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## Appeal Decision

Site visit made on 25 June 2019

**by J Wilson BA Hons BTP MRTPI DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> July 2019**

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**Appeal Ref: APP/P2114/W/19/3225561**

**47 Quay Lane, Brading, Isle of Wight PO36 0AT**

- 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 Trevor Laws against the decision of Isle of Wight Council.
  - The application Ref P/00665/18, dated 12 March 2018, was refused by notice dated 27 September 2018.
  - The development proposed is described as a proposed house on the site of redundant stables/barn.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application form and decision notice make clear that the proposal is a full application for one dwelling. The appeal statement of case refers to the refusal of outline consent for two dwellings which I have taken to be in error. I confirm I have dealt with the appeal proposal on the basis of a single dwelling.
3. The appeal submission does not contain a plan relating to an upper floor layout for the dwelling however from the elevational details and from the information contained in the application form I have dealt with the proposal as a full application for a four bedroomed dwelling.
4. The Council have confirmed that the required visibility splays could be achieved subject to the imposition of appropriate conditions. On this basis the Council does not pursue the highway reason for refusal. Given this information I need not consider this particular matter further.

### Main Issue

5. In the light of the above the main issue is whether the site is a suitable location for new housing having regard to both local and national policies.

### Reasons

6. Policy SP1 of the Isle of Wight Core Strategy<sup>1</sup> (2012) (Core Strategy) sets out a spatial strategy which promotes development on appropriate land within or immediately adjacent to the defined settlement boundaries unless a specific

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<sup>1</sup> Full title – Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document March 2012

local need is identified, outside of these locations new residential proposals will not be supported.

7. The settlement is physically and visually separated from the cluster of buildings at Cliff Close Cottages and Marsh Farm with intervening land and the railway line and further land beyond that before reaching the settlement boundaries of the village. Though Quay Lane is the access to the village from the existing properties which are located roughly 10 minutes' walk to the village, the lane is narrow with an absence of any lighting or footways such that it has a rural countryside appearance and character. Given these locational and visual differences I do not agree with the appellants' contention that the site is fundamentally part of the settlement. Notwithstanding that view, the location of the site would not be regarded as isolated in the context of Paragraph 79 of the National Planning Policy Framework (the Framework) given its proximity to the adjacent cottages and to Marsh Farm. Nevertheless, the Framework seeks to support development in accessible locations and not within the countryside.
8. The proposed dwelling would be located between 10 to 15 minutes' walk from local facilities including a doctor's surgery, local shops, pubs and a community hall in the settlement of Brading. Notwithstanding that proximity, access would be via an unlit road with no footways such that it would limit the accessibility credentials of the site particularly in the hours of darkness when there would be no safe route for pedestrians.
9. The appellant argues that the site is within a short walk of a bus service which provides a regular service across the Island. It is argued that a statement from a former occupier demonstrates tangible accessibility credentials of the site given that the author commuted 10 miles to work by public transport for 6 months during 2018. Whilst there are public transport services and a local train service, I have no evidence to demonstrate their frequency, and as such the statement provides evidence to which I can attach only limited weight. Overall, I consider that there is a far greater likelihood that for most trips, future occupiers would rely on private motor vehicles.
10. The appellant highlights a scheme elsewhere on Quay Road which was approved by the Council as a redevelopment. That site lies immediately adjacent to the settlement boundary and is not comparable with the appeal site. In any event Policy SP1 provides for the development of sites immediately adjacent to settlement limits which supports modest growth around existing settlements. This represents a different policy context than the appeal site even though the distance between the sites is relatively small.
11. In respect of Housing Need, Policy SP1 of the Core Strategy is specific that in locations outside settlements development will not be supported unless a specific local need is identified. The appellant has highlighted an Island wide need for housing referring to the GL Hearn report commissioned by the Council to evaluate the Objectively Assessed Need. He argues that this document was used to support the development referred to in paragraph 10 above though I have already explained why that site is not considered comparable to the appeal site.
12. The appellant highlights that: the submitted Unilateral Undertaking (UU) would provide a contribution to offsite affordable housing; that 152 homes per year are required within the Ryde submarket area where the appeal site is located; and that housing need should have much greater weight in the equation when

considering the appeal scheme. It does not follow that the existence of a housing need within an area means that permission should be granted for any or all new housing proposed within a submarket area. Each proposal needs to be considered against the development plan when taken as a whole. That analysis is of greater complexity, and where the circumstances of each proposal will inevitably differ.

13. The appellant draws attention to national guidance on the assessment of needs and the publication of the Framework in February 2019 which made minor revisions including an additional footnote to Paragraph 11<sup>22</sup>. The Housing Delivery Test outcome for the Council area indicated that delivery has been below the requirement over the last three years (at 71%). However, the implementation arrangements mean that at the current time the tilted balance in paragraph 11(d) would not be engaged. The appellant in his final comments refers to the fact that the council cannot demonstrate a five-year supply of housing and that it failed in considering the application to make it clear that they could not demonstrate it despite housing need continuing to grow. However, I have no substantive evidence in the statements of case from the parties on this matter to demonstrate that the policies of the Council are out of date and in this respect I hold the view that the tilted balance provisions of the Framework at paragraph 11 (d) are not engaged at this time.
14. A general need for new housing provision on the Island does not in itself justify the grant of permission on a site which is in a location separated from a settlement. The proposed development would result in an additional dwelling situated outside of a settlement boundary which would conflict with Policy SP1 of the Core Strategy and to the aims of the Framework.
15. For the reasons set out the proposal would conflict with Policies SP1, SP7, DM2 and DM17 of the Core Strategy and to the aims of the Framework. These policies, amongst other things, seek to: protect land outside settlement limits from residential development directing it instead to sustainable locations within or directly adjacent to settlement limits; support proposals that increase travel choice thereby providing alternative means of travel other than the private car.

## **Planning Balance**

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out there is a fundamental policy conflict which would not be outweighed by the limited benefit which would accrue from the addition of a single dwelling. Therefore, the development would not accord with the Council's spatial strategy for housing development and represents development in the countryside which is restricted. On the submitted evidence, there are no material considerations which would warrant a decision other than in accordance with the development plan.

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<sup>22</sup> (effective from 20 February 2019)

## Other matters

17. My attention has been drawn to an appeal<sup>3</sup> in Nettlestone where a detached bungalow was allowed and where the appellant argues the circumstances are similar. Whilst that site was remote from any settlement it was considered to be domestic in character and would meet a particular need for 2 bed dwellings in the Parish which satisfied the requirements of Policy SP1. As such the two cases are not directly comparable.
18. It is noted that the Council do not take issue with the design, layout, visual appearance or other detailed matters regarding the site. These are factors which are expected of new development as required by the Framework and do not by themselves represent a notable benefit.
19. The appellant highlights the behaviour of the Council in the handling of this case where a legal agreement was invited only for the application to be subsequently refused. It is not uncommon for a UU where it would be required to resolve a particular issue to be formulated on a without prejudice basis. It would be logical and entirely reasonable to request the submission alongside the request for additional information, prior to the Council reaching a decision. In any event it is not for me to comment on the behaviour of the council during the application process and this has not influenced my findings.
20. The appellant refers to the general highway benefit along Quay Lane of the removal of a commercial use on the site granted consent adjacent to the settlement limit. I have very little detail relating to that site and it is not material to my consideration of this appeal proposal.
21. A housing needs survey in 2013 by Brading Parish Council has been referred to where it is said the need for one and two bedroomed homes was identified. I have no details of this survey, but it would be some years old now and would be unlikely to reflect current circumstances. In any event the profile of housing size referred to would not match the appeal proposal and the relevance of it would be limited even if it reflected the current position.
22. The appeal site lies within proximity to the Solent Special Protection Areas (SPAs). The cumulative effects resulting from development proposals have been assessed as part of the preparation of the Solent Recreation Mitigation Strategy which has been adopted by the Council, alongside other Local Authorities. The proposal would be likely to have a significant effect, in combination with other plans and projects, on the SPAs through recreational pressure. Residential schemes located within 5.6km of these protected areas are required to make a financial contribution towards mitigation measures, which are normally secured through planning obligations. A UU has been submitted as part of this appeal which the Council have confirmed would provide appropriate mitigation.
23. As I am dismissing this appeal on other substantive grounds, this is not a matter which needs to be considered further here. However, should the development have been considered acceptable in all other respects, I would have had to be satisfied that an Appropriate Assessment had been undertaken to ensure the proposal's compliance with the Habitats Regulations, in light of the *People over Wind*<sup>4</sup> decision by the Court of Justice of the European Union.

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<sup>3</sup> APP/P2114/W/18/3209772

<sup>4</sup> *People over Wind*, Peter Sweetman v Coillte Teoranta, Case C-323/17.

## **Conclusion**

24. For these reasons, and having taken all other matters into account the appeal is dismissed.

*Janet Wilson*

INSPECTOR