



Appeal Decision

Site visit made on 22 September 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2020

Appeal Ref: APP/P2114/W/20/3246557

Former Gurnard County Primary School, 27 Cockleton Lane, Gurnard, Cowes PO31 8JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Gurnard School Developments against the decision of Isle of Wight Council.
 - The application Ref 19/01184/RVC, dated 7 October 2019, was refused by notice dated 21 November 2019.
 - The application sought planning permission for the demolition of school; proposed residential development comprising seven dwellings with garages, parking and vehicular accesses (revised scheme) without complying with a condition attached to planning permission Ref P/00919/14-TCP/30006/C, dated 22 September 2014.
 - The conditions in dispute are Nos 2 and 4 which state that:
No. 2: The development hereby permitted shall be carried out in complete accordance with the details shown on the submitted plans as follows: 13:1943:20 G, 13:1943:29, Plot 7 - 13:1943:27, Plot 6 - 13:1943:26, Plot 5 - 13:1943:25, Plot 4 - 13:1943:24, Plot 3 - 13:1943:23, Plot 2 - 13:1943:22, Plot 1 - 13:1943:21
No. 4: No development shall take place until a specification for the footway across the frontage of the site with Cockleton Lane (linking from the south east corner of the development site to the junction of Hilton Road/Cockleton Lane including a return around the junction radius) has been submitted to and approved by the LPA. The link referred to above shall be provided during construction of the development and no dwelling hereby approved shall be occupied until this footway link has been completed in accordance with those approved details.
 - The reasons given for the conditions are:
No. 2: For the avoidance of doubt and to ensure the satisfactory implementation of the development in accordance with the aims of policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.
No. 4: In the interests of highway safety and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the conditions in dispute are reasonable and necessary in regard to local and national planning policies and in the interest of highway safety, with particular regard to the provision of a footpath to the front of the site.

Reasons

3. The appeal site forms the grounds and buildings of the former Gurnard Primary School which was granted planning permission in 2014¹ for a residential development comprising seven dwellings with parking, garages and vehicular accesses. This development was approved subject to several conditions, one of which sought the provision of a footpath linking the southeast corner of the site to the junction with Hilton Road and Cockleton Lane, to include a return around the junction radius.
4. During the course of the development it became apparent that as a result of the narrow grass verge and land ownership issues, the footpath could not be constructed on the boundary of 59 Hilton Road which formed the junction of Hilton Road and Cockleton Road. Consequently, the Council accepted a variation² so that the footpath was provided only to the front of the site, except where two access points would be formed. This reduced the length of the footpath as it was no longer required to extend to the junction of Hilton Road and Cockleton Road.
5. The appellant now seeks to remove the requirement to provide a footpath and that the frontage of the site be defined by a grass verge with a hedge behind, save for the two access points into the site. The appellant argues that the footpath is not required for highway safety and providing a softer edge to the site would be a benefit to the semi-rural character of Cockleton Lane. Moreover, the condition requiring the provision of the footpath does not meet the tests as set out with the National Planning Policy Framework (the Framework) and the national Planning Practice Guidance (PPG).
6. The appellant also argues that Policy DM2 of the Isle of Wight Council Core Strategy 2012 (the Core Strategy) does not refer explicitly to 'community benefit', 'pedestrian connectivity' or 'highway safety gain'. Moreover, the Council's Highway Engineer responded that a refusal to remove condition four could not be sustained on highway safety grounds. Consequently, the appellant states the Council had no basis on which to refuse permission for the removal of the footpath.
7. I accept that when the site was being occupied by the school, the boundary was formed by a hedge and a footpath along Cockleton Lane was not provided. Nevertheless, the appeal site was formerly part of the school grounds and the site has since been developed with dwellings with two access points onto Cockleton Lane. Consequently, it is clear that the site has fundamentally changed since it was part of the school.
8. The appellant states that the footpath is not required for the occupiers of the dwellings at the site as they have a separate pedestrian access to Hilton Road which then provides connectivity to the centre of Gurnard. However, the intention of the footpath was not solely for the occupiers of the dwellings erected at the site. It was also required to ensure that a pedestrian access was provided across the front of the site for users of the playing field to the southeast. Notwithstanding that the footpath is no longer required to link to the junction of Hilton Road, given the width of Cockleton Lane and the introduction of two accesses into the site, I find that the footpath would provide

¹ P/00919/14 – TCP/30006/C dated 22 September 2014

² P/00578/16 dated 18 July 2016

pedestrians with a safe and convenient route to reach the nearest gate into the playing field and thus, avoid conflict with passing traffic and vehicles entering and exiting the appeal site.

9. Furthermore, I am not persuaded that the footpath has become so fragmented that it would fail to provide a safe route to and from the playing field. Notwithstanding that it would be interrupted by the two access points, it would nonetheless provide a beneficial stretch of footpath for those seeking to access the playing field. Moreover, given that the footpath would provide a link to the playing fields, it is reasonable to assume that it is likely to be used by persons with children. Therefore, although the grass verge as proposed may be a suitable refuge for able bodied persons, it may not be suitable for disabled persons and those with small children or pushchairs. Thus, notwithstanding the Highway Engineer's viewpoint, I find that the development would be unacceptable unless it provided the footpath across the front of the site.
10. In addition, the thrust of Policy DM2 of the Core Strategy is to support high quality and inclusive developments. This is consistent with paragraph 130 of the Framework which states that permission that fails to take opportunities to improve the character and quality of an area and the way it functions, should be refused. Moreover, paragraph 130 of the Framework also states that the quality of a development should not be diminished between permission and completion as a result of changes being made to the permitted scheme. The provision of the footpath is clearly an opportunity to improve the way the development functions, and its loss would diminish its quality.
11. The appellant also makes reference to the outline planning permission³ for the site which stated that a footpath was a desirable addition to the development. However, the outline permission from 2011 was granted before the adoption of the current Core Strategy and the publication of the initial Framework in 2012. The officer's report for the outline permission also confirmed that the emerging Core Strategy carried little weight as a material consideration and refers to the Isle of Wight Unitary Development Plan.
12. Consequently, in accordance with paragraph 55 of the Framework, and having regard to the PPG⁴, given that the condition mitigates the adverse effects of the development on highway safety, I conclude that the condition requiring the provision of a footpath is reasonable and necessary. In addition, as the footpath would also improve the way the development functions I consider that the condition imposed by the Council in relation to the footpath is reasonable in all other aspects and would ensure compliance with Policy DM2 of the Core Strategy and Section 12 of the Framework, notably paragraphs 127 and 130.

Conclusion

13. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR

³ P/01268/11 – TCP/30006/A dated 3 November 2011

⁴ Paragraph: 001 Reference ID:21a-001-20140306 Revision date: 06 03 2014