



Appeal Decision

Site visit made on 9 August 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/P2114/W/19/3228085

Upton House, Carters Road, Ryde PO33 4BP

- 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 & Mrs J Smith against the decision of the Isle of Wight Council.
 - The application Ref P/01075/18, dated 14 September 2018, was refused by notice dated 19 November 2018.
 - The development proposed is described on the application form as 'conversion of single storey garage/ workshop (with attic storage) into two self-contained, two bedroom dwellings'.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a single storey garage/ workshop (with attic storage) into two self-contained, two bedroom dwellings at Upton House, Carters Road, Ryde PO33 4BP in accordance with the terms of the application Ref P/01075/18, dated 14 September 2018, subject to the conditions below.

Preliminary matters

2. The Council's decision notice of 19 November 2018 refers to the proposal as a 'revised scheme'. That appears to reflect that the proposal differs to a previously unsuccessful scheme (application Ref P/00555/18 where separate access was proposed to that of Upton House). Nevertheless each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise.¹
3. Notwithstanding a review underway, in this instance the development plan includes policies of the Island Plan Core Strategy (adopted 21 March 2012, the 'Island Plan'). There is no indication that a neighbourhood plan is yet being prepared in this location. I have also taken account of various other material considerations including the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG'), neither of which alter the statutory basis for decision taking as set out above.

Policy context

4. Broadly, Island Plan policy SP1 seeks to guide development to certain locations in accordance with a hierarchy of settlements and areas. That policy accords support, in principle, to development on 'appropriate land within or

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.

immediately adjacent the defined settlement boundaries of the Key Regeneration Areas...'. It also sets out that 'unless a specific local need is identified, development proposals outside of, or not immediately adjacent to the following defined settlements will not be supported...'. With reference to Island Plan paragraph 5.17, the appeal site is therefore classified as falling within the 'Wider Rural Area' (which is not synonymous with 'isolated' within the terms of NPPF paragraph 79).

5. In that context the Council draws a distinction between settlements boundaries and Key Regeneration Areas. As shown on the policies map those terms are not one and the same, albeit that in practice the boundary between the two is sometimes aligned. Upton House is accessed via Carters Road, which represents the limits of the Ryde Key Regeneration Area in this location ('RKRA'). The southernmost extent of the settlement boundary of Ryde is, however, drawn along Windmill Close off Upton Road some 500 metres away.
6. Two appeals have been brought to my attention regarding the application of policy SP1, at Wellow and at Bullen Road, Ryde.² Neither is directly comparable to the circumstances here. Wellow is a small rural village, not identified in policy SP1. The site in respect of the Bullen Road scheme is similarly located in respect of the proximity of the settlement boundary of Ryde (within the RKRA boundary in that case). However the inspector there reasoned that the site was, at that juncture, relatively poorly accessible. That proposal did not relate to previously developed land and potentially affected a heritage asset. By consequence its broader implications are limited.
7. I have quoted from policy SP1 as defined settlement boundary and Key Regeneration Areas may be read so as to be afforded the same status in terms of where development is to be supported, or not. The RKRA is listed as a 'defined settlement' outside of which, or not immediately adjacent to, development is to be restricted. As the site is adjacent the RKRA boundary, it could be argued that development here is supported by policy SP1 in principle (rather than requiring that a specific local need is identified).
8. However, as also reflected in paragraph 12 of the inspector's decision in respect of Bullen Road, in my view those terms should be treated separately. They are shown distinctly on the policies map. Island Plan supporting paragraph 5.7 explains that, broadly, appropriately development is encouraged in Key Regeneration Areas 'as it would result in development in the most sustainable locations, generally within and immediately adjacent the settlement boundaries of these key towns.' Moreover given the expansive nature of regeneration areas, were the 'immediately adjacent' provisions of SP1 to apply to their boundaries, that could lead to significant sprawl.
9. Furthermore the development plan must be considered as a whole, as must the NPPF. Briefly summarised Island Plan policies SP7 and DM17 seek to encourage proposals that increase travel choice and use of sustainable modes of transport as opposed to reliance on private cars. Those are objectives shared with NPPF paragraph 103, which sets out that patterns of growth should be actively managed in that respect.

² Ref APP/P2114/W/18/3203361 and APP/P2114/W/18/3214433.

Five year housing land supply implications

10. The inspector in the Bullen Lane appeal explained that there was no indication before her that the Council could not, at that stage, demonstrate a five year housing land supply of deliverable sites relative to needs ('5YHLS'). That is with regard to the provisions of NPPF paragraphs 11, 67 and 73. The Council's evidence before me indicates that, as of 1 April 2018, forward supply amounts to around 83.15% of that necessary to demonstrate a 5YHLS. That is not insignificant. It therefore appears to be common ground between the main parties, in the absence of NPPF policies that provide specific protection to this area, that NPPF paragraph 11)d)ii) is engaged.³ Namely permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. I have approached the appeal in that context.

Main issues

11. Against the context above the main issues are whether or not (i) the appeal site is an acceptable location for the development proposed with particular regard to accessibility, (ii) the development proposed would result in suitable living conditions for future occupants in respect of outlook and natural light. In the event that I find that harm would result, I will then gauge whether the other material considerations in favour of the proposal nevertheless justify allowing the appeal.

Reasons

12. Notwithstanding historic origins, I understand that Upton House was effectively rebuilt at some point during the 1990s as a substantial building comprising various elements. I am told that it is now arranged as three dwellings. It is set with a spacious landscaped plot accessed via Carters Road. Generally that land is bounded by mature trees and established planting behind a low stonework wall. By consequence, as the nearby highway network is typically flanked by established hedgerows and trees, and given the relative paucity of public vantage points in the vicinity, neither Upton House nor the appeal site are particular visually prominent.
13. That is notwithstanding that the appeal site includes a substantial attached garage and storage building some 17.7m by 8.05m externally, finished principally in natural stone, and some adjacent land extending to Gatehouse Road. Gatehouse Road and Carters Road join at a roundabout by the north-western corner of the plot of Upton House. That roundabout also serves Upton Road northwards and Stroud Wood Road westwards. Whilst outside the RKRA, other development is dotted about close by.⁴
14. The proposal is to subdivide the garage so as to provide two dwellings, each with two bedrooms and with gross internal areas of around 93 square metres. The extent of necessary alterations would be limited, confined principally to the creation of new windows, door and rooflight openings and provision of porches and some landscaping (plan 205 revision A). Given the limited nature of alterations, little appreciable visibility in the landscape, and on account of the

³ Notwithstanding the provisions of paragraph 215 in relation to Housing Delivery Test data.

⁴ Including what appeared to be a scrap metal yard to the south, holiday park to the east, and a number of dwellings elsewhere (Paramount, Folly Cottage and Upton Cottages).

presence of contextual development, the proposal would be appropriate in terms of design.

Acceptability of location

15. As set out above the appeal site abuts the RKRA boundary along Carters Road. The appeal site is therefore a less preferential location in respect of accessibility. Future occupants are, by consequence, likely to place greater reliance on the use of private vehicles as opposed to other modes of transport relative to development located elsewhere. One exception to the distribution of development set via Island Plan policy SP1 is, however, where a 'specific local need is identified'. The appellants argue that is the case here.
16. Island Plan policy SP2 indicates that around 980 homes are intended to be delivered via 'smaller scale development' including in the wider rural area. The Council's 2014 Strategic Housing Market Assessment indicates that there is a strong demographic need for two and three bedroom houses within the Rural East Wight Sub Market Area ('SMA') (39.4% and 46.7% of all housing respectively). Based on the Council's 2018 evidence supporting a review of the Island Plan, I am told that the approximate housing requirement for Ryde presently stands around 152 dwellings a year, with completions over six years to 2016/2017 standing in total at 208 dwellings. That level of delivery compares less favourable to the Island as a whole, by some margin.⁵
17. Those dynamics are significant in indicating pent-up need for housing in this broad location, of which a substantial proportion is for smaller properties. However the SMA is a broad geographic area. The figures above are also comparing apples with pears; needs in the SMA relative to delivery in Ryde. There is also no clear evidence before me as to the reasons behind lagging delivery in Ryde relative to the trajectory in the Island Plan; it is conceivably that a significant proportion of delivery in the RKRA is due to occur later in the plan period following the provision of necessary enabling infrastructure.
18. Moreover, in my view, 'specific local need' indicates something more precise that in relation to eleven housing market areas for around 61,085 households, based on 2011 census data, noting that there are 33 Parishes across the Island.⁶ Consequently, based on the evidence before me, neither in location nor type is the development proposed accorded support by policy SP1. It is equally not supported by Island Plan policies SP7 and DM17 which, broadly stated, seek to encourage development in locations where the use of sustainable modes of transport can be maximised. In that respect the appeal site is some 2.7 kilometres from the main cluster of services and facilities at Ryde, and there is no dedicated footway or lighting along Upton Road for some 500 metres or so northwards of the appeal site.
19. However I saw that there is nevertheless a grass verge flanking Upton Road which offers some informal refuge from oncoming vehicles for pedestrians. Many facilities are significantly closer than the High Street, including Haylands Primary School and the Ryde Health and Wellbeing Centre. Upton Road is part

⁵ The figures cited in appendix E of the appellants' appeal statement indicate around 23% delivery in Ryde relative to around 62% Island-wide.

⁶ A finding reinforced by, although arrived at independently of, the inspector who determined appeal Ref APP/P2114/W/18/3195997.

of a direct route to Ryde, as opposed to the more circuitous that must inevitably be taken from the site to which the Bullen Road appeal related. There is also a bus stop around 70 metres away on Upton Road served by the Southern Vectis 37. That service runs hourly each day to and from stops in Ryde between 0816 and 1721. As indicated above there is some contextual development nearby, such that the effect of two additional dwellings would be limited in relative and absolute terms. I am also told that Carters Road and Stroud Wood Road form part of a National Cycle Route.

20. For the above reasons whilst I conclude that the development proposed conflicts with the relevant provisions of Island Plan policies SP1, SP7, DM17 and NPPF paragraph 103, to the extent that encouragement is therein given to maximising use of more sustainable modes of transport, there are various moderating factors. I therefore accord the harm arising from the location of the development proposed, and consequential reliance on private vehicles and associated emissions, only limited weight against the proposal.

Living conditions

21. Subject to minor alterations including the provision of porches, a pathway and boundary features, the proposal is essentially for the subdivision of an established building. Aside from the removal of a small conifer, readily visible only when within the grounds of Upton House, to create parking provision, trees on site would not be directly affected by virtue of undertaking the development proposed. Suitable safeguards in that respect could be imposed via condition.⁷
22. Several mature holm oaks are present near the boundary of the appeal site and Gatehouse Road, protected via Tree Preservation Order dated 24 January 1992 (the 'TPO'). On account of their scale, they are readily apparent from a number of vantage points. They contribute positively to the rural, sylvan character of this area, referenced in the representation by Havenstreet and Ashey Parish Council. Being arranged in regular order they also give some indication of the original historic origins of Upton House. Their value is not downplayed by the appellants.
23. I accept that pressure may arise for pruning or felling of trees where a greater intensity of use is proposed, for example where future occupants seek to minimise the inconvenience caused by falling debris or to maximise the amount of natural light reaching their garden and property. That is the kernel of the inspector's reasoning in appeal Ref APP/P2114/W/18/3214724. However the circumstances appear very different here: paragraph 12 of that decision explains that the dwelling proposed there would have fallen beneath the canopy of a protected tree, and therefore proposed tree works in respect of safety would have been 'difficult to resist'.
24. There is nothing to indicate, with regard to the wellbeing of trees in this case or their proximity to the development proposed, that any of the exceptions to the general requirement for consent under a TPO would apply.⁸ In this instance the

⁷ With reference to the duty placed upon me via section 197 of the Town and Country Planning Act 1990 as amended.

⁸ Such as where works are urgently necessary to avoid serious harm and other circumstances summarised in PPG Reference ID:36-060-20140306.

canopy of the trees is some distance from the nearest elevation of the existing garage. In my view the resultant garden sizes would be comparable with those associated with a number of nearby properties, such as Nos 1 and 2 Upton Cottages, which are likewise set in verdant surroundings.

25. I accept there would be overshadowing of the dwellings proposed and their gardens from time to time, particularly later in the day during summertime. However that would not always be the case; there was, for example, direct sunlight reaching a good proportion of the proposed gardens and the north-west elevation of the garage during my mid-afternoon site visit. Moreover the sylvan nature of the area is a characteristic feature of the environment. In my view individuals would choose to live here by virtue of that character and consequently view trees as an attribute (rather than detrimental or unwelcome). I also note that, given the rising topography towards the north-west and presence of properties and established hedgerows, the protected trees do not impede otherwise expansive or open views.
26. For the above reasons, and given the absence of direct effects to the wellbeing of trees resulting from the development proposed, no conflict arises with the relevant provisions of Island Plan policy DM2 or NPPF paragraph 170, and suitable safeguards to avoid adverse consequences arising in the future would, on balance, remain.

Other matters and planning balance

27. I have taken careful account of the concerns raised by the Parish Council. As set out above, based on the evidence before me, the proposal would not unduly affect the wellbeing of protected trees (irrespective of what may or may not have occurred previously on site, in respect of which there is no substantive information before me). I acknowledge the proposal will inherently entail additional comings and goings. However the number of vehicular movements associated with two new dwellings would be limited. Moreover the proposal entails the provision of four additional parking spaces and the alteration of site access to improve visibility (plan 18031 203 Revision A). Subject to securing such via conditions, the scheme would be served by safe and suitable access, vehicle manoeuvring space and parking provision.

Ecological integrity

28. The appeal site falls within the 5.6 kilometre zone of influence of the Solent Special Protection Areas ('SPA'), comprising several overlapping designations, as defined in the Solent Mitigation Strategy (dated 1 April 2018, the 'Mitigation Strategy'). SPA protection is via the Birds and Habitats Directives,⁹ the latter incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'). I am statutorily required to take appropriate steps to conserve biodiversity.¹⁰
29. The SPA is designated in order to safeguard ecology and the habitat upon which various bird species are reliant. Birds can be disturbed by recreational activities, predation from domestic pets, and from habitats being unavailable from time to time by consequence. Whilst not a precise correlation, the

⁹ 79/409/EEC, 92/43/EEC.

¹⁰ Section 28(G) of the Wildlife and Countryside Act 1981, section 40 of the Natural Environment and Rural Communities Act 2000 as amended.

potential for adverse effects increases with the number of dwellings nearby (and therefore the aggregate, or in-combination, implications of a number of smaller developments may be significant). Habitats Regulation 63(1) states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'.¹¹ I have sought to apply such a requirement reasonably and proportionately relative to the nature and context of the development proposed.

30. In the abstract avoidance or mitigation of effects resulting from increased residential development would be achieved by the provision of alternative greenspace, to redirect those who would have made use of the SPA recreationally, and via associated monitoring and management arrangements. The contributions that individual schemes are expected to make in that context are established at a strategic level, such that a proportionate contribution is made in each instance. The application was originally supported by an associated contribution of £974 in respect of monitoring arrangements (via deed dated 27 October 2018).
31. However the contributions required via the Mitigation Strategy have, from 1 April 2019, risen in line with the Retail Price Index since the previous year. There is therefore an additional unilateral undertaking of 20 June 2019 which makes provision for an additional £26 in the event that permission is allowed, thereby totalling £1000, the current level required of two two-bed properties. As set out in paragraph 2.9 of the Mitigation Strategy, Natural England, the appropriate nature conservation body under Regulation 63(3), are satisfied that, based on the evidence supporting that document and subject to appropriate financial contributions being made, likely significant effects to the ecological integrity of the SPA would be avoided.
32. The appeal site is, moreover, within an area at the periphery of the RKRA with other development nearby, with the proposal for the redevelopment of existing buildings and garden space. Other regimes also govern the protection of ecology,¹² and there is nothing to indicate that this area provides valuable habitat presently (noting the reference in NPPF paragraph 170 d) to the value of coherent ecological networks). In that context, and with regard to the requirements for obligations in NPPF paragraph 56 and Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended, I am satisfied that the proposal would suitably safeguard ecology both directly and indirectly. No conflict therefore arises with the relevant provisions of Island Plan policy SP5 or of NPPF paragraph 170.

Planning balance

33. I have set out above that the harm arising by consequence of the location of the appeal site would be limited, and that otherwise the development proposed would be acceptable. That includes my reasoning in paragraphs 12 to 14 regarding character and appearance, and I note NPPF paragraph 79)d) indicates that the subdivision of an existing residential dwelling is one exception to the general position that the development of new isolated homes

¹¹ With reference to recent case law: *People Over Wind and Sweetman v Coillte Teoranta*, Environment – Conservation of natural habitats [2018] EUECJ C-323/17,

¹² Notably the Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992, noting the findings of the associated Badger Report of 18 November 2018.

in the countryside should be avoided. Similarly the benefits of two new homes would be modest numerically, albeit that there are indications of pent-up needs in this broad location for smaller homes with reference to local demographics. The scheme would also have some other benefits such as supporting employment during construction and as future occupants would bring trade to nearby services and facilities.

34. Whilst the benefits of the scheme would be modest, returning to paragraph 10 of this decision, in order to withhold consent within the terms of NPPF paragraph 11)d)ii) the adverse effects of the scheme must significantly and demonstrably outweigh the benefits. That situation does not arise in this instance, as is inherent in my reasoning above. By consequence the other material considerations in favour of the appeal are sufficient to justify allowing the appeal, reiterating that it is the particular nature, context and circumstances here that render the development proposed acceptable.

Conclusion

35. For the above reasons, having considered the development plan as a whole, the approach in the NPPF and all other relevant considerations, I conclude that the appeal should be allowed subject to the conditions below.

Thomas Bristow

INSPECTOR

Conditions

36. In addition to the requirement that development be commenced within the relevant statutory period, I have imposed conditions requiring compliance with the supporting plans in the interests of certainty. Conditions 3, 4 and 5 are necessary to ensure that the development is implemented as assessed above and integrates appropriately with the character of its surroundings. The withdrawal of certain permitted development rights is justified in order to prevent potential adverse effects to trees or to the living conditions of the occupants of adjacent properties from occurring by consequence of further development being undertaken in time (as the case may be).¹³
37. For similar reasons, condition 6 is necessary to ensure that the wellbeing of protected trees on site is safeguarded through construction. However that condition need not apply before any works have been undertaken, as those affecting the interior existing building, for example, do not entail implications for tree protection. Conditions 7 and 8 are necessary to ensure that access visibility improvements and appropriate parking and turning space is provided before the either dwellings hereby permitted is occupied, and is thereafter retained as such to avoid adverse effects to highway safety in line with Island Plan policy DM2 and NPPF paragraph 108(b). In imposing conditions I have had regard to the relevant provisions of statute and elements of the NPPF and PPG. Accordingly I have amended the wording of certain conditions proposed by the Council without altering their aims.¹⁴

¹³ Including with regard to PPG Reference ID: 21a-017-20190723.

¹⁴ Including correcting a reference to a proposed plan in respect of condition 2, amalgamating the Council's proposed conditions 5 and 6, and also 7 and 9, alongside other points of clarification.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18031 203 Revision A, 18031 204 Revision A, 18031 205 Revision A.
- 3) No boundary treatments shall be installed until details of their positions, design, materials and type have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be implemented and completed before either dwelling hereby permitted is occupied, and thereafter retained.
- 4) Neither of the dwellings hereby permitted shall be occupied until details of hard and soft landscaping works have been submitted to, approved in writing by the local planning authority, and carried out as approved in line with an agreed implementation programme. Details shall include: proposed finished levels or contours, means of enclosure, car parking layout, hard surfacing materials and refuse or other storage provision, a schedule of proposed plants (noting species, plant sizes, proposed numbers), and an implementation programme.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking and re-enacting that Order with or without permission) no development generally permissible by virtue of Schedule 2, Part 1 Classes A, B, C, D, E or F or by Schedule 2, Part 2 Class A shall be undertaken in relation to either dwelling hereby permitted.
- 6) Other than internal works, or use of the existing building or hard surfacing adjacent to it for associated storage, no site preparation, clearance or construction related to the development hereby permitted shall begin, and no equipment, machinery or materials shall be brought onto the site until details of measures for the protection of existing trees to be retained have been submitted to and approved in writing by the local planning authority.

The submitted details shall accord with British Standard 5837:2012 Trees in relation to design, demolition and construction, or successor document, and include a plan showing the location of existing trees to be retained and the positions of any protective fencing. Development shall be carried out in accordance with the approved details and any protecting fencing shall be installed prior to site preparation, clearance or development as described above taking place.

The approved fencing thus installed shall be maintained until all equipment, machinery and surplus materials related to the construction of the development hereby permitted have been permanently removed from site. Nothing shall be stored or placed within any fenced area in accordance with this condition, and the ground levels within those areas shall not be altered, nor shall any excavation be made within them.

- 7) Neither of the dwellings hereby permitted shall be occupied until access visibility has been provided in accordance with the splays shown on approved plan 18031 203 Revision A. Those splays shall thereafter be

maintained. Nothing that may cause an obstruction to visibility above a height of one metre from the immediately adjacent ground level/ public highway shall be placed or permitted to remain within those splays (including any boundary wall, fence, hedge, or planting).

- 8) Neither of the dwellings hereby permitted shall be occupied until parking provision and vehicle manoeuvring space has been provided as shown on approved plan 18031 203 Revision A with sufficient space enabling vehicles to enter and exit the site in forward gear, in accordance with details submitted to and approved in writing by the local planning authority (including in respect of surfacing and drainage). Once provided, parking provision and vehicle manoeuvring space shall thereafter be retained for those purposes alone.