



Appeal Decisions

Hearing Held on 31 October 2017

Site visit made on 31 October 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 29th November 2017

Appeal A Ref: **APP/B1740/W/17/3174028**

Bus Station, High Street, Lymington SO41 9AF

- 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 Simon McFarlane of Renaissance Retirement Ltd & the Go Ahead Group PLC against the decision of New Forest District Council.
 - The application Ref 16/10754, dated 27 May 2016, was refused by notice dated 15 December 2016.
 - The development proposed is demolition and redevelopment to form 17 sheltered apartments for the elderly, including ground floor retail unit, communal facilities, access, car parking and landscaping.
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Appeal B Ref: **APP/B1740/W/17/3180586**

Bus Station, High Street, Lymington SO41 9AF

- 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 Simon McFarlane of Renaissance Retirement Ltd & the Go Ahead Group PLC against the decision of New Forest District Council.
 - The application Ref 17/10359, dated 10 March 2017, was refused by notice dated 15 June 2017.
 - The development proposed is demolition and redevelopment to form 17 sheltered apartments for the elderly, including ground floor retail unit, communal facilities, access, car parking and landscaping.
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Decisions

1. Both Appeal A and Appeal B are dismissed.

Procedural Matters

2. Prior to determination Appeal A was amended to provide 17 units. This is reflected in the header to this decision. Both applications were refused for reasons relating to their effects on the Lymington Conservation Area, the setting of nearby listed buildings and the absence of a mechanism to secure appropriate contributions to the provision of affordable housing. Appeal A was also refused due a failure to establish the archaeological potential and the significance of any surviving archaeological deposits on the site. However, as a result of subsequent investigations and discussions, the Council is satisfied that this matter could be addressed by condition, in the event that the appeal was allowed. It therefore no longer contested this issue.
3. Completed Section 106 agreements associated with each of the schemes were submitted at the Hearing. These would secure contributions to the provision of

affordable housing. The Council was satisfied that these obligations met its requirements and would assist in addressing local housing needs. I agree with the main parties that these obligations accord with Regulation 122 of the Community Infrastructure Levy Regulations and the provisions of Paragraph 204 of the National Planning Policy Framework. I have taken the agreements into account in my assessment of each of the proposals.

Main Issue

4. The main issue in both appeals is therefore whether or not the proposed development would preserve or enhance the character or appearance of the Lymington Conservation Area and the setting of nearby listed buildings.

Reasons

Heritage

5. Most of the appeal site is located to the rear of Lymington High Street. It has a High Street frontage and is accessed through a gap between Nos 35 and 36. It was used as a bus station immediately following World War II until its closure in 2015. It lies within the Lymington Conservation Area and in close proximity to several listed buildings. I therefore have statutory duties firstly, to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area and secondly, to have special regard to preserving the setting of the listed buildings. The National Planning Policy Framework (the Framework) states that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. It also advises that any harm or loss to designated heritage assets requires clear and convincing justification.

Lymington Conservation Area

6. The site lies in the heart of the Lymington Conservation Area, and it is common ground that one of its most defining characteristics is the continuing influence of the medieval layout of burgage plots. These are long narrow strips of land to the north and south of the High Street. They form a framework within which subsequent development took place, particularly during the 18th and 19th centuries. Whilst few buildings from the medieval period remain, the High Street is a well preserved example of predominantly Georgian architecture, with some Victorian additions.
7. Whereas the buildings fronting the High Street are predominantly three stories, towards the rear of the burgage plots buildings are narrower, lower and simpler in form. As the height of the buildings decreases towards the rear of the plots, the ratio of open space to built form increases. There is therefore a gradual, but significant, change in the intensity of development moving away from the High Street. This pattern of development reflected the functional requirements of the businesses on the main frontage. It is therefore a highly significant feature of the Conservation Area which contributes to an understanding of the historical and social development of the town.
8. In addition, the burgage plot system gave rise to openings in the High Street frontages which provide both access to, and views towards, the more open areas to the rear of the main buildings. These passageways and the historic walls which enclose them are also heritage assets which make a significant contribution to the unique character of the Conservation Area.

9. In this context the appeal site's former use as a bus station was incongruous. The gap in the High Street frontage is uncharacteristically large, having been widened to allow buses to enter and leave the site. The linearity within the site has been largely lost, although the outer walls to the east and west marking the original burgage plot boundaries remain. The rest of the site is a rather forlorn expanse of tarmac surrounded by some utilitarian single-storey buildings that served as waiting areas for bus passengers. Nevertheless, the relative openness of the site since the eighteenth century, and the small single-storey buildings that now occupy part of it, reflects its historic use as a yard serving the former coaching inn on the High Street. Its openness is therefore an important link with the past which is also of significance.

Setting of nearby Listed Buildings

10. The High Street includes a large number of listed buildings, which exhibit a wide variety of style and detail. Those nearest to the appeal site are combined into two groups, Nos 26-34 and Nos 36-44 which lie on either side of the site's access. The listing description of No 34 appears to include features that relate to No 35. It also refers to Londesborough House which lies to the rear and, at the time of the listing formed part of a hotel. With the exception of Londesborough House, all the descriptions relate to features on the properties' frontages along the High Street. No 40-42 has Grade II* status because of its mid/late 19th century shop front; the remainder of the two groups are all Grade II.
11. The significance of both groups therefore primarily relates to their relationships with one another and their contribution to the appearance of the High Street frontage. To the rear of these buildings is a mix of rear extensions, subordinate ancillary buildings, narrow passageways, enclosed courtyards, open space often used for parking and deliveries, small pockets of green space and some trees. The spaces around and between the buildings are therefore an important part of the area's character. They contribute positively to the setting of the listed buildings and help provide an appreciation of their significance to the development of the town.
12. The large gap which comprises the appeal's site frontage breaks up the almost continuous built form along the south side of the High Street. This adversely affects the setting of the immediately adjoining listed buildings. To the rear of the High Street the openness of the existing site provides views across it and towards the rear elevations of these listed buildings, ensuring that they do not appear overly enclosed. It has also enabled the public to see and appreciate the attractive front elevation of Londesborough House. However, these positive contributions to the setting of the listed buildings are limited by the poor quality of the existing site, which includes utilitarian railings and parked vehicles.

Heritage assets - summary

13. It is the combination of so many heritage assets surrounding the appeal site, including the burgage plot system, the listed buildings on the High Street frontage, the smaller, simpler forms of development to the rear, the passageways, historic boundary walls, occasional trees, and areas of open and green space that contribute to making it a highly sensitive historic site.

The proposals

14. The appeal site comprises the northern part of four burgage plots. Immediately to the south these have been lost and the area is occupied by three detached dwellings whose boundaries do not precisely coincide with those of the original burgage plots. Both schemes would involve the demolition of all the existing buildings on the site and their replacement with three groups of two and three storey buildings that would provide 17 sheltered apartments for the elderly and a new ground floor retail unit on the High Street. There would be underground car parking for 17 vehicles accessed via a car lift and a single visitor space at ground level.
15. The fundamental layout of the two proposals would be the same. Blocks A and B would have the same footprints. In the amended scheme the northern elevation of Block C would be pulled back to open up the area to the south of Londesborough House. The main differences between the two schemes would be changes to the heights and roof forms of some parts of Blocks B and C. As the differences between the schemes are small, I will focus on Appeal A and comment on the amendments only where they would make a material difference to my assessment.

Assessment

16. The introduction of a three storey building on the High Street frontage would reduce the large gap between the existing buildings. Its height would be appropriate and it would integrate effectively with the adjoining listed buildings. The additional retail unit would help to sustain an active frontage to the High Street. This element of the proposal would therefore contribute to an enhancement of the area's heritage assets.
17. However, the rear element of Block A would also be three storeys high. Its height and width would be apparent in views into the site from the High Street from where it would not be subservient to the frontage element. Its proportions and eaves height would be similar to that of Londesborough House and its footprint would significantly erode the open area in front of this listed building's primary and most visible elevation. In my view this would be harmful to its setting, even with the removal of the existing railings and parking area.
18. Blocks B and C would both be substantial buildings in terms of their footprint, height and bulk. Both would result in the loss of the historic walls currently marking the boundaries on either side of the site, replacing them with built form that would be significantly taller. The proposed buildings would be highly visible from the more open areas within the adjacent plots. Both buildings would over sail the burgage plot lines within the site. Block C would occupy almost the full depth of the easternmost plot and a significant proportion of the adjoining one. Whilst the pitched roofs would align with the original burgage plot boundaries, the width of the buildings would fail to recreate the sense of linearity within the site.
19. The width and height of the gable ends of these blocks would make the buildings appear prominent and dominant for anyone entering the site. In the middle of the site there would be only a small gap between the two blocks and views towards the rear would be limited. In this respect the proposal would differ from other sites where passageways provide longer views into the area to

the rear of the High Street. The arrangement of the buildings would also fragment the limited areas of proposed open space, thereby diminishing their contribution to the development as a whole. Overall the ratio of built form to open space towards the southern end of the site would not reflect the more open and less intense forms of development that are found toward the rear of other nearby sites.

20. The reduction in the height of the buildings further from the High Street would be aided in part by the gently sloping ground, which falls away to the south. However, this change and the lowering of the ridge and eaves on both blocks would be insufficient to reduce their overall mass. The height, bulk and shape of the stairway tower would appear incongruous when viewed from the east. In addition, the eaves height of the building combined with the large expanse of roofslope would appear visually dominant along the historic alleyway adjacent to the eastern boundary. This would adversely affect the character of this passageway, making it feel darker and more enclosed.
21. This combination of factors demonstrates that the development as a whole would appear out of scale with its surroundings. The complex arrangement of roof forms would not sit comfortably alongside the surrounding buildings which are characterised by smaller proportions and simpler forms. I am not persuaded that the small changes in roof profiles and height reductions within Appeal B would address these concerns to any material degree.
22. Appeal B would provide a larger open space immediately to the south of Londesborough House, which would reveal more of this side of the building. However, as this elevation appears to have been enclosed by single-storey buildings associated with the former uses of the site as a coaching inn and more latterly as a bus station, I am not persuaded that exposing it would be a significant enhancement. On the contrary, it could then compete with the more important and attractive western elevation.
23. Whilst the schemes would enhance the setting of the listed buildings in respect of their High Street frontages, they would erode the more spacious setting of those buildings when seen from the area to the south of the High Street. The bulk and mass of the development as a whole would restrict views across the areas towards the listed buildings that front the High Street, to the detriment of their setting. Furthermore, the scheme would fail to preserve the open, albeit degraded, setting of Londesborough House.
24. Taking all these factors into consideration, I conclude that the proposals would fail to preserve or enhance the character or appearance of the Lymington Conservation Area, arising from the overall width, height and depth of the proposed buildings on this highly sensitive historic site. They would also fail to preserve the setting of the surrounding listed buildings. The schemes would therefore be contrary to Policies CS1, CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management DPD (Local Plan). They would also fail to comply with the advice of the Lymington Local Distinctiveness Supplementary Planning Document and the Lymington Conservation Area Appraisal. All these policies, amongst other things, require development to respect the medieval structure of the town and to respect the established, plot definitions, scale and intensity of development in the town centre.

25. In terms of the Framework, the combination of harms I have identified would be less than substantial. Nevertheless, harm to designated heritage assets is a matter to which the Courts have indicated I should give considerable weight and importance in the planning balance. The totality of harms in these cases is therefore a highly significant factor that weighs heavily against the schemes.

Other Matters

26. Policy LYM8.2 of the Local Plan identified the appeal site for retail and bus station use, with any redevelopment being subject to the provision of improved Bus Station facilities. Its closure has therefore been a major and understandable concern for local people. The loss of its waiting facilities and the alteration of the locations of bus stops around the town centre appear to have resulted in problems and inconvenience for passengers and residents alike. Whilst I appreciate these difficulties, responsibility for these matters lies with the highway authority and the bus operators. They are not issues for me to address in the context of these appeals, which is confined to a consideration of the redevelopment of the site as proposed in the schemes before me.

27. Following the closure, which I understand was a commercial decision of the bus company, the Council has accepted that there is no realistic probability that the site will be used as a bus station in the future. It therefore considered that a mixed residential and retail use would be appropriate. There was no evidence to suggest that the bus station was closed in order to facilitate the site's redevelopment. Consequently, any benefits that might have occurred as a result of reduced levels of pollution, or fewer conflicts between pedestrians and buses at the access, cannot be directly attributed to the proposals.

28. The appellants drew my attention to an appeal decision in which the Inspector allowed a development of sheltered housing in a conservation area, Ref: APP/F1230/W/15/3133250. However, in that case the Council did not clearly identify the harm to heritage assets. The Inspector assessed the proposal and concluded it would give rise to only minor or negligible harm to heritage assets, to which he gave limited weight in his overall assessment. That scheme is therefore not comparable with the schemes before me, where the Council has provided comprehensive evidence to support its decision in respect of the harmful effects on the Conservation Area and the setting of nearby listed buildings.

Planning Balance

29. The Council is unable to demonstrate a five year supply of deliverable housing sites in the District, as required by Paragraph 49 of the Framework. In these circumstances Paragraph 14 of the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as harm to heritage assets), which indicate that development should be restricted.

30. The Council is developing a new Local Plan which is expected to treble the annual housing target. It is anticipated the submission version of the plan will be published for public comment in January 2018. Whilst little weight can be attached to the plan, given the early stage of its development, the progress being made demonstrates that the Council is committed to increasing the supply of housing to meet local need.

31. The appeal site's highly accessible location close to many local services means that its redevelopment for residential use, combined with additional retail provision on the High Street frontage, would be acceptable in principle. There is no doubt that there is an acute shortage of housing to meet the particular needs of the elderly. The schemes would provide good quality internal accommodation and would offer future residents support and security, whilst enabling them to retain a degree of independence. The proposals could reduce pressure on other health and social services and free up other homes for families. These social benefits weigh in the schemes' favour. However, many of these social benefits are not directly related to the location of the appeal site, so only attract moderate weight in the overall balance.
32. The proposals would provide some economic benefits arising from the creation of jobs during the construction period and would generate some extra spending in the local economy from additional residents living in the town centre. However, as these economic benefits would be mostly short term and only modest, they carry limited weight.
33. The main concerns relate to the effects of the proposals on heritage assets within this highly sensitive part of the town centre. Although the schemes would improve the appearance of the High Street frontage, I found that both proposals would be harmful to the character and appearance of the Lymington Conservation Area and to the setting of nearby listed buildings, most particularly Londesborough House. These are matters which attract significant weight. Furthermore, there was nothing before me to suggest that many of the social and economic benefits of the proposal could not be achieved in a way that that would be less harmful to the heritage assets.
34. I was therefore not persuaded that benefits of providing sheltered housing on this site would outweigh the less than substantial harm to the Conservation Area and the setting of the listed buildings. In these circumstances, Footnote 9 of Paragraph 14 indicates that, even in the absence of a five year land supply of deliverable housing sites, the presumption in favour of sustainable development does not apply.

Conclusion

35. For the reasons set out above, both proposals would conflict with the development plan and there are no material considerations, including the provisions of the Framework, which outweigh this conflict. I therefore conclude that both appeals should be dismissed.

Sheila Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rupert Warren	QC, Landmark Chambers
James Webb: BSc(Hons) Hist Con PGDip UD IHBC	Director, Forum Heritage Services
Lisa Sumner: BA(Hons) PG Dip B Arch MA RIBA Williams Lester Architects	Associate Director and Architect,
Simon McFarlane: BA(Hons) DipTP MRTPI	Associated Director of Planning Renaissance Retirement Limited

FOR THE LOCAL PLANNING AUTHORITY

Nicholas Straw MA MRTPI	Appeals Officer
Warren Lever MRICS MCIoB IHBC	Senior Conservation & Building Design Officer

INTERESTED PERSONS

Clive Sutton	Chairman: The Lymington Society
Peter Simpson	Chairman: Friends of Lymington Bus Station
Nick Beresford-Davies	Londesborough House
Danny Ashdown	Local resident
Richard Robinson	Local resident
Henry Cutmore	Local resident
Amy Gale	Local resident

DOCUMENTS RECEIVED AT THE HEARING

- 1 Completed Section 106 agreement – relating to Appeal A
- 2 Completed Section 106 agreement – relating to Appeal B
- 3 Barwood Strategic Land v East Staffordshire Borough Council and Secretary of State for Communities and Local Government (2017) EWCA Civ 893
- 4 Final versions of the Statement of Common Ground for both appeals including list of agreed conditions
- 5 Statement by Clive Sutton – Chairman of the Lymington Society
- 6 Photographic evidence of waiting conditions at bus stop in Gosport Street