



# Appeal Decision

Site visit made on 16 June 2003

by **B M Linscott BSc (Env Planning) MRTPI**

an Inspector appointed by the First Secretary of State

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Date

**25 JUN 2003**

**Appeal Ref: APP/C3810/A/03/1110997**

**Unit 2a Littlehampton Marina, Ferry Road, Littlehampton**

- 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 Littlehampton Marina Ltd against the decision of Arun District Council.
- The application (Ref.LU/221/02), dated 6 August 2002, was refused by notice dated 8 November 2002.
- The development proposed is the change of use of a building to accommodate chandlery, boat brokerage and self service general store to Class B1 (workshops).

**Summary of Decision:** The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

## Main Issue

1. The main issue concerns the effect of the proposed change of use upon the operation and functioning of the marina.

## Planning Policy

2. I am advised that the development plan includes the West Sussex Structure Plan 1993 and the Arun District Local Plan, also of 1993. Policy AOC1c of the latter identifies the building as being in an area wherein development is expected to maintain, improve and develop the marina or to provide boat-building or other marine-related commercial uses (provided that a significant recreational use remains). Other policies concern countryside, employment and locational strategy, coastal regeneration and other considerations.
3. The Arun District Local Plan Second Review, Revised Deposit Draft 2003 includes policy SITE10, (which I am advised will become policy SITE9 once the Plan has been adopted) which essentially reiterates the principles of policy AOC1c of the 1993 Plan.

## Reasons

4. The appeal building is a modern and well-appointed (semi-detached) workshop standing in the centre of the extensive marina. The other end of the building is let to a company manufacturing amphibious vehicles. Its closest neighbour is a former showroom (still containing boats) and chandlery which until recently were operated by the appellant company as part of the marina enterprise but which proved non-viable. Other uses include boat storage / display and container storage associated with a haulage firm operating from a large unit within the marina complex.
5. Opposite the entrance to the site I saw that there is a small boatyard which the Appellant advised has ceased trading, although I noted that there is a variety of largely marine-related, small businesses operating from the peripheral buildings in that area.

6. The Appellant has sought without success since 2001 to let the building as a marine workshop and its vacancy and loss of rent has, in its view, undermined the viability of the marina. In amplification of its case the Appellant has enclosed advertising material, the terms of that promotion and supporting correspondence to illustrate (i) the advice it obtained and (ii) the fact that no significant interest in the building has been shown in some two years of the campaign. The Council has neither disputed nor criticised any of the Appellant's submissions on these matters, nor have I any reason to do so.
7. In the context of the substantive issue, the Council does not seem to me to have taken account of the Appellant's argument (on the lack of attractiveness as a marine-related facility) as a material consideration. Rather it has reached its decision simply on the basis that the proposal would not be marine-related nor require a coastal location and is thus, it considers, contrary to policy. Section 54A of the Town & Country Planning Act 1990 (as amended) requires not only that (primary) consideration be had to the development plan, but that other material considerations be taken into account. Accordingly in my judgement, whether or not the policy mentions viability and marketing, those matters, and the evidence which the Appellant has provided, are important and persuasive material considerations.
8. It seems to me that the Appellant has produced substantial and convincing evidence that, despite having actively marketed the premises over a period of some two years, no serious interest from marine-related enterprises has emerged. Indeed, it would seem that over the same period other marine-related businesses have declined at the marina and elsewhere in the immediate area. It has drawn attention to the fact that, as an enterprise reliant upon a range of activities and income streams derived from them, the failure to let premises undermines the viability of the whole. The logic of that argument seems plain to me and I accept, therefore, that it might be that, in practical terms, enterprises not conducting marine-related business will prove the means by which to secure a tenant. Whilst that would conflict with the terms of the local plan policy in the way that the Council interprets it, it would nonetheless help to underpin the marina business as a whole.
9. The Council appears to have overlooked the first part of the policy however, which is directed broadly at maintaining, improving and developing the marina as such. Accepting the Appellant's unchallenged evidence, I consider that the proposal would help to maintain the marina and, as such, an important element of the policy would, I conclude, be satisfied. I accept that it would not necessarily directly improve or develop it. However, I consider that in permitting a wider and more flexible range of potential tenants (thus increasing the likelihood that an income-generating user will be found), it is more likely to facilitate improvement and development than would continued vacancy, which, on the evidence before me, I regard as the likely alternative.
10. Not only does the test of the policy not require the second of its parts to be satisfied if the first one is met, but I consider that the failure to identify any interest from marine-related enterprises over a long period is a material consideration which justifies my concentrating on the need to "maintain" the marina, which is clearly the Appellant's objective at present. That failure also justifies in my view, the judgement that, given the financial position of the marina as outlined by the Appellant, there are sound reasons to facilitate flexibility so as, in turn, to facilitate the improvement and development sought by the policy.
11. The appeal building is evidently a comparatively small component of a heavily marine and leisure-related undertaking and it does not seem to me likely that, by enabling its non-marine related usage, the overall marina usage would be threatened in any material way.

### Conditions

12. I agree that a condition restricting the use to Class B1 is justified in the interests of ensuring compatibility with its surroundings: obviously this would not necessarily preclude marine-related such uses, should such interest arise.

### Conclusions

13. Whilst the proposal would not strictly satisfy all of the tests of the relevant policy of the adopted and emerging local plan, I consider that it would maintain the marina and would provide a basis for its improvement and development. The demonstrated lack of interest in the building for marine-related uses and the resultant lack of income generation are important material considerations in this respect. Overall, therefore, I conclude that the objectives of policy AOC1c and its successor (as well as those addressing the wider economic health of the area) would be met for the reasons I have given above. On this basis and having regard to all other matters raised (including the Council's broad references to various PPGs), I conclude that the appeal should succeed.

### Formal Decision

14. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for the change of use of a building to accommodate chandlery, boat brokerage and self service general store to Class B1 (workshops), being Unit 2a Littlehampton Marina, Ferry Road, Littlehampton, in accordance with the terms of the application, Ref. LU/221/02, dated 6 August 2002, and the plans submitted therewith, subject to the following conditions:
- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
  - 2) The premises shall be used only for purposes within Class B1 as defined in the Town and Country Planning (Use Classes) Order, 1987 or by any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

### Information

15. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
16. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.



Inspector