Planning Inspectorate

Appeal Decision

Site visit made on 14 October 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2025

Appeal Ref: APP/C1760/W/25/3364388
8A Bridge Street, Andover SP10 1BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr F Gungor against the decision of Test Valley Borough Council.
- The application Ref is 25/00197/FULLN.
- The development proposed is conversion of first floor into residential unit 1x1 bed with new route for extraction flue at rear elevation.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. An odour management plan accompanies this appeal. While it may not have been received during the application, the Council has had an opportunity to comment on it at the appeal. It seeks to address part of a reason for refusal and does not fundamentally alter the scheme. In applying the Holborn principles, I am satisfied that the document would not cause unlawful procedural unfairness to anyone involved in the appeal.

Main Issues

3. The main issues are:

• whether the proposed development would provide suitable living conditions for future occupiers, with regard to noise and odour;

• the effect on the living conditions of neighbouring residents with particular regard to noise and odour; and

• whether the proposed development would be at risk of flooding.

Reasons

Future occupiers

4. The evidence shows that even with recommendations being taken into account, there would be a low to medium risk of potential odour nuisance caused by the proposed flue close to a bedroom window. The submitted report advises that ordinarily a low level of odour mitigation would be required. The proposed maintenance programme sets out a comprehensive list of measures that would need to be fully implemented to minimise the risk of complaint, including daily inspections and regular cleaning methods. However, it is unclear how these could

be realistically secured with certainty using a planning condition. Thus, the longer-term impacts of odour in such close proximity to living space cannot be ruled out.

5. The submitted noise assessment has been carried out between the hours of 07:00 and 03:00, which the Council says are not the permitted hours of operation. There are also concerns that the assessment has not been undertaken during the day and night separately, in accordance with BS4142. The appellant's noise report references intervals over which the specific sound level is determined, which is 1 hour during the daytime and 15 minutes during the night. It is not clear from the evidence whether or not the assessment has been carried out during the correct hours or intervals. This would be necessary to establish the effects of other commercial uses in the vicinity.

6. In that context, and given the uncertainties surrounding background noise levels, the noise generated by the flue would likely exceed accepted standards for internal resting and sleeping conditions. Although a partially open window may provide a reasonable degree of attenuation, it is foreseeable that future occupiers would wish to fully open their windows, particularly during warmer periods. It is unclear whether the predicted internal noise levels were based on a window being partially or fully open, which adds further uncertainty to the assessment.

7. The proposed sound insulation measures to mitigate potential noise from the commercial unit below would be likely to be acceptable. However, the protection of future occupier's living conditions is not just about the avoidance of a statutory nuisance or minimising the risk of complaint. Overall, the evidence does not convincingly demonstrate that the development would avoid harmfully affecting the living conditions of future occupants. In such circumstances, it would not be appropriate to attempt to deal with the potential noise impacts after the grant of permission.

8. I therefore conclude on this main issue that the proposal would harmfully affect the living conditions of future occupiers with regard to odour and noise. As such, there would be conflict with policies E8 and LHW4 of the Test Valley Borough Local Plan (LP) which, together in this respect, require that developments do not result in unacceptable pollution.

Neighbouring residents

9. The Council offers little detail in respect of the potential harmful effects of noise or odour on neighbouring residents. There are however a number of windows relatively close to the proposed flue. The submitted noise report focusses on the nearest window and does not provide detailed assessment of other receptors in the area. It is therefore simply not known what the effect on neighbouring residents might be.

10. The submitted odour assessment indicates that emissions would not be detectable at the boundary of the appeal site. However, it also identifies a potential medium risk of odour nuisance for sensitive receptors located within 20 to 100 metres of the flue extract. The mitigation of this risk is reliant on the implementation and ongoing effectiveness of a proposed maintenance programme including daily inspections and regular cleaning methods. For similar reasons to those set out in the main issue above, I am not persuaded that the odour impacts would be adequately controlled in the longer term.

11. I therefore conclude on this main issue that the proposal would harmfully affect the living conditions of neighbouring residents with regard to odour and noise. As such, there would be conflict with LP policies E8 and LHW4.

Flood risk

12. Paragraphs 174 and 175 of the National Planning Policy Framework (the Framework) say that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test.

13. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment (FRA) demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future. Whilst the timing of its designation may be frustrating for the appellant, the access/egress of the appeal site is nevertheless in an area at risk of flooding. The scheme is not a type of exempt development set out in footnote 63 of the Framework, and therefore the sequential test applies.

14. It would be impractical to seek out other sites for this scheme beyond the plot itself. A district wide search would therefore not be reasonable.

15. In these circumstances, it is necessary to apply the exception test. To pass the exception test, paragraph 178 of the Framework says that it should be demonstrated that a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

16. Notwithstanding the lack of any detailed FRA, the Planning Practice Guidance notes that wider sustainability benefits could include the re-use of suitable brownfield land. Given the nature of this proposal, there would be wider sustainability benefits to the community.

17. I acknowledge permission was previously given for a similar scheme here, though this was prior to the site's more recent flood zone definition. Furthermore, it is likely to have lapsed, so cannot be relied upon as a realistic fallback, and I attach very little weight to it as a material consideration. Even though the proposal would be on the first floor, access and egress would require use of the ground floor. Therefore, in the absence of any technical appraisal or details, it is simply not known if the means of escape for example would be safe for its lifetime, taking into account vulnerability of future occupiers without increasing flood risk elsewhere. The proposal would fail to pass exception test b) of Framework paragraph 178.

18. For the reasons given and based on the evidence provided, I cannot be satisfied that the appeal scheme would be at no risk of flooding on the site or elsewhere. As such, a planning condition would not be appropriate. I therefore conclude that the proposed development would be at risk of flooding. There would be conflict with LP Policy E7 which, amongst other things, only supports development if it complies with national policy and guidance in relation to flood risk.

Other Matters

19. The appeal site falls within the Test Valley catchment area for the Solent Special Protection Area (SPA). It is an area which, as designated by Natural England, needs action to be taken concerning nutrient neutrality. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) requires an appropriate assessment (AA) to ensure that the development would not adversely affect the integrity of the SPA. However, clause 63(1) of that regulation states that 'a competent authority, before deciding to undertake, or give any consent, permission… must make an appropriate assessment'. An AA is not, therefore, necessary where there is no intention to grant permission.

20. In that context, I would have considered whether or not the imposition of a planning condition could have provided sufficient assurances that mitigation measures would secure nutrient neutrality. However, as I am dismissing the appeal on other grounds, it is not necessary for me to reach a conclusion on this matter.

21. The appeal site is located within the Andover Town Conservation (CA) where there is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the conservation area; and where great weight should be given to the asset's conservation. The appeal building is a non-designated heritage asset due to its local historic and architectural interest. It is also adjacent to a listed building at 6 Bridge Street with a significance derived from its early 19th century architectural detailing. There is a statutory duty to pay special regard to the desirability of preserving its setting.

22. The appeal proposal's flue could be painted to reduce its prominence in the context of a rear service area. It would also be viewed alongside a bin storage area and rainwater goods of an adjacent property, all within a commercial context. For these reasons, the scheme would have a neutral and thus preserving effect on the CA and listed building. Accordingly, I am satisfied the proposal meets the requirements set out in s.66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act).

Planning Balance and Conclusion

23. I have concluded above that the proposal would harm the living conditions of existing residents and future occupiers, and that it has not been shown to avoid flood risk. The policies identified in these respects are consistent with those set out in the Framework and can be given substantial weight. Accordingly, the proposal conflicts with the development plan as a whole.

24. There is no dispute that the Council is unable to demonstrate a 5-year supply of deliverable housing sites, where there is a current supply of about 2.7 years. Paragraph 11 d) of the Framework indicates that, where the requisite housing land supply cannot be demonstrated, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

25. Footnote 7 states that policies in the Framework relating to flood risk qualify as protection policies under the first limb of paragraph 11 d). As set out above, there are strong reasons for refusing the proposed development. Consequently, the tilted balance in the second limb does not apply and the proposal does not benefit from the presumption in favour of sustainable development within the Framework.

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the Framework.

27. In that respect, I have considered the suite of benefits that would arise from the development including the reuse of vacant space to create a small unit of sustainably designed accommodation, suitable for entry level occupants in a location with excellent access to public transport, services, and facilities. In that context, I am aware of the important role residential development often plays in ensuring the vitality of centres as set out in paragraph 90 of the Framework. The proposal would make a very modest but important contribution to the overall supply of housing. It would also bring some economic benefits to the construction industry during its conversion and thereafter through additional consumer spending in the local economy.

28. However, despite the aforementioned benefits and a previous permission, these are not considerations of sufficient weight that indicate a decision should be made other than in accordance with the development plan when taken as a whole. Therefore, the appeal is dismissed.

J Hills

INSPECTOR