



Appeal Decision

Site visit made on 13 August 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/X1735/W/23/3334421

42 North Street, Havant, Hampshire PO9 1PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gianni Shipp against the decision of Havant Borough Council.
 - The application Ref is APP/22/00337.
 - The development proposed is change of use of the vacant office building to two flats and erection of rear external staircase and secure cycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the vitality and vibrancy of the town centre; and
 - The effect of the proposal on flood risk.

Reasons

Town centre

3. The appeal property is within the Havant town centre, and whilst currently vacant, has been previously utilised for commercial offices. Policy DM3 of the Havant Borough (Core Strategy) Local Development Framework 2011 (HCS) seeks to protect existing employment sites, including offices, unless it is clearly demonstrated that the site is no longer suitable for employment uses through a marketing process. Furthermore, within town centres, HCS Policy CS4 seeks, amongst other things, to support small and independent businesses.
4. Whilst the property may have been vacant for some time, there are no details in the evidence of any previous or active marketing of the appeal site for its existing commercial use. Moreover, although the appeal property retains its original façade and does not feature an active frontage, it is nevertheless within an area which features a vibrant mix of town centre uses. Although currently unused, given its location, an active employment use of the appeal building would be a part of the commercial mix of town centre uses contributing to the vibrancy.
5. The appellant has referred to a nearby change of use of an 'operating shop' to a number of residential dwellings. However, although I note the Council refer to an approval granted at 7 & 8 Northlea, Prince George Street and the

circumstance of the granting of this approval, I cannot be certain that this is the same permission referred to by the appellant. Notwithstanding, I have minimal information before me in relation to this permission and the circumstance within which that permission was granted. I am therefore unable to ascertain the equivalence of the other permission to the current proposal.

6. I acknowledge that residential development often plays an important role in ensuring the vitality of town centres. However given the evidence before me including lack of any marketing, I cannot be certain that the appeal building would not be suitable for, or is needed to support continued employment uses within the town centre, which would make a contribution to its vitality.
7. Consequently, I conclude that the proposal would result in the loss of a commercial premises which would have a harmful effect on the vitality and vibrancy of the town centre. The proposal would therefore conflict with HCS policies DM3 and CS4, the purposes of which I have previously outlined. The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) which seeks to ensure the vitality of town centres.

Flood risk

8. The appeal site is within Flood Zone 1. However, it is within an area identified as being at risk of future flooding within the Council's Strategic Flood Risk Assessment. Footnote 59 of the Framework states that a site-specific flood-risk assessment (FRA) should be provided for all development on land identified in a strategic flood risk assessment as being at increased flood risk in future. The requirement for an FRA in such locations is echoed in HCS Policy CS15.
9. No such assessment has been provided with the scheme. It therefore has not been demonstrated that the development will be safe, including the access, and that future occupiers of the proposal will not be placed at risk from flood hazards throughout its lifetime, or details of any mitigation measures that may be required to address any risks.
10. As such, on the evidence before me I cannot be certain that the proposal would not result in harmful risks from flooding at the site or elsewhere. The proposal would therefore conflict with HCS Policy CS15 which seeks, amongst other things, to ensure that development will be safe without reducing flood risk elsewhere. The proposal would also be contrary to the provisions of the Framework which seeks to ensure that any residual flood risk can be safely managed.

Other Matters

11. The appeal site is located within the St Faith's Conservation Area (CA). The significance of the CA is derived in part, from the historic pattern of development and the appearance of period buildings which maintain much of their original architectural features. Proposed external alterations would not be widely visible and given the mix of uses within the CA, the proposal would have a neutral effect on, and thus preserve the character and appearance of the CA.
12. The appeal site is also located near the Chichester and Langstone Harbours Special Protection Area and Ramsar site, the Solent Maritime Special Area of Conservation, and the Solent and Dorset Coast Marine Special Protection Area (the habitats sites). Potential adverse effects could arise from the proposal due to increase in recreational disturbance associated with an increase in the local

residential population/visitor numbers and increased levels of nitrates from sewage discharge and wastewater generated from the proposal.

13. The appellant has entered into a legal agreement to secure mitigation. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal.
14. Given my conclusions on the main issues above, it is not necessary for me to consider this matter any further as the proposal would not take place and would not affect the habitats sites. Moreover, even if I were to find that suitable mitigation had been appropriately secured, a lack of harm would only be a neutral factor.
15. The Council state that they are able to demonstrate 1.81 years of housing land supply. The proposal would provide housing, which the appellant describes as smaller affordable market housing, in an area close to services, facilities and public transport links. However, despite the significant housing supply shortfall, due to the small scale of the proposal the benefit would be modest.
16. There would also be economic benefits from the works during conversion and future occupation of the proposal. However, despite not currently being in use, it has not been demonstrated that the premises would not be used for commercial purposes in the future, and as such the loss of existing office space would inevitably reduce and limit any economic benefit from future residential use.
17. The proposal would result in harm from each of the main issues as set out above. The policies it would be contrary to are broadly consistent with the Framework. This includes the application of policies in the Framework that protect areas or assets of particular importance providing a clear reason for refusing the development proposed. In this case areas at risk of flooding. Therefore, as set out in footnote 7 of the Framework, despite the current housing supply level, the presumption in favour of sustainable development as set out in paragraph 11d)ii of the Framework does not apply.

Conclusion

18. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR