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# Appeal Decision

Hearing held on 28 June 2017

Site visit made on 28 June 2017

**by Kevin Gleeson BA MCD MRTPI**

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

**Decision date: 10 August 2017**

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**Appeal Ref: APP/B9506/W/17/3169399**  
**77 High Street, Lyndhurst SO43 7PB**

- 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 Mr John Butt, Meridien Modena Concessionaires Ltd against the decision of the New Forest National Park Authority.
  - The application Ref 16/00520, dated 20 June 2016, was refused by notice dated 26 August 2016.
  - The development proposed is described as car showroom extension and two first floor flats; demolish three retail units.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application form identifies the site as 77 High Street because this address encompasses the majority of the area within the red line boundary. However, the boundary also includes 73/75 High Street and 79 High Street as well as the three retail units to the east of the site, numbered 83, 83A and 85.
3. A signed and dated unilateral undertaking in accordance with Section 106 of the Town and Country Planning Act 1990 was submitted by the appellant prior to the hearing. This contains an obligation in respect of habitat impact mitigation. I shall return to this matter later in my decision.

## Main Issues

4. The main issues are:
  - whether the proposed development would preserve or enhance the character or appearance of the Lyndhurst Conservation Area; and
  - the effect of the proposed development on the living conditions of neighbouring residents with particular reference to outlook and light.

## Reasons

### *Character and Appearance*

5. The appeal site is located within the centre of Lyndhurst, on the northern side of High Street opposite the junction with Gosport Lane. It comprises a large complex of car showrooms and related premises. The appeal site incorporates
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- 79 High Street, into which the business expanded in 2008 as well as 83, 83A and 85 High Street which are single storey retail units. As part of the redevelopment and change of use of the unit at 79 High Street, a first floor flat was created in the new roof space formed with a pitched roof and a front gable.
6. The appellant also operates from a second showroom at 56 High Street which is opposite the appeal site on the southern side of High Street. As recognised in the Lyndhurst Conservation Area Appraisal, 2002, published by New Forest District Council, the refurbishment of Meridien Motors has been conscientious, interesting and of high quality.
  7. Beyond the appeal site to the east is a three storey Post Office at 95 High Street which has a degree of prominence in the street scene as it projects forward of the retail units to the west. Between the Post Office and 85 High Street is a pedestrian access route to numbers 87, 89, 91 and 93 High Street which are two storey cottages. They are positioned at right angles to High Street and face westwards towards the appeal site.
  8. The proposal is to demolish the existing shop units at 83, 83A and 85 High Street and to redevelop the site to provide an extended showroom matching the existing roof form to the west and incorporating two residential flats. In addition, to the rear of the retail units a staffroom would be demolished and redeveloped to provide an 'atelier' room where vehicles are presented to customers with first floor washrooms above.
  9. The appeal site is within the Lyndhurst Conservation Area which is a designated heritage asset. The conservation area derives its character from the mixture of buildings of varying ages and styles with a unifying theme being the use of traditional materials particularly brick, tile and slate. The Lyndhurst Conservation Area Character Appraisal, 2010 (the Character Appraisal) also recognises that the late nineteenth and early twentieth century shops in High Street are mainly three storeys with several designed in a mock Tudor style.
  10. Like much of the remainder of the conservation area, in the vicinity of the appeal site the character is mixed with a variety of commercial and residential uses and a pattern of varied frontages and buildings of different scale and character. Nevertheless, the frontage between 69 and 79 High Street is more open than other parts of the conservation area. Furthermore, whilst the character to the east of Gosport Lane differs from that to the west particularly in terms of retail activity and footfall it still makes a significant contribution to the character of the conservation area.
  11. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area when deciding whether to grant planning permission. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation and the more important the asset the greater the weight should be.
  12. The three shop units at 83-85 High Street are also identified as having local interest because of their historic, architectural and vernacular qualities and therefore collectively are a non-designated heritage asset. The Character Appraisal recognises that they form a group of single storey early twentieth

- century shops which retain their original shop fronts. It also notes that the central shop is unusual in that it still has the mechanism for the pull down canopy.
13. As noted in the Historic England document '*Good Practice Guide for Local Heritage Listing*', the inclusion of buildings on a local list does not add any further controls which already apply to a building but it changes the level of consideration given to preserving its character and appearance. Paragraph 135 of the Framework also confirms that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
  14. The shopfronts have significance because they are representative of development of Lyndhurst as a shopping and tourist destination and the historic development of the settlement during the Edwardian era. They retain original features including slender timber window frames, brick stallrisers and brick pilasters with recessed entrances. Whilst there are other historic shop fronts in Lyndhurst those at 83-85 High Street make an important contribution to the conservation area and have some rarity value associated with the original canopy within the central unit.
  15. The shop fronts have aesthetic value in being representative of the character and appearance of the conservation area. Whilst the appellant suggested that their value was diminished as a result of the redevelopment of the adjoining property, I consider that the three units together retain a group value because of their design and historic relationship. Nevertheless, as the existing retail units are single storey and buildings in the remainder of High Street are two or three storeys they are not in keeping with the scale and form of other Edwardian shops.
  16. The shallow pitched roofs of the shop units are felt covered and the rear and side walls comprise lean-to roofs of corrugated metal, concrete and clay tiles. These elements fail to contribute to the significance of the conservation area. However, whilst their improvement would be beneficial, the demolition of the entire units including the shop fronts which make a positive contribution to the conservation area would be inappropriate. Similarly any negative impact arising from the shop units upon the significance of the cottages to the rear and 95 High Street which are also of local interest and non-designated heritage assets would not justify the demolition of the shop units as a whole.
  17. The appellant argued that the approval of the demolition of the previous building at 79 High Street which was part of a group of buildings including the retail units at 83-85 High Street and redevelopment incorporating an additional floor provided justification for the continuation of this approach. However, whilst the evidence is not conclusive it appears that the shopfront at no. 79 had been significantly altered before redevelopment and therefore did not make as much of a contribution to the significance of the conservation area as do the remaining retail units.
  18. In addition, redevelopment incorporating first floor accommodation would have a detrimental impact on the cottages to the rear and the Post Office which also contribute to the character of the area. Furthermore, the existing single storey retail units allow views from High Street to forest trees beyond which provide a

- backdrop and setting for the conservation area which would be lost as a result of the proposed development whilst the terrace opposite creates a jarring canyon-like effect to the street which would be compounded by a two storey building.
19. I consider that the three retail units by virtue of their form and detailed features contribute positively to the significance of the conservation area. They also make a positive contribution to the street scene in short and longer views down High Street from the west. Given their significance the loss of the retail units would result in less than substantial harm to the conservation area which would not be preserved or enhanced.
  20. Paragraph 134 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
  21. I consider that the existing business is an attraction to visitors to Lyndhurst. However, the provision of an expanded showroom would not necessarily be more attractive to visitors than the existing retail use. In addition, whilst redevelopment would improve the appearance of the roof and rear of the existing retail units it would be at the expense of the loss of the shopfronts and therefore would not be a public benefit in the round. The provision of two new flats in an area tightly constrained by the National Park designation would be a public benefit in terms of additional housing which is supported by the Framework. However, this benefit would not be sufficient to outweigh the loss of the buildings which make a positive contribution to the conservation area.
  22. The proposed development would achieve a high standard of design in line with the requirement of Policy DP6 of the New Forest National Park Core Strategy and Development Management Policies DPD, 2010 (the DPD). However, I find that it would be contrary to the requirement of Policy DP1 of the DPD to ensure that new development proposals enhance local character and distinctiveness. It would also be contrary Policy CP7 which requires proposals to protect, maintain or enhance important sites and features of the built environment and Policy CP8 which aims to prevent development which would erode the Park's local character.
  23. The proposal would fail to preserve the character or appearance of the conservation area and would be harmful to its significance as a designated heritage asset. This harm would not be outweighed by any public benefits. In coming to this view I have also had regard to the harmful effect on the locally listed shop units as non-designated heritage assets taking account of the advice in the Framework.

#### *Living Conditions*

24. The proposed development would introduce a first floor level above the new showroom which would extend to the rear of the flats above the atelier room. The new development would have a slate pitched roof and the ridge height of the proposed new roof would match that of the earlier scheme, being considerably higher than the existing retail units. The footprint of the proposed development would be set back approximately half a metre from 91/93 High Street compared to the existing structure. However, there would be a significant reduction in the space to the front of 87 and 89 High Street with the

- introduction of the new ground floor extension and the stepped back first floor addition.
25. The proximity of the new structure to the first floor windows on the flank wall of 95 High Street would significantly reduce the natural light which reaches the rear flat. As this window is the only source of light to the west facing living room the loss of light and change to the outlook from this window would adversely affect the living conditions of the occupiers of the flat.
26. Moreover, because of the proximity of the proposed development to 91/93 High Street, notwithstanding the slope of the roof, the additional bulk and height would have an overbearing effect resulting in an unacceptable loss of outlook for the occupiers of these properties at first floor level. On the evidence before me I also consider that there would be an unacceptable loss of light to these properties.
27. At the rear of the proposed development the roof would be pitched away from 87 and 89 High Street and set back from the ground floor extension. Nevertheless, the proximity of the new development would result in a considerable reduction in the amount of light reaching the ground floor windows and gardens of these properties which would be harmful to the living conditions of occupiers.
28. The loss of light and outlook to 87 to 95 High Street would be contrary to Policy DP1 of the DPD which requires development to avoid adverse impacts on amenity. Furthermore the proposed development would fail to accord with the Framework's aim to ensure that a good standard of amenity is achieved for all existing occupants of buildings.

#### *Other Matters*

29. The Authority's third reason for refusal related to the effect of the proposed development on the ecological integrity of the New Forest Special Protection Area. The appellant sought to address this through the unilateral undertaking and I note that the Authority has indicated that this would overcome the third reason for refusal. However, as I have found conflict with the development plan it is not necessary for me to consider the details of the undertaking as the matters addressed would not overcome the harm which I have identified.
30. Lyndhurst Parish Council raised concerns about the impact of the proposal in terms of creating pollution and light impact. Other concerns raised by neighbouring residents related to an increase in noise and disturbance, the effect of the expanded business on the character of the village, the impact on pedestrian access, the absence of car parking for the flats and the effect of the development on bats and other ecological interests. However, as I am dismissing the appeal for other reasons it is not necessary to reach a conclusion on these matters.

#### **Conclusion**

31. For the reasons set out above, and having regard to all other matters raised, the appeal is dismissed.

*Kevin Gleeson*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT

Bob Hull	Henry Adams LLP
Chris Oldroyd	Chris Oldroyd, ARB Architect
David Booth	David Booth Planning
John Butt	Meridien Modena Concessionaires Ltd

FOR THE NATIONAL PARK AUTHORITY

Ann Braid	New Forest National Park Authority (Planning)
Lynette Fawkes	New Forest National Park Authority (Conservation)

INTERESTED PERSONS

Diane Evans	Co-owner of Neighbouring Property
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**DOCUMENTS SUBMITTED AT THE HEARING**

1. Historic Photographs of 87-89 High Street, submitted by the National Park Authority.
2. Lyndhurst: A Conservation Area Appraisal; September 2002, annotated by the Appellant and the National Park Authority.