
Appeal Decision

Site visit made on 7 December 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal Ref: APP/P2114/W/20/3254947

Land adjacent to 36 Lake Hill, Lake, Sandown, Isle of Wight PO36 9HE

- 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 P Williams against the decision of Isle of Wight Council.
 - The application Ref 19/01343/FUL, dated 25 June 2019, was refused by notice dated 24 December 2019.
 - The development proposed is described as erection of detached house.
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached house, at Land adjacent to 36 Lake Hill, Lake, Sandown, Isle of Wight PO36 9HE, in accordance with the terms of the application, Ref 19/01343/FUL, dated 25 June 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: D1; D2.
 - 3) The development shall be carried out in accordance with the Tree Report dated 08 April 2019, reference: WIT-19-06-009-aia.

Main Issues

2. The main issues are the effects of the development on:
 - the character and appearance of the area, including trees;
 - the living conditions of future occupants of the development with regard to light; and
 - the Solent and Southampton Water Special Protection Area (the SPA).

Reasons

Character and appearance

3. The site is located between a short terrace and a railway embankment upon which a group of trees grows. Though the site previously contained a single storey building, it is now vacant, and largely overgrown. The condition of the site detracts from the appearance of the streetscene.
4. Development on the same side of the railway line and Lake Hill as the site, largely consists of terraced housing. This comprises modestly sized dwellings

set within rows of varied length, which are staggered as the ground rises. Housing both on the opposite side of the railway line and Lake Hill, however, comprises a greater range of types, including bungalows and semi-detached houses. The form, massing, scale and design of development within the site's setting thus varies, even in relation to terraced housing adjacent. The overall developmental character of the area is therefore mixed.

5. The scale and proportions of the proposed dwelling would differ from those of the neighbouring terrace. This is because it would be detached rather than terraced, and a more compact form. The proposed dwelling would nonetheless presumably be more compatible with its neighbour than the single storey building previously on the site. The degree of any broader contrast would also be limited by the site's peripheral location adjacent to the railway line. In this regard the proposed dwelling would bear similarity to established development on the opposite side of the railway line, so drawing some connection with its broader mixed context. When additionally taking into account the fact that the derelict condition of the site would be improved by the development, no unacceptable harm would arise from the observed differences.
6. The development would require works to the group of overhanging trees on the adjacent embankment. The appellant's tree report notes the past coppicing of these trees, which strongly implies their previous clearance in relation to maintenance of the railway. More recent removal of overhanging branches from the ash to the rear of the site is otherwise apparent. There is therefore a history of sporadic past management of these trees.
7. When in leaf, the trees make a generally positive contribution to the appearance of the area, adding greenery, and helping to screen the railway line. The removal of branches overhanging the plot would not fundamentally change this. Nor would any ongoing trimming back of regrowth.
8. Trimming the trees would open a route for disease. However, as this risk arises whenever a tree has its branches cut, it is an inevitable consequence of common routine maintenance. It is unclear why the level of risk should be considered high or exceptional in this case, particularly given that the trees have endured much more significant interventions in the past.
9. As the trees stand on higher ground, they would give rise to some overbearing, and some afternoon shading of the plot. As a matter of course, leaves would fall in autumn. The trees would however help to screen the dwelling from the railway line, which itself stands at a higher level, and provide an attractive setting. As such, notwithstanding the minor nuisance caused by leaf fall and shading during part of the day, it is highly unlikely that future occupants would request the removal or substantial reduction of the trees. In this context the theoretical risk of the trees falling is also unlikely to be an overriding concern.
10. Construction would otherwise occur outside the root protection areas of the trees. No adverse impacts would therefore arise in this regard.
11. For the reasons outlined above I conclude that the development would not have an unacceptable effect on the character and appearance of the area, including trees. It would therefore be consistent with Policy DM2 of the Island Plan: Isle of Wight Core Strategy 2010 (the IP), which amongst other things seeks to secure development that complements the character of the surrounding area, including by having regard to trees.

Living conditions

12. The back of the proposed dwelling would be orientated more or less directly towards the south. A reasonably clear outlook would exist in this direction. Existing buildings are otherwise located on the east side of the plot, and the trees on the west. As noted above, in this location the trees are likely to give rise to some afternoon shading. However, the plot would enjoy a spell of direct sunshine prior to this point, and the trees would not cause any obstruction of daylight.
13. Future occupants of the dwelling would not therefore be reliant on artificial lighting during the day on account of the trees, and use of the garden would not be unacceptably compromised by shading.
14. For the reasons outlined above I conclude that the development would not provide unacceptable living conditions for future occupants with regard to light. In this regard the development would again therefore comply with Policy DM2 of the IP insofar as this broadly seeks to secure high quality design which responds to its physical context.

The SPA

15. The Conservation of Habitats and Species Regulations 2017 states that before deciding to grant planning permission for a project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site, a competent authority must make an Appropriate Assessment (AA) of the implications of the plan or project for that site in view of that site's conservation objectives.
16. The potential for the development to have a likely significant effect on the integrity of the SPA, both alone, and in combination with other plans or projects, arises due to the increase in population that it would support, and the associated generation of recreational activity within the SPA, which could be ecologically harmful. An AA is therefore required.
17. Designation of the SPA relates to the range of natural features that it contains, and the species of bird life that it supports. Its conservation objectives generally seek to maintain or restore integrity, including that of qualifying features. As disturbance arising from recreational activity would be harmful, it would be at odds with these conservation objectives.
18. The Solent Recreation Mitigation Strategy 2017 (the SRMS), sets out an approach to mitigate and avoid the recreational disturbance of European sites around the Solent. It outlines contributions, subject of inflationary increase, based on bedroom numbers. These are used to fund a range of site access management and monitoring measures. Natural England has provided its endorsement.
19. A Unilateral Undertaking (UU) has been submitted by the appellant to secure a contribution in line with the SRMS. The Council has confirmed that this is acceptable. In view of the above, I am satisfied that the obligation passes the tests set out in paragraph 56 of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Levy Regulation 2010 (hereafter Regulation 122). That being so, I am able to conclude that when considered both alone and in combination with other plans

and projects, the development would not adversely affect the integrity of the SPA.

20. For the reasons outlined above the effects of the development in relation to the SPA would be acceptable. The development would therefore comply with Policy DM12 of the IP which seeks to protect the integrity of international designations relating to biodiversity.

Other matters

21. Planning permission was refused partly due to the lack of any secured contribution towards affordable housing provision. The requirement for contributions is set out in Policy DM4, and further explained within the Affordable Housing Contributions Supplementary Planning Document 2017 (the SPD). This sets out a formula for calculating contributions based on property values. It also sets out the Council's reasoned justification, based on the level of need, for seeking contributions from developments below the 10-dwelling threshold currently set out within paragraph 63 of the Framework.
22. The submitted UU secures the required contribution, and again the Council has indicated its acceptance. I am furthermore satisfied that, having regard to the SPD, the obligation passes the tests set out in paragraph 56 of the Framework, and Regulation 122. As such, the development would comply with Policy DM4 of the IP and the SPD.

Conditions

23. I have imposed conditions setting out the time period for commencement of the development, and identifying the approved plans, for sake of certainty.
24. I have imposed one further condition requiring the development to be carried out in accordance with the submitted tree report. I have not used the wording suggested by the Council as this duplicates points already adequately covered within the tree report.
25. I have not imposed a condition requiring the agreement of boundary treatments given that close boarded fencing is already annotated on the site plan.

Conclusion

26. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR