



Appeal Decision

Site visit made on 1 October 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/P2114/W/19/3230671

The Firs, Postern Road, Newport, PO30 5PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jonathan Young, Mr Paul Young and Mr Matthew Young against the decision of Isle of Wight Council.
 - The application Ref: P/00909/18 dated 27 July 2018, was refused by notice dated 1 May 2019.
 - The development proposed is described as the demolition of dwelling / construction of six dwellings including new access road (revised scheme).
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of dwelling / construction of six dwellings including new access road at The Firs, Postern Road, Newport, Isle of Wight, PO30 5PH in accordance with the terms of the application, Ref: P/00909/18 dated 27 July 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The proposal has been made in outline. The application form indicates that approval was sought only for access with the matters of appearance, landscaping, layout and scale reserved for future approval. I note that details of the layout of the proposed development and of the elevations of the proposed dwellings were submitted with the application for illustrative purposes only. I have dealt with the appeal on this basis.
3. The original application was made in the name of Mr Young. However, since the appeal was lodged the appellant has confirmed that the appellants should be Mr Jonathan Young, Mr Paul Young and Mr Matthew Young. I have therefore used these names in the banner heading above.
4. The description of the proposed development in the banner heading is taken from the application form. The development is described as 'revised scheme' in reference to a previous scheme for 11 dwellings (Ref: P/01503/17) that was refused planning permission by the Council on 9 March 2018. However, for the avoidance of doubt, I have only considered the scheme before me in determining this appeal and have therefore omitted the reference to 'revised scheme' from the description of the development in my decision.
5. The appellant submitted a unilateral undertaking during the determination of the application and an additional undertaking during the appeal process. I return to these later as one of the other matters.

6. Both the appellant and the Council refer to the revised National Planning Policy Framework (the Framework) published in July 2018 in their evidence. The Framework was revised again in February 2019 and I am considering this appeal against this current version. As the paragraphs to which the main parties refer are unchanged in the latest version of the Framework, this does not prejudice their respective cases.

Main Issue

7. The main issue is whether the proposed development would provide a suitable location for housing having regard to the accessibility to facilities and services by means other than the private car.

Reasons

8. The appeal site lies within the Medina Valley Key Regeneration Area but outside the settlement boundary for Newport, both as defined on the Proposals Map of the Island Plan 2012¹. The settlement boundary runs a little way to the east of the appeal site and is separated from it by other dwellings. The site is not in an isolated position nor is it in a rural location, being part of the existing residential area immediately to the west of the settlement boundary. However, as a matter of fact, with a strict interpretation of 'immediately adjacent', it is outside and not immediately adjacent to the settlement boundary.
9. Policy SP1 of the Island Plan sets out the spatial strategy for development on the Island. It supports development within or immediately adjacent to the settlements defined in the policy but explains that unless a specific local need is identified, development proposals outside of, or not immediately adjacent to those settlements will not be supported. From the evidence before me no such specific local need has been identified. The location of the proposed development would not accord with Policy SP1 in this respect.
10. Policies SP7 and DM17 of the Island Plan express the Council's support for proposals that increase travel choice and provide alternative means of travel to the car, with the aim of reducing the need to travel and increasing opportunities to walk, cycle and travel by public transport.
11. The nearest bus stops to the appeal site are on the A3020 approximately 1 km away, on a bus route providing access to a range of facilities and services in the centre of Newport. The bus stops are an approximate 15 – 20 minute walk via footways along High Road and Clissold Road as I confirmed during my site visit. A convenience store is located on Hunnyhill Road further away than the bus stops but accessible via footways along Standen Avenue and Forest Road. The centre of Newport also lies within reasonable cycling distance from the appeal site, notwithstanding the lack of any designated cycle routes.
12. I accept that for some future occupiers these modes of transport might not be acceptable alternatives to the convenience and practicality of the private car and that the location of the appeal site relative to facilities and services may therefore result in some future occupiers of the proposed development using private cars. Although the appellants suggest that no harm would arise from additional dwellings given that the present occupiers of the existing dwellings

¹ Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document.

- are reliant upon the use of the private car, a net increase of five dwellings, if the occupiers use private cars, would lead to an increase in car usage.
13. However, any harm in this respect would be limited given that the use of public transport, walking and cycling would be potential alternatives for at least some of the future occupiers of the proposed development to access facilities and services and that the proximity of the town centre would generate mostly short journeys.
 14. The appellants have drawn my attention to the decision of another Inspector that allowed an appeal for a single dwelling in a different location on the Island². I do not have the full details of the proposed development before that Inspector, but from the decision letter there are similarities to the proposal before me in terms of distance to a bus route and the accessibility of adjacent urban areas by cycle, albeit via a designated cycle route.
 15. My Inspector colleague found that the proposal before him was compliant with Policy SP7 as it provided the potential for alternative means of travel than the car. However, he also found that the proposal would have limited conflict with Policy DM17 with regard to access to public transport due to the lack of a continuous footpath providing access to a bus route. On the evidence before me, I reach a similar conclusion in respect of Policy SP7; however, in the appeal before me, the appeal site benefits from footways from the site to a bus route. Therefore, I find that the conflict with Policy DM17 does not arise in this case.
 16. The Council states there are numerous recent examples of residential development outside of but close to settlement boundaries being dismissed at appeal. However, it has not provided me with any details of these decisions and therefore I am not able to take them into account.
 17. In summary, there would be minor locational conflict with Policy SP1 and some potential increase in the use of the private car. However, for the reasons set out above, I conclude that the proposed development would be sufficiently accessible to services and facilities via a range of travel options that offer potential alternatives to the use of and dependence on the private car such that it would not conflict with Policies SP7 or DM17 of the Island Plan. Overall, therefore, I conclude that the appeal site would provide a suitable location for housing and the proposed development would be compliant with the development plan taken as a whole.

Other Matters

Effect on European designated nature conservation sites

18. The site is within the 5.6 km buffer zone for the Solent and Southampton Water Special Protection Area (the SPA) which includes part of the River Medina estuary shoreline and is one of three SPAs known collectively as the Solent SPAs³. Considered alone and in combination with other plans or projects, adverse effects arising from increased recreational pressure associated with the proposed development on the integrity of the SPA cannot be ruled out. In accordance with the Habitats and Species Regulations 2017 (the Habitats Regulations), it is therefore necessary for me, as the competent

² APP/P2114/W/18/3209772

³ Portsmouth Harbour SPA, Chichester and Langstone Harbours SPA and Solent and Southampton Water SPA.

authority, to undertake an Appropriate Assessment of the scheme's potential effects on the SPA and the need for mitigation.

19. The SPA is a coastal and estuarine designation established on the basis of particular value of its habitats, including mudflats, shingle and saltmarshes, which provide essential winter feeding and roosting grounds for birds. These are sensitive to disturbance from recreational activities. I am satisfied that the accessibility of the SPA from the site is such that significant impacts on its integrity could arise from recreational activity both alone and in combination with other plans or projects.
20. Natural England (NE) has not been directly consulted on the appeal scheme. However, paragraph 2.9 of the Solent Recreation Mitigation Strategy 2017 (the Strategy) indicates that NE considers that the evidence upon which it is based confirms a requirement for avoidance measures to ensure no likely significant effect arising from new housing developments. I am satisfied that this suits the requirements of the Habitats Regulations.
21. The Council seeks to mitigate likely significant effects on the integrity of the SPA through collection of contributions, details of which are set out within the Strategy, in accordance with Policy SP5 of the Island Plan. These contributions are used to fund site management and monitoring measures including wardens and other initiatives used to raise visitor awareness, and thus reduce disturbance of birds.
22. The appellants have submitted two unilateral undertakings relating to the payment of a financial contribution in accordance with the Strategy dated 6 March 2019 and 22 August 2019. Together, these would secure adequate financial contributions towards mitigation for the impact of the development on the Solent Special Protection Areas in accordance with the methodology for calculation set out within the Strategy.
23. Based on the evidence presented, I consider that the planning obligations are necessary; directly related to the development; and fairly and reasonably related in scale and kind to the development. They would therefore comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests set out in paragraph 56 of the Framework.

Housing Land Supply

24. The Council's latest Five-Year Land Supply Update (2018) concludes that the Council is unable to demonstrate a five-year supply of deliverable housing sites as at 1 April 2018. The Council's assessment arrives at a figure for overall supply of approximately 83% of the overall requirement. The Council has not provided any update on this position and neither main party has provided any further calculations using the standard method set out in the Planning Practice Guidance (PPG). Nevertheless, the burden of proof is upon the Council and this has not been discharged. The balance of evidence therefore indicates that the requisite land supply does not exist.
25. However, as I have concluded that the proposed development is compliant with the development plan taken as a whole, there is no need for me to consider the application of paragraph 11 d) of the Framework any further in this appeal.

Other matters raised

26. I note the objections to the proposed development by Newport Parish Council and two local residents on a number of grounds, a number of which I have already dealt with above.
27. The development of this site would be modest and thus would not prejudice the future local planning strategy for the Island nor the future comprehensive development of the former Camp Hill Prison such that it would be premature to grant permission in advance of the finalisation of these matters. It is an established planning principle that each proposed development should be considered on its merits, which include the planning policies and the 5-year housing land supply situation pertaining at the time of determination. Any future applications for the redevelopment of other sites should be determined in that context, which may be different to that which exists at the time of my determination of this appeal.
28. The Council's Highways Development Control Engineer expressed concerns regarding the access to Plot 1 and the width of the access road. However, a revised illustrative layout (2017/226/02 Rev C) was submitted prior to the determination of the application which demonstrates a revised positioning of the access to Plot 1 and an access road of adequate width. I therefore consider the proposed access arrangements to be satisfactory. This conclusion is supported by the fact that concerns over the access arrangements did not form a reason for the Council's refusal of planning permission for the development.
29. No evidence has been provided that there is a lack of demand for dwellings such as those proposed. The Council has not raised any concerns regarding the amount of development or its effect on the character of the area or loss of privacy, views or light for, or disturbance to the occupiers of the neighbouring property and, on the evidence before me, I am not persuaded to come to different conclusions on these matters. Landscaping, layout, scale and appearance are matters reserved for future approval which is the opportunity to ensure that these are satisfactory.
30. The maintenance cost for the private roads that would serve the development and potential damage to property are private matters and not within the scope of this appeal. It is also a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property or views. The construction of the development would cause some disruption but this would be temporary. Whilst I note local concerns regarding crime, I have not been provided with any factual evidence of crime associated with the derelict property.

Conditions

31. I have based the planning conditions I have attached on those suggested by the Council with some amendments in the interests of consistency. I have attached conditions regarding the standard time limits for the application of approval of reserved matters and commencement of the development following the approval of the last of those reserved matters. It is also necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.

32. I have attached a condition to require submission of an Arboreal Method Statement in the interests of safeguarding the character and appearance of the area. It is necessary that this is a pre-commencement condition to prevent damage to trees during construction. A pre-commencement condition is also needed to secure further details of foul and surface water drainage to ensure that this can be achieved satisfactorily. Conditions regarding the provision of the proposed accesses and the closure of the existing access are necessary in the interests of highway safety.
33. Further conditions are necessary to ensure satisfactory parking and turning provision within the development and to encourage the use of bicycles as an alternative to the private car. A condition to ensure provision for refuse is necessary in the interests of the character and appearance of the area and living conditions of the occupiers of the existing and future dwellings. Conditions are also necessary to prevent harm to protected species and secure biodiversity enhancements.

Conclusion

34. I therefore conclude that, for the reasons given above and having had regard to all the other matters raised, the appeal should be allowed.

Martin Small

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved drawings: Location Plan and Block Plan Depicting Access Road (2017/226/13 Rev. B) and, in respect of the access only, 2017/226/02 Rev. C.
- 5) No site clearance, preparatory work or development shall take place until an Arboreal Method Statement, which details how impacts to trees during construction would be minimised, tree protection measures to be adhered to throughout the course of the development and tree works to be carried out to facilitate the development, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed Method Statement.
- 6) No development shall take place until details of the means of surface water and foul drainage to service the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include an assessment of the suitability of the site to dispose of surface water using SUDS, details of how any on-site SUDS would be managed and maintained, evidence / calculations to demonstrate that post-development run-off rates / flows from the site would not exceed pre-development rates / flows and that the means of disposal would have the capacity to accommodate flows from the development. No dwelling shall be occupied until the approved drainage works have been completed in accordance with the approved details. The drainage system shall be managed and maintained thereafter in accordance with the approved details.
- 7) No dwelling hereby permitted shall be occupied until works to the existing footway running across the roadside frontage (northern boundary) of the site to accommodate the vehicular accesses hereby permitted have been completed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.
- 8) The vehicular accesses hereby permitted shall not be brought into use until sight lines for those accesses have been provided in accordance with the visibility splays shown on the approved drawing 2017/226/02 Rev C. Thereafter, nothing that may cause an obstruction to visibility when taken at a level of 1.0 metre above the adjacent highway shall at any time be placed or be permitted to remain within the approved sight lines.

- 8) Before the dwellings and vehicular accesses hereby permitted are brought into use the existing access shown on the approved drawing 2017/226/02 Rev. C shall be closed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The existing access shall subsequently remain closed.
- 9) No dwelling hereby permitted shall be occupied until the 2 parking bays to serve it, means of access to the dwelling and its parking bays, and the associated space for vehicle exiting/turning have been provided within the site and drained and surfaced in accordance with details that have been submitted to and approved by the Local Planning Authority. Thereafter, this space shall only be used for the parking and turning of vehicles belonging to occupiers of the dwellings and their visitors as indicated on the approved plans and for no other purpose.
- 10) No dwelling hereby permitted shall be occupied until facilities for the storage/parking of cycles and storage of refuse within the curtilage of that dwelling have been provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained and maintained in accordance with the approved details.
- 11) No dwelling hereby permitted shall be occupied until details of ecological mitigation/enhancement measures to be incorporated into the development have been submitted to and approved in writing by the Local Planning Authority. Such measures to include the installation of bat boxes within the development to enhance the site for protected bat species. The agreed measures shall be provided in accordance with the approved details before any dwelling is brought into use and thereafter shall be retained and maintained in accordance with the approved details.
- 12) Prior to the installation of any external lighting within the site as part of the development hereby permitted, details of the position, size, design, appearance and orientation of any lighting units in conjunction with details of the level and colour of the lighting, shall be submitted to and approved in writing by the Local Planning Authority. Any exterior lighting shall be designed to direct light away from the site boundaries to avoid impacts to foraging bats using the adjacent woodland and trees along the site boundaries. The agreed external lighting shall only be installed in accordance with the approved details.

End of schedule