The Planning Inspectorate

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Miss Karen Wooden
Havant Borough Council
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Civic Centre
Havant
Hampshire
PO9 2AX

Your Ref: 10/73876/001

Our Ref: APP/X1735/A/10/2132411/NWF

Date: 24 January 2011

Dear Miss Wooden

Town and Country Planning Act 1990
Appeal by Mr F Howard
Site at Land On The South Side Of, Mill Rythe Lane, Hayling Island, PO11 0QG

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 0207 947 6655.

Yours sincerely

Amanda Baker

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HAVANT BOROUGH COUNCIL
25 JAN 2011
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The Planning Inspectorate

Appeal Decision

Site visit made on 21 December 2010

by S J Emerson BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 January 2011

Appeal Ref: APP/X1735/A/10/2132411
Land on the south side of Mill Rythe Lane, Hayling Island, PO11 0QG.

- 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 F Howard against the decision of Havant Borough Council.
- The application Ref 10/73876/001, dated 10 February 2010, was refused by notice dated 13 April 2010.
- The development proposed is small scale marine related business units.

Decision

1. I dismiss the appeal.

Main Issue

2. There are 2 main issues. Firstly, the effect on the character and appearance of the area, bearing in mind its location within the Chichester Harbour Area of Outstanding Natural Beauty (AONB). Secondly, whether there are material considerations to outweigh any such harm; such considerations include the planning history and status of the land and the need for marine related business units.

Reasons

Character and appearance

3. The proposal is for 2 buildings of small business units, one of 3 units and the other of 4 units, grouped on 2 sides of a parking and access courtyard. The development would abut the southern side of Mill Rythe Lane, which is a short lane leading from the A3023 to a substantial cluster of old and new industrial premises, which includes frontage to the water's edge. One of the main activities here is boat building and repair.

4. On the southern and eastern side of the appeal site is the appellant's car breakers and parts business, this includes a large building and open storage surrounded by a high solid fence. To the west of the site and alongside the western boundary of the car storage area is a wide strip of land which includes recent planting. There are horse paddocks between this strip and the main road.

5. The appeal site is within the countryside and AONB. The AONB boundary runs along the main road. The appeal site can be seen from the junction of Mill Rythe Lane with the main road, but there is a hedge along the main road which considerably filters views towards the site. In views from the junction, the appellant's existing building and the fence around the storage yard are readily

noticeable and have a fairly harsh appearance. The recent planting is only partly effective in softening its visual impact. The appeal proposal would introduce buildings which, whilst partly blocking views of the existing building and fence, would themselves be readily noticeable. Further planting is proposed in the strip of land to the west, but this would take many years to become well established, as illustrated by the planting carried out for the appellant's previous development. The largest of the 2 proposed buildings would be 6m high and I am not convinced that new planting would screen the units, even in the long term. The buildings and parking yard would also be very noticeable from Mill Rythe Lane, since there is very little space for effective planting along the frontage to the lane.

6. The buildings are of a relatively conventional scale and design for business units. The proposed timber cladding to the upper elevations would somewhat soften their appearance, but they would appear as what they are – modern business units of a fairly utilitarian design in a rural location.

7. Overall, I consider that the development would erode the rural character of the area to some degree, consolidating the visual impact of existing commercial development. This visual harm would be modest and localised, but is significant because of the location within the AONB which is predominantly a rural and marine landscape. There would be conflict with policies of the Havant District Wide Local Plan 2005, namely L1 to protect the natural beauty of the landscape of the AONB and D1 as the development would not respect or enhance local character. There is a consequential conflict with policy C3 (Development in the Coastal Zone) as the development would not contribute positively to the landscape.

Other considerations

Planning history

8. A Council Planning Brief in 1987 included the appeal site within a "boundary of area proposed for development" along with the land that is now occupied by the appellant's business. The Brief was intended to achieve the rationalisation and improvement of the adjoining industrial area and to relocate the appellant's business away from the waterfront. Apart from the appeal site, the undeveloped land on the south side of the lane has been developed by the appellant as proposed in the Brief.

9. This Brief also included undeveloped land on the northern side of the lane in the development boundary. This land was allocated for employment use on the local plan's proposals map, but the related policy for this allocation was not subsequently saved and so the allocation has lapsed. This background indicates to me that the Brief has largely been superseded by events and I do not regard it as indicating the Council's current intentions. The fact that many years ago the Council regarded the appeal site as suitable for development – as part of a comprehensive proposal for the area - is of very little weight now.

10. The appellant was granted outline planning permission in 1997 for the open storage compound and building which he now occupies adjoining the appeal site. This was in accordance with the Brief. This permission included a new dwelling on the appeal site. Occupation of this dwelling is restricted to persons employed at the adjoining vehicle dismantling business. The appellant regards permission for this dwelling as still extant, but the Council regards it as expired. Condition 2 of the outline permission states that approval of reserved

matters shall be made before the expiration of 3 years from the grant of permission. No such details have been submitted with regard to the house. I would regard this condition as requiring all reserved matters to be submitted within the time limit and no such details for the house have been submitted. However the matter is complicated because there is a specific condition (No 6) requiring plans and particulars of the dwelling to be submitted and approved and this has no time limit. It is not obvious why this condition was needed if the outstanding details for the house were incorporated in the time-limited reserved matters condition.

11. In the absence of further detailed argument on this matter I am unable to come to a firm view. Whether there is an extant permission on the site can be established by other procedures and such a determination is not an integral part of this appeal. However, even if this permission is still extant and if it were to be implemented by the appellant, I consider that a conventional dwelling on the site would represent a lesser scale of development than the units proposed and would provide more scope for landscaping within the grounds to soften its impact. Its visual impact would therefore be less than the present scheme. Given the occupancy restriction on the dwelling, I do not assume that a house would necessarily be built even if the present appeal were to be dismissed, since there may be no need or use for a dwelling with such restricted occupancy. Accordingly, even if I assume that a house could still be built on the appeal site, this lends only limited weight to the appeal.

12. The appellant considers the appeal site is previously developed land. However, whilst it has in the past been proposed for development it is not clear that it has been lawfully developed. There is no evidence of it having been occupied by a lawful structure. The Council refer to temporary storage whilst construction was undertaken nearby and state that the existing harstanding is unauthorised. I do not regard the site as previously developed land.

Need

13. The proposed units are intended to be occupied by marine related businesses and if I were to allow the appeal the Council has suggested a condition limiting occupiers to such businesses.

14. I recognise that small scale boat building and related marine services are an important industry on Hayling Island. I also recognise that there are very limited opportunities for new development to serve this industry given the rural nature of much of the coastline and the restrictive planning policies and statutory designations. The appeal site does not have direct access to the water and it is not clear whether occupiers of the proposed units would be able to gain such access if required. But given the scale and range of marine related businesses and yacht storage adjoining the appeal site, I accept that the proposed units would be well placed to accommodate further marine related businesses.

15. The Council suggest that any need for small marine units should be met by the subdivision of a large unit which has planning permission within the adjoining complex of buildings, but has not yet been built. The appellant explains that this unit is intended to be occupied by an existing boat building business. I agree with the appellant that it would be short sighted to encourage the subdivision of a comparatively large unit which has direct access to the water, as it must be a relatively rare opportunity to provide large new premises for a boat builder.

16. There is very limited evidence to indicate that there is a need for the development. The appellant provided letters of interest from 4 businesses at the application stage. Only 2 of these are from obvious marine related businesses. These letters are now over a year old. I note also the support for the development from the Council's business development officer. Overall, this evidence does not demonstrate a significant need for marine business units here. This means that I give this factor limited weight. It would be very unsatisfactory to grant permission for these units with occupation restricted to marine related businesses if there were limited prospects of such a condition being met. In such circumstances, the units would either stand empty or there would be pressure to remove the occupancy restriction. I give very little weight to any need for general business units in this location given its rural character and AONB designation. General business units in this location would be contrary to local plan policy UA1 which seeks to focus development in the main settlements of the Borough.

Planning Obligation

17. The appellant has completed a unilateral planning obligation (dated 11 August 2010) which provides for the payment to Hampshire County Council of £17,522 for the provision, improvement and maintenance of items on the Borough Council's sustainable transport list. The absence of such a contribution was the Council's second reason for refusal. I have seen no evidence as to why this development is unacceptable in transport terms or how the payment would mitigate any unacceptable impact. The policies referred to in the reason for refusal are only general enabling policies for securing mitigation. Accordingly, I am not satisfied that the obligation meets the statutory tests in the Community Infrastructure Regulations and I have therefore not taken this obligation into account. Conversely, in the absence of evidence, I find no objection in transport terms. If I had been minded to allow the appeal, I would have gone back to the parties on this matter to seek further evidence to explain the need for an obligation.

Overall balancing

18. I have found localised harm and conflict with planning policies for the area. I have given limited weight to factors which favour the development. On balance, these favourable factors do not outweigh the harm and I have therefore dismissed the appeal.

Simon Emerson

INSPECTOR