



Appeal Decision

Site visit made on 12 April 2021

By Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/W1715/W/20/3265825

**Barncroft, Corner of Farm Close and Meadow Lane, Hamble-Le-Rice
SO31 4RZ**

- 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 & Miss Magnus and Cailah Leask against the decision of Eastleigh Borough Council.
 - The application Ref F/20/88507, dated 17 August 2020, was refused by notice dated 13 November 2020.
 - The development proposed is described as 'conversion of boat and boat equipment storage building to form self-contained 1 bedroom dwelling with amenity area; construction of 1.7m brick built boundary wall; provision of secure cycle parking and refuse storage facilities with vehicle parking and landscaping'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In its decision notice the Council refer to Policies DM1, DM11 and DM13 of the Emerging Eastleigh Borough Local Plan (2016-2036) (2018) (EBLP). The Council received the Inspector's post-hearing advice on 1 April 2020 and is progressing with the main modifications suggested by the Inspector to allow the plan to proceed to adoption. Given the advanced stage of preparation reached, I attach moderate weight to the Emerging EBLP in my determination of this appeal.
3. The Council advise that it has received the required financial contributions towards projects to mitigate for the development's impact on the Solent and Southampton Water Special Protection Area, both in terms of increased nitrates and recreational disturbance. As such the Council advise that the third reason for refusal has been addressed. I shall return to this matter later.

Main Issues

4. In light of the above, the main issues are the effect of the proposal on (i) the living conditions of future occupiers with particular reference to noise and disturbance; and (ii) the residential amenity of the existing properties of Admiralty Row and the character and appearance of the area.

Reasons

5. The appeal site is located on a corner between Farm Close and a public footpath leading to Admiralty Row and a public car park, within a mainly residential area of Hamble-Le-Rice. It comprises a single storey building which

was approved in 2004 as part of the Admiralty Row housing development for use as bin and cycle storage.

Future occupiers' living conditions

6. The proposal is to convert the appeal building to form a one bedroom dwelling. The residential development would be located adjacent to a shared parking courtyard which provides access to two privately owned garages and purportedly a disabled drop off point. The appeal proposal differs from earlier schemes, including one dismissed on appeal¹, in so far as it would not include a second bedroom immediately adjacent to one of the privately owned garages.
7. However, the proposed ground floor bedroom would be located within the northern part of the building and so would be adjacent to the vehicular access to the courtyard, entry to which is controlled by a sliding security gate. Whilst the window that would serve the bedroom would abut the amenity area at the front of the building it would, nevertheless, be in close proximity to the vehicular access to the courtyard and at the same level as vehicles waiting to enter and leave the courtyard whilst the sliding security gate is opened and closed.
8. It is accepted that it is highly unlikely to ever be a continuous stream of vehicles waiting to enter or leave the parking courtyard, especially as the evidence indicates that vehicle movements would mostly be associated with two garages privately owned by a single household. However, I have not been presented with any evidence to indicate that future occupiers of the proposed dwelling would ultimately have any control over the number of vehicles using the access to the courtyard, or indeed any control over the timing of vehicles entering or leaving the courtyard and the associated opening and closing of the sliding security gate.
9. Although vehicle movements would more likely take place during the day, it is not unreasonable to assume that the working pattern or lifestyle of neighbouring residents could result in a significant number of regular vehicular movements entering and leaving the courtyard late in the evening, during the night, or very early in the morning. It is noted that Farm Close adjacent to the site is marked with double yellow lines which prohibit vehicles from parking on the road. However, notwithstanding this and the mainly residential surroundings, noise disturbance associated with vehicular movements entering and leaving the courtyard and the opening and closing of the sliding security gate during the aforementioned times would, especially during the summer months when windows tend to be left open for ventilation, likely disturb the sleep of future occupiers of the proposed development.
10. For the reasons outlined above, I conclude that the proposal would cause significant harm to the living conditions of future occupiers due to noise disturbance. Consequently, in this regard, the proposal would conflict with the living conditions aims of Saved Policy 59.BE of the Eastleigh Borough Local Plan Review (2001-2011) (adopted 2006) (LP) and Policy DM1 of the Emerging EBLP which, amongst other things, set out to ensure development proposals do not have an unacceptable impact on residential amenities of new residents and avoid unduly conflicting with nearby uses in terms of noise. Furthermore, it would conflict with the Council's Quality Places Supplementary Planning

¹ Appeal Ref: APP/W1715/A/07/2053636

Document (2011) (SPD) which seeks to ensure that potential noise sources from outside a home are identified and thought is given to the location of parking in relation to dwellings and in particular bedrooms².

11. The appellants contend that the level of noise nuisance from vehicles would be less than that experienced by the occupiers of some other properties in the vicinity of the appeal site. However, there is no evidence before me to indicate that any of the other properties referred to by the appellants have ground floor bedrooms with windows in close proximity to a security gated access to a parking courtyard. So, in this regard, it cannot be said that these other properties are directly comparable to the appeal proposal now before me. In any event, I have considered the appeal proposal based on its individual planning merits and the existence of other properties in the area with parking courtyards does not alter or outweigh my conclusions on this main issue.
12. The appellants state that they are confident that the thickness of the north facing external wall, which does not have any openings, would be sufficient to mitigate any noise nuisance from vehicles entering the parking courtyard and would be happy to accept the imposition of a planning condition requiring a scheme for noise attenuation prior to the occupation of the building. However, additional sound insulation to the fabric of the building would not mitigate the passage of sound between vehicles and the proposed dwelling when the window serving the bedroom is open for ventilation purposes.

Residential amenity and character and appearance

13. The appellants say that they purchased the building on 15 March 2010 and that they have used it continuously ever since that date (so for well over 10 years) for the storage of their boats together with boat equipment.
14. However, I have not been presented with any substantive evidence, in the form of a lawful development certificate, to clearly demonstrate that the lawful use of the building is as a boat and boat equipment store. Indeed, I note that in 2019 a certificate of lawfulness application was made by the appellants for the building use as a boat store, but the Council refused the application due, according to the Council's officer report, '*to the lack of evidence over the required period of time*'. Notwithstanding the content of the subsequent email from the Council's planning solicitor, which does not constitute a legal document in the same way that a lawful development certificate does, and although the Council indicate that the change of use to a boat store 'maybe' immune from enforcement action, the lawful use of the building remains as a bin and cycle store. There is not sufficient evidence before me that would lead me to any alternative conclusion.
15. That said, the Council's second reason for refusal is precise and specific in so far as it states that '*the conversion of the existing building will result in the loss of bin and cycle storage for existing properties of Admiralty Row*'. The proposed development would not, however, result in the loss of the use of the appeal building as a bin and cycle store because it is not currently in use for the storage of bins or cycles. Moreover, there is no evidence before me to indicate that the building would ever be used again for the storage of bins or cycles. Indeed, interested parties state that whilst the building was originally intended to be an amenity serving all properties in Admiralty Row, it was

² Page 54 of the SPD

allowed to be sold and so currently bins are left outside in the courtyard and on the footpath which runs along the northern edge of the appeal site.

16. Therefore, given that the proposal would not displace a bin and cycle store it would not be detrimental to the residential amenity of the existing properties of Admiralty Row. It also follows that, in this regard, the proposed conversion of the appeal building would not cause harm to the character and appearance of the area because there would be no material change to the existing situation where bins are kept outside in the courtyard and on the footpath. Indeed, I saw at the time of my visit a number of bins left outside in the courtyard and on the footpath.
17. In terms of the appeal scheme, it would include a combined bin and cycle store positioned within the amenity area and so would not result in any additional bins being kept outside in the courtyard or on the aforementioned footpath. By virtue of the proposed short length of 1.7 metre high brick wall adjacent to it and the existing hedge that would be retained along the boundary with Farm Close, the combined store would be well screened in views from the public domain. Thus, considering its modest size and simple design it would not cause harm to the character and appearance of the area.
18. For the reasons outlined above, I conclude that the proposed development would not be detrimental to the residential amenity of the existing properties of Admiralty Row and would not cause harm to the character and appearance of the area. Consequently, in these respects, it would accord with Saved Policies 28.ES and 59.BE of the LP, Policies DM1 and DM13 of the Emerging EBLP and the Council's SPD which, amongst other things, set out to ensure that provision be made in the design and layout of housing developments for the storage of domestic waste and recyclable materials and the storage of bicycles, and take proper account of the character and appearance of the locality.

Other Matters

19. The Council's decision notice included a third reason for refusal. This is in regard to the impacts of the proposed development on the protected Solent and Southampton Water Special Protection Area (SPA) from increased recreational pressure and increased nitrates resulting from the development. As noted above in paragraph 2, the Council advise that it has received the required financial contributions towards projects to mitigate for the development's impact on the SPA, both in terms of increased nitrates and recreational disturbance.
20. Notwithstanding the appellants' financial contributions, and aside from the fact that the Council advise that it no longer wishes to defend the third reason for refusal, there would still be a requirement for me to carry out an Appropriate Assessment. 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 approve planning permission. Thus, given my overall conclusion on the living conditions main issue it has not been necessary for me to pursue this matter any further.
21. I note that the appeal site lies within the Hamble Conservation Area (the CA). Although the Council has not raised any concerns about the proposal in regard to the CA, I have a duty under Section 72(1) of the Planning (Listed Buildings

and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

22. The proposed insertion of windows would have minimal visual impact and the amended plan upon which the Council determined the application shows the retention of the established hedge along the boundary with Farm Close. I have already found that the proposed development would not be detrimental to the residential amenity of the existing properties of Admiralty Row and would not cause harm to the character and appearance of the area. It follows therefore, for all the aforementioned reasons, that the proposal would at least preserve the character and appearance of the CA and I note that the Council's Conservation Officer has not objected to the proposal following the deletion of the originally proposed plain brick wall along the boundary with Farm Close. Consequently, in this regard, the proposal would adhere to the design and conservation aims of Saved Policy 169.LB of the LP and Policy DM12 of the Emerging EBLP.
23. There are no other matters raised which would lead me to reach a different conclusion on the living conditions main issue.

Other Considerations

24. Whilst paragraph 59 of the National Planning Policy Framework (the Framework) refers to significantly boosting the supply of homes the provision of one additional unit would be a modest contribution, but beneficial, nonetheless. Moreover, the Framework acknowledges at paragraph 68 that small sites can make an important contribution to meeting the housing requirements of an area. These are positive matters to weigh in the overall planning balance.

Planning Balance and Conclusion

25. I have found that the proposed development would cause significant harm to the living conditions of future occupiers due to noise disturbance. I afford substantial weight to this matter as part of the determination of this appeal.
26. Although the proposal would not be detrimental to the residential amenity of the existing properties of Admiralty Row and would not cause harm to the character and appearance of the area, these are matters of neutral consequence in the overall planning balance.
27. The proposal would be contrary to the development plan as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR