



Appeal Decision

Hearing held on 26 February 2013

Site visit made on 26 February 2013

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Decision date: 26 March 2013

Appeal Ref: APP/R0335/A/12/2181506

Beneficial House, Easthampstead Road, Bracknell, RG12 1NS

- 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 T A Fisher Developments Ltd and House of Fisher Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 12/00304/FUL, dated 30 March 2012, was refused by notice dated 28 June 2012.
 - The development proposed is the change of use of B1 (office) building, with ground floor extension and addition of third floor, to provide a 36 suite apart-hotel on first, second and third floors with reception and 2 no A1 (non-food, bulky goods) retail units at ground floor level with remodelled parking and service arrangements.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of B1 (office) building, with ground floor extension and addition of third floor, to provide a 36 suite apart-hotel on first, second and third floors with reception and 2 no A1 (non-food, bulky goods) retail units at ground floor level with remodelled parking and service arrangements at Beneficial House, Easthampstead Road, Bracknell, RG12 1NS in accordance with the terms of the application, Ref 12/00304/FUL, dated 30 March 2012, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. At the Hearing an application for costs was made by T A Fisher Developments Ltd and House of Fisher Ltd against Bracknell Forest Borough Council. This application is the subject of a separate Decision.

Preliminary matters of clarification

3. The Council refused to grant planning permission for 3 reasons, including that the proposal would not comply with the Council's vehicle parking standards and that it would unacceptably increase the pressure on highways and transportation infrastructure. However, following refusal, discussions continued between the Council and the appellants with the result that an agreed Statement of Common Ground (SoCG) was prepared and submitted shortly before the Hearing.
4. This SoCG indicates that subject to the imposition of suitably worded planning conditions, and the submission of an appropriate planning obligation, the Council would not defend reasons for refusal 2 and 3, concerning the above matters. I deal with these points later in this decision.

5. A number of other key matters were also agreed, including that the appeal site is in a highly sustainable location within the Bracknell urban area, lying within walking distance of local services and facilities including the town centre, train station and business parks. It is identified in the adopted Core Strategy Development Plan Document (CSDPD) as being located on the edge of a defined employment area. There is an oversupply of office floorspace within the Borough and no evidence of qualitative deficiencies in the current supply. The appeal site is currently unoccupied and has been for some time, and its change of use to an apart-hotel is not considered likely to undermine the integrity of the employment area but, rather, would assist and support the business function of the area.
6. In addition, although the Council's first reason for refusal still remains, the parties are agreed that the appeal scheme is not required to be supported by an impact appraisal and that the National Planning Policy Framework ("the Framework") does not require schemes for out of town retail to demonstrate a need. It is also agreed that the appeal scheme satisfies the social and economic roles of sustainability set out at paragraph 7 of the Framework, but the Council does not accept that the appeal scheme would satisfy the economic role¹.

Main issue

7. Taking account of the matters agreed between the parties, and discussions at the Hearing, I consider there to be a single main issue in this appeal. This is whether the provision of the retail element of the proposed development would accord with the sequential approach to town centre uses and constitute sustainable development, in accordance with the Framework.

Reasons

8. Beneficial House is a 3-storey Class B1 office building sited at a prominent location facing the Twin Bridges roundabout on the town's main road network. Vehicular and pedestrian access to the building is from Easthampstead Road, with a surface level car park behind the building providing 53 parking spaces and cycle parking. It lies more than 300m from the town's defined Primary Shopping Area and therefore is considered to be an out of centre site as defined in the Framework.
9. The appeal proposal seeks to extend this building by means of both a ground floor extension and a new third floor and then change its use to provide 2 A1 non-food, bulky goods retail units on the ground floor, with a 36 suite apart-hotel with ancillary gymnasium, staff room, office and storage on the upper floors. The ground floor would also accommodate a small entrance foyer and reception area for the apart-hotel. The 2 proposed retail units would have gross floor areas of 437sqm and 378sqm, giving a total of 815sqm.
10. In light of paragraph 22 from the Framework, which makes it clear that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, the Council does not object to the conversion of the building to an apart-hotel. In such circumstances the Framework explains that applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

¹ After the close of the Hearing the parties have confirmed that paragraphs 2.25 and 4.19 of the SoCG contain typographical errors. The first sentence of each should state that it is "agreed that the appeal scheme satisfies the social and environmental roles of sustainability set out in paragraph 7 of the NPPF" ("the Framework")

Sequential Assessment

11. The Council is, however, concerned about the likely impact of proposed A1 retail uses at this out of centre location on the town centre's vitality and viability. It considers that the Sequential Assessment, submitted by the appellants in accordance with the approach set out in paragraph 24 of the Framework, does not satisfactorily demonstrate that no sequentially preferable sites are available. This approach requires applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. It also explains that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
12. The Council points out that whilst the Sequential Assessment has given some indication of the type of operator which the appellants consider would be attracted to the proposed retail units, no named operators are linked to the proposal. Because of this, and the absence of any clear definition of "bulky goods", it maintains that no clear justification has been submitted to explain why the specified unit sizes were chosen. As a result it argues that the proposal would be in conflict with criterion "ii" of CSDPD policy CS22, dealing with out of centre retail development, and with paragraph 239 of policy CS21, which deals with similar matters. Moreover, because of its concerns in these regards, the Council further argues that the appeal proposal would divert retail uses from the town centre, thereby prejudicing the growth of the town centre.
13. Its 2008 Retail Study shows that only 14% of comparison goods expenditure is retained in the town, and that even with a major redevelopment for the northern part of the town centre (which has planning permission and is expected to start on site in early 2014) this retention is only expected to increase to 31%. Because of this the Council maintains that there is no justification to make provision for any other retail comparison floorspace outside the town centre and that no convincing argument has been put forward to show why this development could not go into the town centre. Whilst it accepts that the proposal would represent economic growth it maintains that it would be growth in the wrong place and, as such, would not satisfy the economic role of sustainable development detailed in paragraph 7 of the Framework.
14. However, whilst I understand the Council's concerns in this regard, it is clear, both with reference to CSDPD policies CS21 and CS22, as well as to paragraph 24 of the Framework, that not all retail development has to take place within town centres. The very fact that a sequential assessment is required for such development indicates that there will be circumstances when edge of centre and out of centre retail development is justified and acceptable. Retail development does not have to be within town centres for it to be considered sustainable.
15. I acknowledge that no named operators have committed to the scheme. But the appellants have provided information in the Sequential Assessment and in subsequent supporting statements and correspondence which gives a clear indication of a number of bulky goods operators, not currently represented in the Bracknell area, who have expressed an interest in the proposed units. Details have also been provided regarding the sizes of unit that such operators typically trade from, and from this information I can see that there is extremely limited availability of units of this size within the town centre.

16. Indeed the appellants' Sequential Assessment only identified 2 town centre units which would be of an appropriate size, but both were discounted as not being suitable or viable for the sale of bulky comparison goods. This was primarily because the units would not accord with what the appellants say is the underlying business model for the sale of bulky goods, namely one which generally relies on prominent sites with adjacent car parking, good accessibility to the road network and at a sustainable rental level. In addition, the appellants maintain that such operators need to maximise the ability to display a wide selection of items on a single level, so that shoppers can see and experience products before buying.
17. Evidence to support the appellants' position on these matters is contained in paragraph 6.31 of the still extant PPS4 Practice Guidance². This acknowledges that the size and bulk of goods sold will influence the size and type of store required; and that this applies particularly to retailers selling bulky durable goods such as DIY, furniture, carpets and domestic appliances. The Practice Guidance goes on to state that in many cases these forms of development are regarded as complementary to the role of town centre retailing and do not generate sufficient sales productivity to trade in prime town centre locations.
18. The 2 town centre units which were vacant in September 2012 were No 14 Charles Square and Unit 42-44 Princess Square, both of which would provide around 400sqm of gross floor area. The appellants point out that both have historically traded as "high street" comparison goods stores, and that in the case of 14 Charles Square its narrow width and extensive depth would not be particularly suited to the sale of bulky goods.
19. I have noted that the Sequential Assessment did consider whether bulky goods comparison retailers could reasonably split their operations between more than one building, but concluded that to do so could well lead to a requirement for more rather than less space, because of the duplication of non-sales floorspace which would arise. Matters have, however, progressed since the Sequential Assessment was undertaken and I saw at my inspection that neither of these units is now vacant. But whilst one has been taken by a fashion store, the other is occupied by Brighthouse, a "rent-to-own" retailer, dealing in items which appear to include bulky goods.
20. Therefore, although the comments from the PPS4 Practice Guide, detailed above, are supportive to the appellants' case, they do not necessarily indicate that bulky goods retailers cannot successfully operate from town centres. Indeed, the very fact that Brighthouse has chosen to occupy one of the 2 units assessed in the Sequential Assessment indicates that that particular retailer has decided that a town centre location is suitable for its operations.
21. Moreover, although I accept the appellants' point that it is not essential to have an identified operator in order to apply the sequential approach to site selection, in the absence of a specific end-user it is certainly more difficult to come to a definitive view on whether alternative sites would be suitable. Indeed I have noted that from a list of 7 retailers whom the appellants say could consider moving to the appeal premises if planning permission was granted, all bar one of them have indicated a floorspace requirement that could be satisfied, at the lower end, by the 2 vacant town centre units considered in the Sequential Assessment. Whilst I acknowledge that size is only one aspect of any assessment, and have

² The Practice Guidance to Planning Policy Statement 4 (PPS4) "Planning for Sustainable Economic Growth"

noted the appellants' arguments why town centre sites would not be suitable for bulky goods operators, this matter somewhat weakens the appellants' case.

22. In summary, without knowledge of particular end-users I am not persuaded that the appellants have unambiguously demonstrated that bulky goods operators, such as those expressing an interest in the appeal units, could not operate successfully from town centre premises. I therefore understand and share the Council's concerns about the acceptability of the Sequential Assessment. Moreover, although the Council has not identified any alternative town centre sites it is certainly possible that other premises of a suitable size could become available in the major redevelopment of the northern part of the town centre, which is due to commence early next year.

Viability, impact and sustainable development

23. However, I fully accept that there are other considerations which also need to be taken into account in this overall proposal, which is not simply for the provision of bulky goods retail units. The SoCG indicates that the Council is supportive of the proposed change of use of this redundant office building to an apart-hotel, noting that it would not undermine the integrity of the employment area but, rather, would assist and support the business function of the area. Importantly, the appellants point out that the apart-hotel would simply not be viable unless there is some supporting use on the ground floor.
24. To explore this in more detail the appellants commissioned an independent valuation appraisal of a number of potential development scenarios at the appeal property. In addition to the appeal scheme this appraisal evaluated alternative scenarios for the ground floor, including a reduced amount of A1 accommodation (629sqm gross); 2 additional apart-hotel units, gymnasium and larger ancillary and common areas; 2 B1 office units totalling 752sqm net internal area; and an A3 restaurant or an A4 drinking establishment. A further scenario assessed a 47 suite apart-hotel spread over the entire building.
25. Of these 6 assessments only the 3 scenarios involving A1, A3 or A4 uses on the ground floor were shown to be profitable, with the most profitable being the appeal proposal which is estimated to produce a profit on cost of 8.47%. This is not a high rate of return and the appellants point out that a speculative developer would normally expect a rate of return of between 15% and 20%, given the complicated nature of the scheme.
26. With this in mind, and even though no retail end-users are firmly signed up, I take the view that this proposal as a whole should not be considered as speculative. The appellants are able and willing developers who have already undertaken a number of similar apart-hotel schemes in recent years, and who are keen to pursue and progress the current proposal. It seems to me that this matter, which was not disputed by the Council, weighs in the proposal's favour.
27. Furthermore, although the Council's reasons for refusal query the proposal's impact on the town centre, the parties agree that in the light of guidance within the Framework, there is no specific need to undertake an impact assessment in this case. Notwithstanding the above, the Supporting Retail Statement submitted with the planning application provided a broad indication of the likely impact of the proposal on the town centre and the Peel Centre (a nearby out of centre retail park), assuming all trade was drawn exclusively from these sources.

28. This exercise, which did not take the impending major town centre redevelopment project into account, indicated that the maximum impact would be 0.8% in 2016. This is not disputed by the Council and I share the appellants' view that this would be insignificant in planning terms. Moreover, although the Council referred to the appeal proposal having a prejudicial effect on the regeneration of the town centre no firm evidence has been placed before me to suggest that it would have any material impact on any existing committed and planned public or private investment in the town centre or any other established centre.
29. Finally, as already noted, the SoCG indicates that the appeal site is in a highly sustainable location within the Bracknell urban area, within walking distance of local services and facilities including the town centre, train station and business parks. Moreover, there is agreement that the design of the proposed extensions to the building would be acceptable and the Council does not dispute the appellants' claim that the proposal would have no adverse environmental implications but, rather, would improve the character and quality of the local employment area. I share that view.
30. In addition, it is clear that the proposed development would create jobs, both through the retail units and through the apart-hotel. This would assist the local economy and would also improve the environment of the local area by regenerating a vacant office building on what is a highly prominent location on the town's main road network.

Summary on the main issue

31. Drawing all the above points together I conclude that because of the lack of clarity regarding final end-users for the retail units, it has not been clearly demonstrated that the proposed development would fully accord with the sequential approach to town centre uses. There is therefore an element of conflict with CSDPD policies CS21 and CS22. But notwithstanding this conflict there would be some clear economic and retail benefits as a result of attracting new bulky goods comparison operators to the town. Paragraph 19 of the Framework makes it plain that significant weight should be placed on the need to support economic growth through the planning system.
32. Furthermore, significant economic, social and environmental benefits would arise from the bringing back into full use of a redundant, prominently located building and because of this I conclude that the proposal would constitute sustainable development, in accordance with paragraph 7 of the Framework. Importantly, I further conclude that this would be achieved without causing any material impact to the vitality and viability of either Bracknell town centre or the Peel Centre retail park. On balance I therefore conclude that these benefits would outweigh the conflict with the CSDPD policies to which I have already referred.

Other matters

33. I have indicated, earlier, that the Council agreed to not pursue its other reasons for refusal, dealing with vehicle parking issues and concerns about the proposal's impact on highways and transportation infrastructure, subject to the imposition of planning conditions and the submission of an appropriate planning obligation.
34. With regard to the planning obligation, this was deemed necessary as CSDPD policy CS24 indicates that new development will be permitted where mitigation is provided to deal with the transport impacts which may arise from development. The appellants have sought to address this matter through a unilateral

undertaking, made under S106 of the Town and Country Planning Act 1990, and discussions have been ongoing with Council Transport Officers to agree an appropriate level of financial contribution. Agreement has been reached and a signed and completed unilateral undertaking was submitted at the Hearing.

35. Under this obligation the appellants agree to pay a sum of £39,360 (index-linked) to the Council, to cover such matters as transport modelling, local highway improvement works and integrated transport measures, schemes or programmes within 3 kilometres of the appeal site. The SoCG explains that this contribution is provided to accord with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework and is necessary in order to allow the proposed development to proceed. Although no further detailed information has been provided on this matter, there is nothing to cause me to take a contrary view.
36. Agreement has also been reached between the parties regarding appropriate conditions to control matters of access for vehicles, cyclists and pedestrians, and to manage the shared use of the parking spaces between users of the apart-hotel and visitors to the retail units. I agree that these conditions would ensure that the proposed development would accord with the requirements of CSDPD policy CS23 and saved policy M9 from the Bracknell Forest Borough Local Plan. Subject to the imposition of these conditions, discussed further below, the Council has agreed that its concerns covered in its second reason for refusal would be satisfactorily addressed. Again, I see no reason to take a contrary view.

Conclusion

37. I conclude that although the appeal proposal does not fully satisfy the requirements of CSDPD policies CS21 and CS22, insofar as the sequential test for the location of retail development is concerned, it nevertheless represents sustainable development. It therefore benefits from the presumption in favour of such development set out in the Framework. I further conclude that the development could proceed without any materially adverse impact on the vitality and viability of Bracknell town centre or any other established centre, and with no harm in terms of parking provision, highways and transport impact, or design.
38. In these circumstances my overall conclusion is that any policy conflict is outweighed by the clear benefits which would arise from the proposed development. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusion. I therefore allow this appeal, subject to a number of conditions.

Reasons for imposing conditions

39. I have considered the conditions put forward by the parties and have made some minor adjustments to them to better reflect the guidance in Circular 11/95³ and to accommodate comments made at the Hearing. In addition to the standard time condition, Condition 2 is imposed for the avoidance of doubt and in the interests of proper planning, whilst Condition 3 is necessary to ensure that the completed development is of a satisfactory appearance.
40. Conditions 4 and 7 are imposed to ensure that adequate facilities for both pedestrians and cyclists are provided, with Conditions 5 and 6 being necessary to

³ Circular 11/95: The Use of Conditions in Planning Permissions

ensure that the development is provided with adequate, properly managed car parking and in the interests of highway safety.

41. Conditions 8, 9 and 10 are imposed in the interests of sustainability and to ensure the efficient use of resources and Condition 11 is needed to ensure the development is provided with satisfactory waste collection facilities. Finally, condition 12 is imposed in order to restrict the range of goods which could be sold at the retail units to those falling into the bulky goods category.

David Wildsmith

INSPECTOR

Schedule of Conditions (12 in total)

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 400B, 401A, 402A, 403B, 404A, 405A.
- 3) Notwithstanding Condition 2, the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The development hereby permitted shall not be begun until a scheme has been submitted to and approved in writing by the Local Planning Authority for covered and secure cycle parking facilities, to include details of any cycle pool system that may be operated from the site. The scheme shall include shower facilities and lockers for employees and the building shall not be occupied until the approved scheme has been implemented. These facilities shall thereafter be retained.
- 5) No development shall take place until a car parking management scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - i) details of the allocation of spaces between the apart-hotel and retail users;
 - ii) details of the method by which retail customer parking will be restricted to use by customers of the site only, limited to a maximum duration of 2 hours;
 - iii) details of a parking permit scheme for staff of the retail units;
 - iv) details of a parking permit scheme for apart-hotel guests and staff;
- 6) No apart-hotel or retail space shall be occupied until the associated vehicle parking and turning space has been surfaced and marked out in accordance with the approved drawing No 400B. The parking spaces shall thereafter be kept available for parking at all times and shall at all times be signed and managed in accordance with the approved car parking management scheme.
- 7) No retail unit or apart-hotel space shall be occupied until a means of access for pedestrians and cyclists, to include appropriate signage, has been constructed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The means of access and signage shall thereafter be retained.

- 8) The development hereby permitted shall not be begun until a Sustainability Statement demonstrating how the development will meet current best practice standards in the sustainable use of natural resources has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include either a Design Stage Report and BRE Interim Certificate or a pre-assessment estimator carried out by an independent assessor licensed by the Building Research Establishment demonstrating that the development meets a "Very Good" BREEAM rating. The development shall be implemented in accordance with the Sustainability Statement and the measures set out in the Statement and shall be retained in accordance therewith.
- 9) The development shall not be occupied until a Post Construction Review Report carried out by an independent assessor licensed by the Building Research Establishment and a Final Code Certificate has been submitted to the Local Planning Authority which demonstrates that the development has been constructed to meet a "Very Good" BREEAM rating.
- 10) The development hereby permitted shall be implemented in accordance with the submitted Energy Demand Assessment and the buildings constructed/extended by the carrying out of the development shall be operated in accordance with the submitted Energy Demand Assessment.
- 11) Details of an enlarged refuse storage area should be submitted to and agreed in writing with the Local Planning Authority prior to occupation of the apart-hotel or retail units. The refuse storage area shall thereafter be provided in accordance with the approved details, before any retail unit or apart-hotel unit is first occupied.
- 12) The development hereby permitted shall only be used for the sale of furniture (including homewares and household goods), carpets, electronic and white goods for the home and office, car accessories and bicycles, DIY home improvement products, kitchens, bathrooms, tiles, golf equipment and related items, pets, pet food and pet-related products or as a discount wine warehouse and for no other purpose including any other purpose set out in Class A1 of the schedule of the Town and Country Planning Use Classes Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order.

APPEARANCES

FOR THE APPELLANT:

Mr S Brown BSc(Hons) DipTP MRTPI	Associate, Woolf Bond Planning
Mr M Wood BA(Hons) BTP MSc MCIT MRTPI	MWA (Mark Wood Associates)
Mr M Hughes	Director, Lambert Smith Hampton
Mr P Webb FRICS	Director, T A Fisher Developments Ltd
Mr J Fisher	Director, T A Fisher Developments Ltd and Director, House of Fisher Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Miss M McEvit BA(Hons) MSc MRTPI	Principal Planning Officer, Bracknell Forest Borough Council
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DOCUMENTS SUBMITTED AT THE HEARING

Document	1	Signed Statement of Common Ground, dated 25 February 2013
Document	2	Brochure – Bracknell Town Centre Regeneration, submitted by the appellants
Document	3	Draft of suggested and agreed conditions
Document	4	Completed Unilateral Undertaking, submitted by the appellants
Document	5	Further Costs application document, submitted by the appellants