



Appeal Decision

Site visit made on 27 November 2024

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2024

Appeal Ref: APP/P2114/W/24/3342057

17 School Green Road, Freshwater, Isle of Wight PO40 9AJ

- 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 K Hang of Red Catering Ltd against the decision of Isle of Wight Council.
 - The application Ref is 23/01216/FUL.
 - The development proposed is described as 'Retrospective application to retain the enlarge rear staff/storage building all as indicated on the attached submitted drawing.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks the retention of a building to be used for both staff accommodation comprising a single one bed self-contained residential unit and storage in association with an existing café/restaurant on the site. At the time of my site visit, I observed that construction works were underway but incomplete. The building was unfinished and unoccupied.

Main Issues

3. The main issues are:
 - the effect of the proposed development on protected habitats sites;
 - whether the appeal site is a suitable location for the proposed development;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal on the living conditions of occupants of 19 School Green Road, with regard to overlooking of private outdoor space; and
 - the effect of the proposed development on trees.

Reasons

Protected habitats sites

4. The appeal site is located within the buffer zone for the Solent Special Protection Area (SPA). It is also located within the catchment area of the Southampton and Solent Waters SPA. These are European Sites of Nature

Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations).

5. The Bird Aware Solent Strategy sets out that mitigation is required to address increased recreational pressures arising from new residential development within the buffer zone of the Solent SPA. The appellant has indicated that he is willing to enter into a legal agreement in respect of securing mitigation for any harm arising from recreational activities. However, no such agreement has been submitted. Consequently, there is no mitigation and I must conclude that the proposal would, in combination with other plans and projects, lead to likely significant effects on the protected habitats sites.
6. The Southampton and Solent Waters SPA has been identified as being in an unfavourable condition due to excessive levels of nutrients, both nitrogen and phosphate, entering the water. This has a detrimental impact on the habitats and species of birds to which the designation relates. Wastewater from residential development contributes to this.
7. The appellant has stated that the site has main drainage within the plot serving the other buildings and that these are connected directly to the Sandown treatment plan. However, neither confirmation of this nor where the mains sewer outflows to has been submitted. It is therefore not possible to conclude with certainty that the proposal would not give rise to increased nutrient inputs into the SPA. I am therefore unable to be certain that the scheme would not lead to likely significant effects on the protected waters.
8. The proposal would therefore conflict with Policies SP5 and DM12 of the Island Plan Core Strategy 2012 (the IPCS) which together require development to avoid adverse effects upon the integrity of designated sites and, if necessary, provide appropriate mitigation measures.

Suitable location

9. The appeal site is located within the built-up area of Freshwater. The appeal building occupies the rear part of the appeal site behind an outdoor courtyard which provides a seating area for the ground floor café within the host property.
10. The appellant states that the residential accommodation would be required for staff in connection with his business. The Council has set out that the need for staff accommodation in this location has not been justified and the proposal would be contrary to the aims of Policy DM2 of the IPCS. This policy is concerned with design quality. The policy itself does not set out a specific requirement for justification to be provided, however, the supporting text refers to towns and villages being altered by incongruous or jarring developments.
11. This is a residential use in an accessible location within a town where shops, restaurants, leisure, medical facilities and transport links are all within walking distance of the site. The proposal would not affect the existing café which forms part of the linear mixed commercial development along this stretch of School Green Road. The use would be compatible and not harmful to the town centre and its function or environment.

12. I therefore conclude that the appeal site is a suitable location for the proposed development. It would therefore accord with the aims of Policy DM2 of the IPCS as referred to above.

Character and appearance

13. The building is flat roofed and single storey. Due to the topography of the area it is not clearly visible from the public realm. Timber fencing has been installed to separate the appeal building and space outside it from the small courtyard area.
14. Development along School Green Road is linear and varies in character and appearance. Immediately adjacent to the appeal site, there is a large hotel building, recently converted to holiday accommodation, with a courtyard area to the rear. On the site's other side, there is a more traditional two-storey building with a ground floor retail unit and residential accommodation both to the rear and above. The property has been substantially extended and occupies much of the plot.
15. There is no overriding pattern of development at the rear of properties in the vicinity of the appeal site and residential uses exist at ground floor level. Consequently, the subdivision and provision of a small unit of accommodation in this rear location does not appear out of keeping with surrounding development. The retained courtyard would be small but not unduly so, particularly given the density of development on the adjacent site.
16. I therefore conclude that the proposal would not harm the character or appearance of the area. It would therefore accord with Policy DM2 of the IPCS which, amongst other things, supports development which conserves the existing environment whilst allowing change and provides a functional and adaptable built environment.

Living conditions

17. Number 19 School Green Road (No 19) consists of a ground floor retail unit and two residential units at ground and first floor levels. A brick wall forms a shared boundary between this and the appeal site. The appeal building is close to and in a slightly elevated position in relation to No 19. From here, views towards the side elevation and side access to No 19 were limited but nevertheless possible. To prevent any overlooking of this space, it would be possible to impose a planning condition requiring appropriate boundary treatment to prevent this. Consequently, no overlooking of this space would occur.
18. The proposal would not harm the living conditions of No 19 through overlooking of private amenity space. It would therefore accord with Policy DM2 of the IPCS which seeks high quality design that protects the existing environment.

Trees

19. There are a number of trees in close proximity to the appeal site, including a mature conifer in the garden of the property to the rear. The submitted drawings indicate an existing building on the site which would be extended as part of this proposal. The extension would be to the front of the building and away from the trees which are predominantly to the rear. Given there is an

existing building on the site and the position of the proposed works, the proposal is unlikely to have a detrimental impact on nearby trees.

20. I therefore conclude that the proposal would not harm trees. It would therefore comply with Policy DM12 of the IPCS which supports proposals that conserve biodiversity.

Other Matters

21. The scheme would provide housing for staff and would help to provide employment and deliver economic and social benefits, albeit limited in scale due to the size of the proposed development. However, these limited benefits would not overcome the absence of mitigation in respect of the harms I have identified.

Conclusion

22. For the reasons set out above, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR