



Appeal Decision

Site visit made on 1 October 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 October 2025

Appeal Ref: APP/N1730/W/25/3361259 **12 Reading Road South, Fleet GU52 7QL**

- 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 Matthew Clarkson against the decision of Hart District Council.
 - The application Ref is 24/01877/FUL.
 - The development proposed is proposed demolition of commercial building and rebuild of commercial and residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time that the appeal application was decided, the Council could demonstrate a five year supply of housing as required by the National Planning Policy Framework (the Framework). However, the Council acknowledged that this position would change with effect from 1 May 2025. The Council's Statement confirms it can no longer demonstrate a five year supply of housing with relevant buffer. The appellant does not dispute that there is an undersupply and I do not find reason to reach an alternative conclusion in this regard.

Main Issues

3. The main issues in the appeal are:
 - whether the location of the development would accord with local policies concerning residential uses in town centre areas;
 - the effects of the proposal on the living conditions of neighbouring occupiers, with particular regard to privacy and outlook;
 - the effects of the proposal on the Thames Basin Heath Special Protection Area (TBH SPA);
 - whether the proposal would provide sufficient car parking to serve future occupiers and visitors.

Reasons

Location of development

4. The appeal site comprises a single storey commercial unit within the defined town centre of Fleet under the *Hart Local Plan: Strategy and Sites 2032* (adopted 2020) (Local Plan). The surrounding area is similarly characterised by buildings with Class E uses on the ground floor and residential at first and second floor levels

(where they exist). The evidence details that the former Class E use commercial unit (former shoe repair shop) has been vacant for some time, with the need for extensive refurbishment rendering it unsuitable for ongoing use.

5. Policy ED5 of the Local Plan is supportive of town centre uses within Fleet Town Centre and recognises that residential uses may be appropriate in upper floors subject to maintaining active ground floor frontages and residential amenity considerations. The *Fleet Neighbourhood Plan 2018 – 2032* (adopted 2019) (FNP) defines the site as falling within Zone 2 of Fleet Town Centre to which FNP Policy 5 applies. Policy 5 is supportive of residential uses at upper floor levels within Zone 2 provided that active frontages are not compromised, and satisfactory residential amenity is achieved. The policy also states that the loss of ground floor A1-A5 Use Class uses¹ will not be supported.
6. Notwithstanding that the proposal would reintroduce a commercial office space on the first floor, the proposal would involve the permanent loss of a Class E (formerly A1 retail) unit and would thus, fail to maintain an active ground floor frontage within the town centre area, contrary to policy ED5 of the Local Plan and FNP policy 5.

Living conditions of neighbouring occupiers

7. The proposal would most directly affect two neighbouring dwellings: the first floor flat at 10 Reading Road South (No 10B) and the first floor flat at Alexis Court which overlaps with the site at the rear and has north-facing windows that look over the appeal building.
8. No 10B has an entrance door and separate window in the east facing elevation overlooking the site at a distance of around 1.8m from the proposed flank wall. Though there are windows in the north and south elevations, this window in the east facing elevation is referred to as a habitable room window. In the absence of any evidence that there are other windows serving this particular habitable room that offer an alternative outlook, the construction of a flank wall some 1.8 metres from this window would result in an overbearing impact and sense of oppression for the occupiers of this particular dwelling.
9. The flat at the first floor level of Alexis Court overlooking the site appears to have its principal living space facing east into its internal courtyard. A secondary window to this room appears to face north, as well as other windows which appear to serve a bedroom or bedrooms. The appeal building would be constructed in close proximity to one of these north facing windows, though the first floor section would be set around 3 metres further away than the ground floor outer walls. Given the extent of the blank rear wall and hipped roof of the building that would be in direct alignment with this window at such close proximity, this too would result in an overbearing impact on the living conditions of neighbouring occupiers.
10. Due to the absence of windows or use of obscure glazing where relevant, the proposal would not result in any loss of privacy. However, though the views obtained from the aforementioned affected windows are already over the tight-knit urban context, their outlook would be so compromised as to materially harm the living conditions of the neighbouring occupiers. The harm would still occur despite the absence of objections from the current occupiers.

¹ Which would include the Class E appeal building, with reference to The Town and Country Planning (Use Classes) Order 1987 (as amended) and The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

11. As such, the proposal would be harmful to the living conditions of neighbouring occupiers, with particular regard to outlook, contrary to saved policy GEN1 of the *Hart Local Plan (Replacement) 1996 – 2006* (adopted 2020). Part iii of this policy seeks to ensure that new development does not cause a material loss of amenity to adjoining residential uses through loss of privacy or overlooking.

TBH SPA

12. The TBH SPA is designated under the *Conservation of Habitats and Species Regulations 2017* (the Habitats Regulations) for its network of heathland sites which support internationally important numbers of bird species: Dartford Warblers, Woodlarks and Nightjars. These birds' nest on or near the ground and as a result they are very susceptible to predation, particularly by cats, rats and crows, and to disturbance from informal recreational use, especially walking and dog walking. Any proposal which by reason of its proximity of the SPA, within a 'Zone of Influence', that may result in additional recreational disturbance is likely to have an adverse effect on the integrity of the SPA.
13. The conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution of the habitats of the qualifying features; the structure and function of the habitats of the qualifying features; the supporting processes on which the habitats of the qualifying features rely; the population of each of the qualifying features, and, the distribution of the qualifying features within the site. I have had regard to these objectives in undertaking my duties in accordance with the Habitats Regulations.
14. The appeal site is located within the 400m-5KM zone of influence (Zol) for the TBH SPA and the proposal is not directly connected with or necessary for the management of the protected site. However, the proposal, given its scale, nature and distance within the Zol of the protected site, would be likely to have significant effects either alone, or in combination with other projects. The effects of the proposal cannot, therefore, be screened out and in adopting a precautionary approach, the development would give rise to likely significant effects on the Protected Sites, such as to require an Appropriate Assessment under the Habitats Regulations.
15. A submitted unilateral undertaking (UU) offered under S106 of the Town and Country Planning Act 1990 (as amended) provides the headline terms for offsetting the effects of the proposal through the provision of Strategic Alternative Natural Greenspace (SANG) through a private provider and the payment of a separate contribution of £2,009.04 to Hampshire County Council towards Strategic Access Management and Monitoring (SAMB) under the tariff payment arrangement in place. However, the wording of the UU is incomplete as far as the amount of SANG and its location is concerned and the SANG contract has not been appended to the submitted UU. The UU has also not been completed. Though the appellant's evidence suggests that agreement in principle has been secured through the private provider on the terms of the SANG provision, this falls short of the necessary commitment to provide the SANG to offset the impacts of the development by a specified timeframe.

16. As such, and as competent authority, I do not have the requisite scientific certainty that the necessary SANG and SAMM mitigation measures are available or that they have been appropriately secured. The imposition of a condition to require a legal agreement would not be appropriate given the absence of such certainty and given that the nature of the development is not so complex such as to justify the exceptional circumstances for the imposition of such a condition. Consequently, the proposal would adversely affect the integrity of the TBH SPA contrary to its conservation objectives, in conflict with the Habitats Regulations, policy NBE3 of the Local Plan and saved policy NRM6 of the South East Plan (saved 2009). These policies seek to secure adequate measures to avoid or mitigate any potential adverse effects on the TBH SPA.

Car Parking

17. Policy INF3 of the Local Plan requires that new developments incorporate appropriate parking in terms of amount, design and layout in accordance with the Council's published parking standards as set out in Neighbourhood Plans. The published parking standards are set out in the *Cycle and Car Parking in New Developments Supplementary Planning Document* (adopted 2023) (Parking SPD) which stipulates that for a 1 bedroom home, 1 allocated space is required and one unallocated and for a 2 bedroom home, 2 spaces should be allocated and 0.5 unallocated. For commercial spaces, Appendix 5 of the SPD sets out that the parking provision should be based on a ratio of spaces to specified floor area, i.e. 1 space to every 45 sqm.
18. The evidence suggests that the existing commercial unit does not have any car parking spaces. The appeal site red line indicates that 2 parking spaces would be allocated to the development and that these would be located within Alexis Court. There would not be any access doors to either the flats or the commercial unit other than on Reading Road South. Despite the parking spaces being a matter of metres from the east elevation, the walk around the block to the entrance doors to the development would not be insignificant. This convoluted access would be a source of frustration for future residents and users of the commercial space.
19. Given the town centre location of the site and reduced scale of the proposed commercial unit compared to the existing, I find no basis in the policy to require the provision of newly created parking spaces. However, the policies and Parking SPD suggest that for the two flats (1 x 1 bed and 1 x 2 bed), at least 3 allocated spaces should be provided as a minimum, and around 1.5 unallocated spaces. The proposal would provide only two parking spaces, notionally one per unit. Thus, insofar as it would underprovide at least one allocated space and another unallocated space, it would not strictly accord with policy INF3 of the Local Plan, policy 19 of the FNP or adhere to guidance within the Parking SPD. However, the weight to attach to this conflict is greatly tempered by the town centre location of the site and the extent of the shortfall in the context of the Framework's objective to optimise densities in town centres or other areas well served by public transport.

Planning balance and conclusion

20. The proposal conflicts with the development plan owing to its location, its effects on the living conditions of neighbouring occupiers and the effects on the TBH SPA. In relation to the town centre location of the development and loss of Class E use. Prior approval has been granted to change the use of the Class E retail unit to a

C3 residential unit². The Council despite whether this fallback option could be implemented in light of the absence of necessary mitigation required under the Habitats Regulations. Whilst robust evidence of the necessary mitigation is not before me, there are still prospects of it being secured to allow a timely implementation of the works. As such, I consider that the fallback forms a relevant consideration of great weight.

21. Furthermore, as the Council acknowledge it is incapable of demonstrating an adequate five year supply of housing land with appropriate buffer, the provisions of Framework paragraph 11 d) are engaged.
22. Paragraph 11 d) of the Framework requires that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes. However, footnote 7 of the Framework also outlines the areas and assets protected by policies that can form a strong reason for refusing a proposed development, and includes protected sites such as the TBH SPA. In this case, the TBH SPA is a site protected by policies of the Framework, the conflict with which forms a strong reason for refusal. As such, the presumption in favour of sustainable development does not apply.
23. I have considered the range of benefits that would result from the development, in the form of the creation of two dwellings in a sustainable location which would help to address the undersupply of housing in the area. It would also provide a commercial unit which would offer an ongoing economic advantage to the area, beyond the benefits that would result from the construction of the development itself. However, the totality of these benefits and other points advanced in favour of the scheme do not form considerations of such weight that they indicate that a decision should be made other than in accordance with the development plan when taken as a whole.
24. For the foregoing reasons, the appeal is dismissed.

H Nicholls

INSPECTOR

² under Reference 23/02468/GPDCOM dated 06.02.2024.