parties.
10. The second part of Policy LE16 sets out that the reuse of buildings in the countryside for residential use will be permitted provided that, in addition to criteria a) – d), the proposal should either be for a rural worker (e), or every reasonable attempt shall have been made to secure a commercial use (including tourist accommodation) (f), or, (g) there are no other means of protecting and retaining the building which is of architectural or historic merit.
11. The proposal is not intended as accommodation for a rural worker so LE16 (e) is irrelevant. The proposal has been submitted under LE16 (g) as a proposal to retain a NDHA, so (f) is not strictly applicable. The question arises as to whether it has been satisfactorily demonstrated under (g) that there are no possible alternative means of protecting and retaining the building other than to convert it to a dwelling. This should be assessed in the context of the Policy's desire to promote commercial uses.
12. To be clear, the way that the Policy is drafted with the criteria being separated by an 'or' rather than 'and', means that it is not necessary to fulfil both criteria.

Similarly, the supporting text to support (f) and (g) need to be read independently, not taken as applicable to both. The same applies to the supporting text.

13. Paragraph 6.91 of the supporting text to Policy LE16 sets out that:

"In certain circumstances, residential use may be justified as an appropriate means of preserving a building of particular architectural or historic merit because it is the only means of funding its restoration and retaining its original features. In these circumstances, evidence should be provided which sets out that a commercial proposal would not be appropriate in retaining the building".

14. A number of submissions have been made by the Appellant to indicate that the proposal is the only means of protecting and retaining the building in a way that a commercial use could not. The evidence of this nature includes the Statement of Case and appended viability appraisal¹ which detail issues such as the proximity to the host dwelling, the saturation of commercial uses in the area, limited area available for parking due to the ruins of the armoury and coal store, the age and format of the building as factors why the conversion to a commercial use would be undesirable or impractical. It is also envisaged that rental or sales yields would be too low to support the conversion scheme to a commercial use, though I do not consider it strictly necessary to prove an extensive marketing campaign has been undertaken where a proposal is submitted under Policy LE16 (g).

15. In addition, the plans were also amended during the course of the original application to maintain the window proportions and replace the roof treatment on a like-for-like basis, which indicates that consideration has been given to the means by which the building's authenticity can be maintained, and which could not be easily replicated if the building were to be used for commercial purposes. These factors, and the way in which a domestic use of the building would also largely retain the building's setting in its existing form and the group value with the remains of the armoury and coal store, enable me to reach the view that the proposal would be the most appropriate means of protecting and retaining the significance of the building, with least harm to its historic fabric, form and setting.

16. Overall, I find that the proposal would accord with, in particular, Policy LE16 of the Local Plan.

Solent Protected Sites

17. The site lies within a catchment area that passes into the Solent. The Solent Protected Sites are designated under the Conservation of Species and Habitats Regulations 2017, as amended (Habitats Regulations) for their specific qualifying features, including aquatic plants, the water environment and the multiple overwintering bird species.

18. In short, levels of nitrogen and phosphorus from various sources are reaching the Solent Protected Sites with negative consequences, harmful to their integrity. As a result, the nutrient input from changes in use of land, increases in foul drainage outflows and other related developments that drain into the

¹ Myddelton & Major, dated 25 July 2022

- protected sites must be assessed and found not to add to the existing nutrient burdens.
19. The proposal is not one intended for nature conservation reasons. As the proposal would increase the number of residents from the creation of an additional dwelling, and thus, the foul water outflow passing to the Solent, it would be likely to generate a significant adverse effect on the integrity of the Solent Protected Sites. As the effects cannot be screened out, the need for avoidance or mitigation measures to be employed is a necessary part of the Appropriate Assessment stage under the Habitats Regulations.
 20. A *Nutrient Assessment & Budget*² was submitted with the appeal application along with further information on request from Natural England. This details that the site is remote from the public sewer network. It is proposed to install a new Package Treatment Plant (PTP) to serve the foul water load. The manufacturer and type of PTP is specified as a *Rewatec Solido Smart* for which the performance certificate has been provided. Otherwise, the site comprises residential urban fabric and this would remain the same under the proposal. The Nutrient Budget detailed within the report sets out that using the latest Natural England Calculator, the proposal would generate a net nitrogen increase of +1.01 Kg TN/yr from the proposed development, inclusive of the recommended 20% buffer.
 21. The mitigation proposed to offset the additional nitrogen is through the purchase of credits under an offsetting scheme operated by the Council, with the location of the credits available from a location referred to as 'Roke Manor'. The evidence suggests that Natural England agree with the budget outputs and the type of mitigation proposed. However, the credits have not yet been purchased and no obligation made under S106 of the Town and Country Planning Act 1990 has been submitted to oblige the developer to secure such prior to any commencement of the development.
 22. The Appellant has suggested that a Grampian condition could be used to secure the additional offsetting credits. However, the Planning Practice Guidance (PPG) states that conditions limiting the development that can take place until a planning obligation has been entered into is unlikely to be appropriate in the majority of cases³. In exceptional circumstances, such a condition may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk. The six tests for planning conditions also set out in the National Planning Policy Framework and the PPG must also be met in this scenario.
 23. Though there is an indication that the Appellant would be willing to enter into such an obligation, it should be before me at the time of making the decision to enable me to have the requisite scientific certainty that the effects of the scheme would be mitigated in a timely manner. In the absence of an obligation of this nature and lack of exceptional circumstances to warrant a condition requiring such, nutrient neutrality cannot be demonstrated, and the scheme must be considered as likely to result in adverse effects on the integrity of the Solent Protected Sites.

² Aqua Callidus Consulting, v3 dated May 2022

³ Paragraph: 010 Reference ID: 21a-010-20190723

24. For the above reasons, the proposal would harm the integrity of the Solent Protected Sites, contrary to the expectations of the Habitats Regulations and Local Plan Policies E5 and E8. These Policies seek to ensure that development likely to result in a significant effect, either alone or in combination, on an international or European nature conservation designated site satisfies the requirements of the Habitat Regulations and avoids unacceptable risks to the natural environment.

Planning Balance and Conclusion

25. Drawing together all of the above, whilst I find that the proposed use would be compatible in accordance with the development plan, the effects on the integrity of the Solent Protected Sites would be unacceptable and for this reason, the proposal would conflict with the development plan when taken as a whole.
26. The benefits of the scheme include the creation of an additional dwelling to add to the local housing stock; the preservation of the NDHA in a manner consistent and sympathetic to its historic form, fabric and setting; and the economic benefits from both the construction phase and future occupation by new residents to the community. Taken collectively, these public benefits attract modest weight in support of the scheme.
27. However, the weight of the public benefits of the scheme does not outweigh the development plan conflict in this case such that it indicates that permission should be granted other than in accordance therewith. There are no other considerations of such materiality that do so either.
28. Consequently, the appeal is dismissed.

Hollie Nicholls

INSPECTOR