The Planning Inspectorate

Appeal Decision

Site visit made on 22 September 2020

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 21st October 2020

Appeal Ref: W/4000518
4 and 5 Nicholsons Wharf, Waterside Road, Portslade, West Sussex BN41 1DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Richard Howell against the decision of Adur District Council.
- The application Ref AWDM/1220/17, dated 3 August 2017, was refused by notice dated 9 October 2019.
- The development proposed is as set out in the application form is "erection of 5no. workshop/office/garaging units".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development as set out in the Council's decision notice is different to that in the application form. The application was made in outline with all matters reserved. However, the decision notice refers to access and layout being determined at the time of the application. The reason for this appears to relate to additional information being submitted during the course of the application. I consider that it is appropriate to assess the appeal based on what the appellant actually applied for. As such I have determined the appeal on the basis that all matters are reserved, and I have treated the plans as indicative only.

Main Issue

3. The main issue is the effect of the proposal on highway safety for users of Waterside Road and the wider highway network.

Reasons

4. The appeal site is adjacent to Waterside Road which is in the ownership of the Shoreham Port Authority. Waterside Road is within the Shoreham Harbour and is used to serve a number of commercial entities, including a fuel terminal, fishing boat marina, and some storage. As such Waterside Road functions as a busy accessway used by a range of vehicles including HGVs as well as those travelling on foot. There is no separate footpath and at places the width of the road narrows such that it is not possible for two vehicles to pass, particularly in relation to the larger vehicles.

5. The proposal would significantly increase the quantum of built form on the site, with a capacity for five separate units with different occupiers. This would be a dramatic intensification in use, and the proposal would result in a substantial rise in movement to and from the site.

6. In addition to those working within the units it is reasonable to assume that there would be deliveries and general traffic associated with the five units, and that this movement may also include pedestrians and cycle users. The illustrative plans suggest that there would be adequate parking within the appeal site itself to cater for those using the five units. However the layout indicates that there would not be room within the appeal site for vehicles to manoeuvre, and therefore those entering in forward gear would have to reverse out of the site onto Waterside Road, or alternatively manoeuvre within Waterside Road and reverse into the site to allow a forward gear exit.

7. Manoeuvring within Waterside Road when stopping near to, and outside of, the appeal site is extremely difficult. This was observed at the time of my site visit when I was driving what would be described as a regular family sized vehicle. I am not convinced, having regard to the width of the road, the visibility, and the use of the road by HGVs and other users, that those visiting the appeal site would be able to manoeuvre safely. I note that the appellant has identified a piece of land opposite the site that could be used for turning, however I have no evidence to suggest how this would be enforced in such a way that could safely serve all five units.

8. Furthermore, at this point of Waterside Road it is not possible to park outside of the appeal site without obstructing the free flow of the road. This would be dangerous not only for vehicle users but also the obstruction of the road would decrease visibility and be dangerous for other users, particularly the fisherman who clearly transport nets and other tools along the road on foot.

9. The freehold of the appeal site is adjacent to Shoreham Port. It has not been suggested in the evidence that there is an alternative route to the appeal site, and therefore the site is served by Waterside Road. As such I am satisfied that it is appropriate to consider the effect of the use of the site having regard to the Shoreham Harbour Joint Area Action Plan 2019.

10. In the absence of any detailed information in respect of how Waterside Road is currently used in terms of traffic flows and by other users, I consider it necessary to take a precautionary approach. As such, I find that, on the basis of the evidence, the proposal would have an unacceptable impact on highway safety. It would conflict with Policy 8 of the Adur Local Plan which requires development to promote sustainable travel behaviours having regard to the need to mitigate the impacts of development on the highway network. It would also conflict with Policy SH2 of the Shoreham Harbour Joint Area Action Plan 2019 which requires that new development does not conflict with the day to day operations of the port and port-related uses.

11. In reaching this decision I have also had regard to paragraph 109 of the National Planning Policy Framework which advises that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

12. I note that the Highway Authority (HA) has not objected to the proposal. However, the comments from the HA refer to the fact that Waterside Road is a

private road, and the HA is concerned with the effect on the public highway. I have found that, in the absence of detailed evidence, it is not possible to conclude that the proposal would not adversely affect the safety of Waterside Road, and in turn this may have an impact on the wider highway network.

Other Matters

13. I accept that the retaining wall to the rear of the site may be in need of repair and reinforcement. However, the benefit of repairing this wall does not outweigh the potential harm that would rise in respect of highway safety.

14. In relation to the expansion of the fishing marina, it appears that this has resulted in a modest increase in the use of Waterside Road, I do not consider this to be comparable to the intensification that would arise as a result of this proposal.

15. I note that a possible long-term development may include connection of Waterside Road to Lady Bee Marina which would result in an increase in traffic. The evidence does not suggest that this is a priority expansion at this point, and in any event such a scheme would be assessed in terms of highway safety at the appropriate time.

16. Concerns have been raised in relation to the relationship between the Council and Shoreham Port Authority. These matters are beyond the scope of my decision, which has been considered on its own merits, and these matters should be raised with the Council in the first instance.

Conclusion

17. I have found that the proposal would conflict with the development plan and national policy, and there are no material considerations that lead me to conclude that the appeal should succeed.

18. Accordingly, I conclude that the appeal is dismissed.

J Ayres

INSPECTOR