

Jasmine Rogers
The Planning Inspectorate
3D Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

15 March 2023

Our ref: APP/21/01247

Your ref: APP/X1735/W/22/3302839

Dear Ms Rogers,

Town and Country Planning Act 1990

Appeal by Mr A Beasley

Site Address: 11 Clinton Road, WATERLOOVILLE, PO7 6DT

I refer to your letter dated 10 March 2023 in connection with the above appeal, the contents of which have been noted.

Havant Borough Council is aware of the 'Finney' case and the implications thereof; in particular the use of s73 applications and the term 'operative' part of a planning permission.

In terms of the current appeal (APP/21/01247) that sought to vary Condition 4 on the original permission APP/20/00840, I would make the following comments:

The application form on application APP/20/00840 (the original planning permission) described the development as:

'Change of use of section of existing rear outbuilding for hair and beauty salon on occasional basis'

The Local Planning Authority (LPA) made the description more concise and as the use was already operating, described it as 'retrospective'. The following description was given to the application at validation stage and neighbour and consultee consultation was carried out on 6 October 2020 with the initial description as below:

'Retrospective application for change of use of section of existing rear outbuilding for hair and beauty salon.'

It should be noted that the requested hours of operation were set out in the original supporting statement as 9am – 6pm on selected days between Monday to Friday only and not occur more than 4 days in any week.

During the consideration of the application there was communication between the case officer and the applicant's agent regarding operational days/times and the supporting statement was amended accordingly. This culminated in revised operation days/times which were set out in Condition 4 of planning permission APP/20/00840 and is the subject of the current appeal.

The Council's Statement of Community Involvement (September 2022), states, inter alia:

'Where a proposal is amended in a 'minor' way without a new planning application being required, and unless the amendments are insignificant, the Council will normally notify neighbours affected before a decision is reached as to whether the changes are acceptable.'

In accordance with the Council's Statement of Community Involvement, the LPA carried out further neighbour consultation on 7 May 2021 and advised the LPA had received further details and that any comments they may wish to make on the revisions should be made in writing. In doing so, the LPA identified the revision in the original description within 'closed brackets' and this was below the main original description in the letter that was sent to neighbouring properties. As the Inspector has noted, the description in the reconsultation was as below:

'Retrospective application for change of use of section of existing rear outbuilding for hair and beauty salon.'

(Revised Hours of Opening: 09:00 – 18:00 (Tues, Wed, Thurs) and 09:00 – 15:30 (alternate Saturdays))'

As noted above, this was done in order to give neighbouring occupiers some clarification of what the revision was and therefore featured in 'closed brackets'. It was not intended to amend the 'operative' part of the planning permission. Such a practice of highlighting changes to proposed schemes when carrying out reconsultation is not uncommon within LPA's. Whilst it is acknowledged that this wording appeared on the decision notice, it is considered that in the context outlined above, in this particular case, having cognisance to the implications of the Finney case, a reader would interpret the wording in the closed brackets as not forming the operative part of the original permission and that this formed the basis of Condition 4.

The above interpretation is further supported in that the Council validated, processed carried out neighbour and other consultations and determined the planning application subject to this appeal and did not reject the application in principle under the 'Finney' case.

Yours sincerely

Jacky Clark (on behalf of LPA)
Planning Services
Havant Borough Council