



Appeal Decision

Site visit made on 23 July 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/C1760/W/24/3338444

2 The Avenue, Andover, Hampshire SP10 3EL

- 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 Kevin Emmerson of K&S Property Investments Ltd against the decision of Test Valley Borough Council.
 - The application reference is 23/02049/FULLN.
 - The development proposed is the erection of 2.5 storey residential block comprising 5 no 1-bed flats with associated cycle store, bin store, amenity space and car parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Railway Station is a grade II listed building. As required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
3. The appeal submission included drawings that depict revised parking and landscaping layouts, and also revisions to the proposed flats including reducing the height of the block and a variety of changes to its external appearance. These changes were submitted after the Council's refusal of the scheme. There are several differences between the appeal scheme and that considered by the Council, and the totality of these incremental changes would result in a substantial difference to the original application. Whilst the Council have had an opportunity to comment, others have not. In the interests of openness and fairness the revised drawings have not been accepted as part of the appeal.

Main Issues

4. The main issues in this case are:-
 - the effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon the setting of the nearby listed railway station;
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to privacy, noise, and odour;
 - whether adequate levels of parking provision would be provided; and

- the impact of the proposal upon the integrity of the Solent Waters habitat sites.

Reasons

Character and Appearance

5. 2 The Avenue (No 2) is positioned within a corner plot formed by the junction of The Avenue with Station Approach. The station and its associated uses, including a multi-storey car park are to the north and west, and they form the terminus to Station Approach. Either side of this road there are a variety of commercial and service properties, and this area forms a discrete contrast to the residential development that surrounds it. The Avenue is a principal route within the area, and this broad, straight, tree-lined road leads to the station. Along this road and those nearby are mostly detached houses, of similar ages and styles. The houses often have generous gardens, and the presence of these and the street trees complements the cohesion of the housing, giving a verdant, harmonious identity to the area.
6. The leafy suburban housing near the station is indicative of the planned development of the town over time. The station is a landmark building having an impactful presence that arises from its form and its functional importance. This high-quality two storey symmetrically fronted building has an imposing appearance and presence that denotes its social and community importance within the area. The linear form of the building with its timber extensions serve to enclose the platform, and this form along with its elegant detailing, attractive red brickwork, moulded bands, and large sash windows with deep reveals, make this a landmark building, all of which are part of its architectural and historic special interest. The generous vehicular and pedestrian circulation areas in front of the building emphasise its imposing status, and particularly so as many of the nearby roads lead to the station. This physical and functional importance and the surrounding planned residential development of this part of the town, are all part of the setting of this listed building.
7. The appeal property is also a distinctive building within the area, in part due to its position, size and its mix of uses, and also because of it having a large area of hardstanding. The building is set away from the corner of the site, and although the hardstanding is used for miscellaneous storage and vehicle parking, its open nature contributes to and enhances the focal impact of the station.
8. The presence of a tall, narrow, broad building would harmfully intrude into and enclose the open setting of the station. Given the size, height, and positioning of the building it would detract from the landmark status of the station, competing with and thereby eroding the setting of this listed building. The flats would have no active frontage with the public realm, and it would make an imposing delineation of the site boundary that would exaggerate the overbearing impact of the block within the setting of the listed station. Furthermore, when combined with the presence of the existing buildings within the site, their concentrated totality within such a small area would result in them becoming dominant rather than the station.
9. Such a dominance would also erode the harmony of the suburban residential development that exists around the station. No 2 has a legible cohesion with the nearby houses despite its mix of uses, as its style, materials, and detailing

respects that found within the nearby dwellings. The block-like form of the flats would appear conspicuously evident in an area of mostly two storey buildings with articulated forms and varied roofscapes. Whilst the block would have some detailing, such as soldier courses to the sash windows and a slate roof, these would do little to ameliorate the size and form of the building. In addition, the use of render along with the long length of the roof and numerous rooflights would all exaggerate the size of the building. Although local residents have not objected to the scheme, not only would the building be at harmful odds with the nearby housing, it would also detract from the elegant mannered appearance of the station.

10. Whilst the flats would be of a similar height to No 2, this building has a composite, architecturally detailed and articulated form that reflects the styles of the nearby housing. Even with landscaping, two large, tall buildings would have a constricted appearance within a small site and this would fail to reflect the verdant nature of nearby housing and the open setting of the station. The tall, narrow vertical emphasis of the flats would appear cramped and contrived, particularly so as much of the remaining space would be dedicated to parking. Planting would be relegated to the periphery of the site rather than appear as an integral part of it, and the use of railings may create an enclosure but would still allow the cramped nature of the development to be apparent. Tree planting could be conditioned as suggested by the appellant, but little detail of the nature of the planting nor how it would survive in such a context so as to make a positive impact to the area has been provided. Consequently, conditions would provide little certainty these concerns could be resolved.
11. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. This is irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance. Given my findings, the flats would unacceptably detract from the setting of the station. This harm would be less than substantial as the scheme would affect only part of the setting of this building, although this harm would be of considerable importance and weight.
12. Under such circumstances, the Framework advises that where development would lead to less than substantial harm that this harm should be weighed against the public benefits of the proposal. The appellant considers the scheme would be a positive improvement to the area, including that it would partly screen the multi-storey car park, with the opportunity to provide landscaping being a significant benefit. However, planting could occur irrespective of the appeal proposal, and the multi-storey car park is legibly part of the functional ancillary uses surrounding and associated with the station. On balance, the public benefits arising from the works would be limited, and they would not outweigh the significant harm to the setting of the station.
13. For these reasons the scheme would unacceptably harm the character and appearance of the area and the setting of the nearby listed railway station. This would conflict with requirements of the Act, and as the harms would not be outweighed by public benefits, this would be contrary to objectives of the Framework. Moreover, the scheme would fail to accord with Policies E1, E2, and E4 of the Test Valley Borough Local Plan (2016) (LP). As these require amongst other things, that development should be high quality in terms of design and local distinctiveness, integrating with, respecting, complementing,

and being compatible with the character of the area in which it is located, including that of the Residential Area of Special Character, the scheme would fail to accord with these objectives. The scheme would also fail to make a positive contribution to sustaining or enhancing the significance of the heritage asset and its setting, as required by LP Policy E9.

Living Conditions

14. The proposed flats would have windows looking into No 2 and given the proximity of the two buildings, existing and future residents would experience direct and close overlooking. The angled positional relationship of the buildings would do little to ameliorate the loss of privacy. In addition to this, future occupiers would also be visible to users of the top tier of the multi-storey car park. It might be the case that the rear facing rooms of No 2 are not main rooms and that users of the car park would only have a view into the flats as they passed by. Nevertheless, there would be unacceptably close views into the front and rear facing windows of the proposed flats whether from the occupiers of No 2 or from users of the car park.
15. Furthermore, the outdoor amenity space would also be overlooked. The flats would have side facing windows that would provide views directly into the amenity area, and this space would also be adjacent to the busy circulation area in front of the station. Whilst noting that the occupiers of No 2 have no outdoor amenity space, even if landscaping could be provided and be retained, those using the space would be overlooked from every aspect. Not only would future occupiers experience little privacy within their homes, they would also have little within their outdoor amenity space.
16. The station is a concentrated focus for both pedestrian and vehicular movements, and these movements, along with those of the trains themselves and the presence of bus stops and taxi ranks results in a busy, bustling area, with noise occurring from a variety of sources. Occupiers of the flats would experience frequent and unacceptable levels of noise disturbance which would severely impact upon quality of life. Whilst it is not unusual in urban areas to experience noise, in this instance future occupiers would be very close to unacceptable levels of noise disturbance, and this would be experienced within each room of their homes.
17. The mitigation measures proposed by the appellant would necessitate all the windows being shut, and future occupiers of the flats would be unable to naturally ventilate any room. The ventilation of their homes would rely upon a mechanical ventilation heat recovery system and also acoustic glazing for each dwelling. How the ongoing maintenance of any such system would be achieved throughout the lifetime of the building has not been demonstrated nor secured, and having regard to this uncertainty, conditions could not be relied upon to address the harm. It might be that other nearby homes experience such disturbance, but the Framework makes it clear that new developments should avoid locations where noise would give rise to significant adverse impacts upon health and quality of life. In this instance, future occupiers of the flats would experience unacceptable noise levels particularly if they opened their windows, and if mechanical ventilation could be provided its ongoing management and maintenance remains unresolved.
18. The constrained nature of the site is such that the bin store for the flats would be adjacent to No 2, occupying a similar position to the bin storage that is

already occurring. The provision of an enclosed bin store would be a benefit to the existing and proposed occupiers of the site, albeit what has not been demonstrated is whether that proposed would be sufficient to serve both properties. Given the constrained nature of the site, including the proximity of the store to parked cars, planned provision would be necessary to ensure that bins do not stray around and also to minimise odour nuisance to both existing and future residents. Furthermore, there are no details of where commercial refuse from the retail premises and offices would be stored. Given these uncertainties and the constrained context, conditions could not be relied upon to address the harms.

19. For these reasons the scheme would not provide acceptable living conditions with regard to privacy, private outdoor amenity space, noise and odour, and the suggested conditions would not overcome these harms. This would be contrary to LP Policies E8 and LHW4, as these seek amongst other things, that development provides for privacy for its occupants and that of neighbouring properties, the provision of private open space, and that development that is sensitive to pollution will only be permitted if the intended users are not subject to unacceptable impact from existing nearby uses having taken account of proposed mitigation measures, thereby reflecting objectives of the Framework.

Parking

20. The appellant acknowledges the scheme would result in an under provision of car parking spaces relative to the Council's parking standards. The spaces provided would serve both the proposed flats and the retail and office units, and the occupiers of the flats within No 2 would have no off-street parking provision.
21. Future occupiers would be close to the train station and associated bus stops, and be within walking distance of the town centre, thereby helping to reduce reliance upon private cars. However, the demand for parking from both the existing and proposed uses would result in a much greater need for provision than is provided. There would be some opportunity for parking in the multi-storey car park and on-street. However, there would be an ongoing charge for the former and much of the latter is controlled. Having regard to the constrained nature of the site there would be little opportunity to park other than in the allocated spaces, and this in itself would be heavily reliant upon unobstructed circulation areas. Whilst it might be the case that other proposals include an under-provision of car parking relative to adopted standards, in this instance the absence of sufficient provision for the existing and proposed uses would be a further pressure upon the use of the already constrained space available within the site.
22. The scheme would be in a well-connected location with regard to transport links and key destinations, as required by LP Policy T1 and the Framework, but despite this the internal layout of the site and the demand for spaces arising from both existing and proposed users would not accord with the requirement of LP Policy T2 that seeks well designed and appropriately located and convenient parking. Given this, the scheme would fail to provide adequate parking for existing and future users.

Habitat Sites

23. The appeal scheme would be within the nutrient neutrality zone for the European protected Solent Waters habitat sites, namely Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar, the Solent and Southampton Water SPA and Ramsar, the Solent Maritime Special Area of Conservation, and Portsmouth Harbour SPA and Ramsar. The Solent is a complex major estuarine system that supports nationally and internationally important numbers of birds, including migratory and over wintering populations. The increased levels of nitrogen and phosphorous entering the aquatic environments via surface and groundwater can severely threaten these sensitive habitats and species. High levels of both including from waste water from residential development can result in eutrophication and algal blooms that cause major changes in the aquatic community, thereby having an adverse effect upon these important habitat sites and species.
24. The location of the flats would increase the number of dwellings within the nutrient neutrality zone, and future occupiers would have a significant effect upon the integrity of these protected sites. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority.
25. LP Policy E5 requires development which would be likely to result in the loss, deterioration or harm to habitats or species of importance will not be permitted, unless measures can be provided and secured that would avoid, mitigate, or compensate the adverse effects. In this instance the appellant has acknowledged a requirement for mitigation, suggesting a Grampian condition to secure it in the event that planning permission is granted.
26. Although the above referenced policy refers to securing mitigation through conditions, I am not satisfied that a condition would deliver the necessary mitigation. The appellant's suggested biodiversity benefits of landscaping and bat and bird boxes would fail to provide mitigation for the impact of the scheme upon the Solent waters. Moreover, no binding measures have been provided as an alternative to provision at Roke Manor if credits are unavailable, or that any mitigation would be delivered in a timely and reliable manner. In such circumstances conditioning mitigation would lack the very high level of certainty required to rule out an adverse impact upon the habitat sites.
27. For these reasons, the proposal would adversely affect the integrity of the Solent Waters habitat sites, and this would be contrary to objectives of the Framework, and to those of the above reference LP Policy.

Other Matters

28. Although not forming part of the Council's refusal of the scheme, concern has been raised that future occupiers of the top floor flat would have few windows. Apart from a hall window, there would two windows for two rooms of this flat, with a reliance upon the multiple roof lights to provide natural light. Future occupiers would have a restricted outlook, but as I am dismissing the appeal for other reasons, I have not considered this matter further.

Conclusion

29. The scheme would result in significant harms to the character and appearance of the area, and to the setting of a listed building. It would also result in unacceptable living conditions for future occupiers, would fail to provide adequate parking provision, nor protect the integrity of the Solent Waters habitat sites. The adverse impacts arising from the proposal would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these substantial harms. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR