

Appeals Progress Report

1. New Appeals

- 1.1 An appeal against refusal of planning permission 21/00048/REVPP for the 'Variation of condition 15 attached to planning permission 17/00344/REVPP dated 22.06.2017 for the erection of restaurant with drive-thru and takeaway facility, to allow permitted hours of use from 06:00 to 00:00, 7 days a week at **McDonalds, 1 North Close, Aldershot, GU12 4HA** has now been made valid and given a start date. The planning appeal reference is APP/P1750/W/21/3278383. The appeal will be determined by the 'written representation' method.
- 1.2 An appeal against refusal of planning permission 21/00516/FULPP for the 'Erection of two storey side extension (following demolition of single storey side extension), a single storey rear extension, a single storey side extension, a roof extension comprising two rear dormers and four front roof lights, and creation of a second vehicular cross over at **81 Highgate Lane, Farnborough** has now been made valid and given a start date. The planning appeal reference is APP/P1750/W/21/ APP/P1750/D/21/3283021. The appeal will be determined by the 'householder fast track written representation' method.
- 1.3 An appeal against refusal of planning permission 20/00149/FULPP for the 'Refurbishment and amalgamation of existing Units 2A & 3 Blackwater Shopping Park, including removal of existing mezzanine floors, revised car parking and servicing arrangements; relief from Condition No. 4 of planning permission 93/00016/FUL dated 10 January 1994 to allow use as a foodstore (Use Class A1) with new mezzanine floor to provide ancillary office and staff welfare facilities, ancillary storage and plant machinery areas; use of part of new foodstore unit as self-contained mixed retail and cafe/restaurant use (Use Classes A1/A3); relief from Condition No. 17 of planning permission 93/00016/FUL dated 10 January 1994 to allow extended servicing hours for the new foodstore unit of 0600 to 2300 hours Monday to Saturday (including Bank Holidays) and 0700 to 2000 hours on Sundays; loss of existing parking spaces to front of proposed foodstore to provide new paved area with trolley storage bays and cycle parking; installation of new customer entrances to new units; widening of site vehicular access to Farnborough Gate road to provide twin exit lanes; and associated works (re-submission of withdrawn application 19/00517/FULPP)' at **Units 2A And 3 Blackwater Shopping Park 12 Farnborough Gate Farnborough** has now been made valid and given a start date. The planning appeal reference is APP/P1750/W/21/3273646. The appeal will be determined by the 'written representation' method.

2 Appeal Decisions

2.1 An appeal against refusal of planning permission 20/00511/FULPP for “Minor works to facilitate change of use of building to Hair Salon (A1 use class), including formalisation of existing parking” at **Gold Valley Lakes Government Road Aldershot Hampshire**. The application related to the conversion of a building at the above fishing complex. The building has permission for residential use, but conversion is incomplete and residential use has not commenced. The Council refused planning permission under delegated powers on 9 September 2020 for the following reasons:

- 1 The proposal is for a shop use serving visiting members of the public and unconnected with the fishing complex in which it would be located, outside the Defined Urban Area or any Town, District or Neighbourhood Shopping Centre. The applicant has failed to demonstrate that there are no sequentially preferable locations in the defined urban area. The proposed use is therefore in an inappropriate location and likely to become a destination in its own right, to the detriment of the vitality and viability of Town, District and Neighbourhood shopping centres, contrary to Policy SS2 of the Rushmoor Local Plan.
- 2 The proposal is for a shop use in an unsustainable Countryside location without available access by alternative or sustainable means of transport and which would therefore rely on private car transport. It would give rise to increased car journeys over and above those associated with the lawful use of the building as a dwellinghouse, contrary to Policy NE5 of the Rushmoor Local Plan.

The Inspector considered the main issues to be whether the appeal site is a suitable location for a hair salon (A1 use class) having regard to:

- The impact on the vitality and viability of the Borough’s town, district and neighbourhood shopping centres; and
- The accessibility of the site by means of transport other than the private car.

The Inspector agreed with the Appellant that a sequential test was unnecessary having regard to Paragraphs 87, 88 and 89 of the revised National Planning Policy Framework (the Framework), published on 20 July 2021. Paragraph 89 confirms that the sequential approach applied to applications for town centre development should not be applied to small scale rural offices or other small-scale rural development. The Inspector noted the Council’s view that the proposal would not serve a rural catchment due to the proximity to major urban areas, but commented that since this factor is not a criterion of Paragraph 89 of the Framework, this argument is not relevant.

The Inspector considered that due to its small scale, the proposed retail use is unlikely to have any material impact on Town and district shopping centres, and that due to its somewhat remote location, is unlikely to attract a significant amount of passing trade to the detriment of existing hairdressing facilities within urban retail centres. The Inspector commented that Paragraph 81 of the Framework requires planning decisions to help create the conditions

in which businesses can invest, expand and adapt, stating that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraphs 84 and 85 specifically give support to a prosperous rural economy, with the former requiring planning decisions to enable the sustainable growth and expansion of all types of business in rural areas, including through the conversion of existing buildings. The Inspector stated that the proposal, comprising a change of use of an existing, underutilised building, would encourage economic growth in a rural area through the expansion of the appellant's existing hairdressing business. There are also likely to be benefits to the adjacent existing commercial use as a result of an anticipated synergy between the established fishery enterprise and the hairdressing use, as evidenced by the appellant and third-party letters of support. Therefore the proposal accords with the Framework objectives in respect of rural enterprise.

The Inspector therefore concluded that the appeal site is a suitable location for a hair salon (A1 use class) having regard to the impact on the vitality and viability of the Borough's town, district and neighbourhood shopping centres which would not conflict with the objectives of Local Plan Policy SS2 (which seeks to protect the vitality and viability of the Borough's town, district and neighbourhood centres) and accords with the objectives of Chapter 6 of the Framework in giving support to a prosperous rural economy.

With regard to the Council's reason for refusal relating to unsustainability, the Inspector commented that the site is already a destination in a rural area, which is generally less accessible and where travel by car would be the primary means of travel. The Inspector considered that some customers will travel with others visiting the fishing complex. The Inspector concluded that the appeal site is a suitable location for a hair salon (A1 use class) having regard to the accessibility of the site by means of transport other than the private car. Whilst there is potential for the appeal proposal to generate more car journeys over and above those associated with the existing storage, or the approved residential use of the building, the Inspector was not persuaded that the site is so inaccessible by means of transport other than the car as to warrant dismissing the appeal. Consequently the decision maker did not find conflict with the location sustainability objective of Local Plan Policy NE5.

The Inspector therefore Allowed the appeal and granted planning permission, subject to a standard time condition of three years for implementation and a condition restricting the use of the premises as a hairdressers and for no other retail use.

- 2.2 An appeal against refusal of planning permission 21/00092/FULPP was allowed for the 'erection of a carport to the front of the property' at **74 Ayling Lane, Aldershot**. The reason for refusal stated;

The Inspector considered that the frontage of No.74 would not be read as part of a consistent pattern of development, finding the car port would be a predominantly open structure of a high quality design and materials that would

complement those of the dwelling.

The Inspector considered the appearance of the car port would be acceptable, also concluding:

'When not being used the structure would not adversely impact on the open frontage and when occupied by a vehicle it would be perceived as a logical building and because of its good design arguably preferable to a car parked with no screening'.

The Inspector allowed the appeal and granted planning permission, subject to a standard time condition of three years.

It should be noted that when refusing applications on design grounds a subsequent appeal decision can derive from an Inspector exercising judgement and arriving at a different conclusion.

It might be argued that the reasoning in this decision is somewhat contradictory – in particular the acceptability of the car port appears to be predicated on it being a 'predominately open structure' whilst also being judged on its ability to 'screen' a car.

3. Commentary

- 3.1 In neither of the reported cases can it be reasonably suggested that the Inspectors erred in law in arriving at their conclusions and that as a consequence there are grounds for legal challenge. In both cases the decisions are a matter of judgement, one on the matter and significance of the 'rural' nature of the location and the relevant policy status, and the other on the aesthetics of the proposed structure. Where the quality and conclusions of Inspectors' decisions are questionable or unclear and could thereby have implications for the subsequent implementation of Local Plan Policy, it can be useful to engage in correspondence with the Planning Inspectorate to seek comment or clarification, (although this would not result in a change to a decision). The decisions reported above, being framed as matters of judgement, are not considered to give rise to wider consequences giving rise to the need for further engagement of this nature.

4. Recommendation

- 4.1 It is recommended that the report be **NOTED**.

Tim Mills

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