



Appeal Decisions

Site Visit made on 4 May 2021

By Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02/06/2021

Noke Common Dairy, 45 Noke Common, Newport PO30 5TY

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant outline planning permission.
- The appeals are made by Mr A Button against the decisions of Isle of Wight Council.

Appeal A Ref: APP/P2114/W/20/3262606

- The application Ref 20/00520/OUT, dated 17 March 2020, was refused by notice dated 14 May 2020.
- The development proposed is demolition of barns, storage units and stable building; outline for nine dwellings, car ports, parking and landscaping.

Appeal B Ref: APP/P2114/W/20/3262608

- The application Ref 20/01013/OUT, dated 30 June 2020, was refused by notice dated 16 September 2020.
 - The development proposed is demolition of barns, storage units and stable building; outline for nine dwellings, car ports, parking and landscaping (revised scheme).
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Decision

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. As set out in the banner above, there are two appeals on this site. The Council's respective decision notices contain the same three reasons for refusal (RfR). The appeals differ only in the siting and layout of the proposed dwellings and car ports on plots 2 to 8, the design of a dwelling on plot 7 and commensurate adjustments to the layout and extent of the central landscaped courtyard, the access and to the gardens for plots 2 to 8. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. The appellant seeks outline planning permission with details of access, layout and scale to be considered now. Details of appearance and landscaping are reserved for future consideration, though the appellant's plans and documents contain some 'principles' of appearance and landscaping, intended to show how the development could be undertaken in these regards. I have therefore dealt with the appeals on the basis that these principles are illustrative.
4. After each appeal was lodged, the appellant submitted executed planning obligations¹ in the form of unilateral undertakings dated 25 March 2021 (UUs). These relate to the impact of the development on the Solent and Southampton Water Special Protection Area (SPA) and to the provision of affordable housing. I deal with these considerations in 'other matters' below.

¹ Section 106, Town and Country Planning Act 1990

Main Issue

5. The main issue is the effect of the development proposed on the character and appearance of the area, having particular regard to its layout and scale.

Reasons

6. The Island Plan, the Isle of Wight Council Core Strategy (including Minerals & Waste) and Development Management Policies Development Plan Document, March 2012 (CS) was adopted more than 5 years ago and prepared under a previous National Planning Policy Statement regime. Nevertheless, it is the statutory adopted development plan and CS Policies DM2, DM4 and DM12 are the most important for determining these appeals. Insofar as is relevant to the circumstances here, I consider that the aims of these policies are broadly consistent with the relevant National Planning Policy Framework (Framework)² objectives for achieving sustainable development (section 2), delivering a sufficient supply of homes (section 5), making effective use of land (section 11), achieving well-designed places (section 12) and conserving and enhancing the natural environment (section 15).

Character and appearance

7. The appeal site comprises one large and two smaller open fronted storage barns within a large yard. It is located behind a row of mainly detached frontage dwellings along Noke Common (a rural lane) in the countryside. The reasonably close proximity of the storage barns to these dwellings and the open setting immediately to the rear (south) and partly to one side (east) of the large barn, and to the east of one of the smaller barns, together with the seamless transition to the wider open countryside on lower ground beyond, including a panoramic view through the appeal site towards the distant built-up area of Newport and the functional, yet captivating, scale and pattern of development at Parkhurst Prison, is locally distinctive.
8. The appeal site would be redeveloped to provide 9 dwellings and associated car ports, parking and landscaping. The development would use the existing vehicular access from Noke Common. The Council has not objected to the details of the means of access and, on the evidence before me in this appeal, I have no reason to reach a different view in this regard.
9. However, in Appeal A the layout of the development would disperse built form across the appeal site by a significant distance to the south and east, beyond the footprint of the large barn (ie on plots 4 to 8) and to the east of one of the smaller barns (ie on plot 9). This fragmentation would result in some buildings of appreciable scale on parts of the appeal site where no buildings currently exist or are smaller in scale. Moreover, some buildings would also be significantly further away from the frontage dwellings and closer to the south and east boundaries of the appeal site and the open countryside. There would also be a high proportion of detached dwellings arranged around an almost completely enclosed central courtyard. Despite the proposed landscaping this layout would nonetheless give more the appearance of an urban mews form of development.
10. The proposed layout and the scale of some buildings would therefore be at odds with the more compact arrangement of the existing buildings on the

² Framework paragraph 213

appeal site in relation to each other and to the frontage dwellings. Moreover, it would unduly erode the extent of openness on the appeal site, including in the immediate outward facing setting to the proposed dwellings. This would result in a substantially greater impression of a more built-up urban form of development in-depth, to the south and east on the appeal site and to the rear of the linear frontage of dwellings along Noke Common.

11. Consequently, the development would be unduly prominent and conspicuous in the public view from Noke Common to the east, across a wide gap in the frontage along the lane just beyond a short row of dwellings in the defined settlement boundary of Newport. Furthermore, the southerly layout of the dwelling on plot 6 and, in particular, the easterly layout of the dwellings on plots 7 and 8 would unduly erode the vista from Noke Common along the access and across this part of the appeal site to the countryside and built-up area beyond.
12. In Appeal B, the proposed plans show that the appearance of the dwelling on plot 7 could be altered to change the floorplans, position and number of windows and the design of the roof, including dormer windows. However, these would be comparatively minor differences to the overall scale of this dwelling. Accordingly, there would be no significant change to the harm that I have already identified in Appeal A in this regard.
13. In Appeal B, the layout of most of the proposed dwellings and car ports (ie plots 2 to 8) would be re-sited further to the west, including in particular the dwellings on plot 6, especially plot 7, and on plot 8. However, the layout of the dwelling on plot 9 would not change and there would therefore be no change to the harm that I have already identified in Appeal A in this regard. Furthermore, the difference in the layout of development on plots 2 to 8, compared to Appeal A, would be relatively small. As a result, while there would be some increased openness on the east side of the appeal site and some reduced intrusion in the public views that I refer to above, this would therefore only be to a limited degree and accordingly would not alleviate or overcome the harm that I have already identified in Appeal A in these regards.
14. In Appeal B, the dwelling on plot 7 would become a link detached property with the dwelling and car port on plot 8, and the dwelling on plot 6 would become a linked detached property with the dwelling and car port on plot 5. There would as a result be a more contiguous arrangement of built form along the south and east boundaries of the appeal site, and less detached dwellings overall. However, the development on these plots, including also plot 4, would remain a significant distance beyond the edge of the floorplan of the large barn, to the south and to the east. The layout would not therefore be significantly more compact in this regard than in Appeal A, nor would these changes in layout to these dwellings alleviate the enclosed courtyard appearance of a mews style development.
15. Consequently, in the context of the appeal site and its surroundings, the changes to layout and scale in Appeal B are overall not sufficient to have any meaningful mitigating effect over the development in Appeal A.
16. I accept that the Framework does not seek to prevent or discourage appropriate innovation or change³. I also appreciate that there is an extant

³ Framework paragraph 127(c)

planning permission⁴ for development of the appeal site with 6 dwellings and car ports (the approved scheme) which provides a genuine fall-back position for the appellant. I note that some of the dwellings in the approved scheme are individually of a similar layout and scale to those in Appeal A and Appeal B.

17. However, the approved scheme contains more semi-detached or linked detached properties arranged in a contiguous sequence of built form along three edges of the footprint of the large barn. There is also significantly greater openness in one corner of the appeal site (ie in the approximate position of the dwellings on plots 8 and 9 in Appeals A and B) and to the south and east behind the approved dwellings; including that the site of the approved scheme is significantly shorter in depth to the south, beyond the large barn, than is the appeal site in Appeal A and Appeal B.
18. As a result, in layout and scale the approved scheme more closely reflects the concept of a converted range of rural buildings or a 'farmstead' set around a partly open sided courtyard and follows more closely the broad location and extent of the existing buildings on the appeal site and their tighter relationship to the frontage dwellings. Collectively, the layout and scale of the approved dwellings is therefore significantly less fragmented, more compact and more in keeping with the origins of development on the appeal site and its rural context. Consequently, it maintains more of the open setting to these buildings, especially to the south and to the east of the large barn and to the east of one of the smaller barns. It also maintains the integrity of the two public views from Noke Common that I have referred to above.
19. There is an extant planning permission⁵ for 7 dwellings in a row along the wide gap in the frontage along Noke Common to the east of the appeal site. Despite the lower, undulating land levels on part of that site, I accept that if it were developed some of those dwellings would likely obstruct some views of the appeal site from Noke Common in this direction and of the development proposed. However, the absence of greater public visibility in this respect would not alleviate the intrinsic harm to the countryside⁶ due to the effect of the development proposed on openness, nor would it have any effect on the view from Noke Common along the appeal site access road.
20. There is also an extant outline planning permission granted on appeal⁷ for 10 dwellings on land at the rear of Noke Common and adjacent to Hogan Road, further to the east of the appeal site. It would result in development extending further in-depth behind Noke Common than the development proposed in the current appeals. It would also reduce the extent of the countryside and openness to the east of the appeal site. However, that development would be visually and spatially more contained by existing residential development on two sides, in a corner, whereas the development proposed on the appeal site would be significantly more open and isolated by virtue of being detached from existing development on three sides.
21. The appellant's 'Proposed Development Masterplan'⁸ shows a possible residential development of a large area of countryside to the south and east of the appeal site (the masterplan land). I appreciate that the appeal site and the

⁴ Council's reference P/00308/19

⁵ Council's reference P/00344/19

⁶ Framework paragraph 170(b)

⁷ Council's reference P/00463/17 and appeal reference APP/P2114/W/18/3193602

⁸ Drawing number 0166 004 Revision D

development proposed could fit into such a masterplan and might not prejudice delivery of the masterplan land. The appellant suggests that the masterplan land has been 'allocated for housing purposes' for at least 180 houses in a 'Draft Island Planning Strategy (Consultation Draft 2018)' though states that this strategy has 'not gained any traction at this stage'. The Council has not disputed this, but nonetheless there is no substantive evidence before me to suggest that the masterplan land has been allocated for residential development or would be allocated in whole or in part, including any part near the appeal site. Indeed, it appears that a new Island planning strategy remains at an early stage of preparation and, on that basis, I give little weight⁹ to it and to the masterplan in my decisions.

22. On this main issue, I find that the development proposed in Appeal A and in Appeal B would be out of keeping with the prevailing pattern of development on the appeal site and along this part of Noke Common and would be visually intrusive in public views. It would cause significant harm to the character and appearance of the area, having particular regard to its layout and scale. Consequently, it would not accord with CS Policy DM2. This policy seeks to protect and enhance the environment and to ensure that development has regard to constraints, such as adjacent buildings, topography, views or other features that significantly contribute to the character of the area, and complements the character of the surrounding area.
23. It would also conflict with Framework paragraphs 124 and 127(a), (b), (c) and (e). These include that development should create high quality places, add to the overall quality of the area, be visually attractive as a result of good layout and be sympathetic to local character, including the surrounding built environment and landscape setting, and sustain an appropriate amount of development.

Other Matters

24. Some interested parties also objected due to increased traffic generation, inadequate existing infrastructure (such as doctors surgeries and surface water drainage) and to the size of the proposed dwellings. An additional 9 dwellings would cause a modest increase in traffic using Noke Common and in population using doctors surgeries. In the absence of any substantive evidence before me to the contrary, including to demonstrate that suitable details of surface water drainage could not reasonably be approved by the Council by a planning condition, I have no reason to find unacceptable harm in these regards. I note that the Council, including in its capacity as Highway Authority, did not object for these reasons.
25. The Council considers that the size of the dwellings proposed would 'make a positive contribution to the provision of 3 and 4-bed housing in Newport'¹⁰. I note that CS Policy DM3 seeks an 'appropriate' mix of dwelling sizes and that the Council did not object for this reason. On the limited evidence before me, and the absence of any housing needs assessment to the contrary, there is no reason to suggest that the proposed dwelling sizes are not appropriate in this regard. This would be a modest benefit of the development proposed.

⁹ Framework paragraph 48

¹⁰ Officer report - application reference 20/01013/OUT

26. The development would not have any adverse impact on the living conditions of the existing occupiers of nearby dwellings and would provide sufficient car and cycle parking. The absence of harm in these regards is a neutral factor in my decision.
27. The appellant states that the appeal site was previously part of an agricultural unit but is now used, or was last used, for B8 storage use 'for many years'. Nonetheless, on the evidence before me in this appeal the lawful use of the appeal site is not clear. However, even if the appeal site is under-utilised¹¹ land or buildings, or is by definition¹² previously developed brownfield land, the Framework makes clear that 'it should not be assumed that the whole of the curtilage should be developed'¹³ and, in any event, even though the appeal site would be a small¹⁴ housing site, it is not within a settlement¹⁵.
28. Moreover, by virtue of the development proposed it would not be suitable¹⁶ brownfield land for the reasons explained in the main issue above and the net increase of 3 dwellings compared to the approved scheme would not therefore result in an effective¹⁷ use of this land. I am also mindful that the approved scheme for 6 dwellings would already effect a change from storage use to residential use on the appeal site and the development proposed would therefore result in no additional benefit in that regard.
29. The appeal site is within a zone of influence of habitats which form part of the SPA, which is a nationally and internationally important designated habitat for birds. The development would increase the resident population who would be likely to visit the SPA for recreational purposes. The Council has completed a Habitats Regulation Assessment, including an appropriate assessment, and by virtue of the UUs the appellant would make a requisite payment towards the Solent Recreation Mitigation Strategy¹⁸. The main parties consider that the development would not therefore have a significant adverse effect on the ecological integrity of the SPA and on that basis consider that the UUs overcome the Council's RfR No 3. In light of my findings on the main issue above it is not necessary for me to consider this matter further.
30. The main parties agree that the UUs would secure a financial contribution towards the provision of affordable housing off-site elsewhere in accordance with CS Policy DM4 and on that basis overcome the Council's RfR No 2. I have been provided with the Council's detailed calculation methodology and written justification for its requirements. This includes evidence that the lack of delivery of affordable housing has become a significant issue for the Island and that there is a need to increase the amount of affordable housing¹⁹. It also substantiates the provision of off-site affordable housing in this appeal²⁰.

¹¹ Framework paragraph 118(d)

¹² Framework glossary

¹³ Framework glossary

¹⁴ Framework paragraph 68

¹⁵ Framework paragraph 118(c)

¹⁶ Framework paragraph 118(c)

¹⁷ Framework paragraph 117

¹⁸ Prepared by the 'Solent Recreation Mitigation Partnership' of local authorities and conservation bodies, December 2017

¹⁹ CS Policy DM4 and paragraph 7.64, and Affordable Housing Contributions Supplementary Planning Document, March 2017, paragraphs 2.14 and 3.35

²⁰ Framework paragraphs 62 and 63, and glossary, and Planning Practice Guidance (PPG) paragraph 23b-023-20190901

31. I am therefore satisfied that with regard to the provision of affordable housing the UUs would mitigate the impact of otherwise unacceptable development and make it acceptable in planning terms²¹. Accordingly, the UUs are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the tests for planning obligations set out in Framework paragraph 56.
32. The appeal site is within the Medina Valley Key Regeneration Area where in principle the Council expects a majority of development to occur on appropriate sites²². The delivery of housing by the development proposed would also be aligned with the Government's objective to 'significantly boost' the supply of homes²³ and making provision for affordable housing would address the needs of those who require such housing²⁴. These would be appreciable benefits of the development. The development would also result in construction work and new residents would support local services; given the modest scale of the development, these would be moderate benefits.
33. The appellant considers that the Council has less than a 5-year housing land supply (5YHLS), though does not suggest what the quantum of shortfall is, and that against the Government's Housing Delivery Test (HDT) the delivery of housing was substantially below (ie less than 75%) the Council's housing requirement over the previous three years²⁵. I note that the Council has stated that there is 'a current housing delivery shortfall on the Island'²⁶ and does not dispute the 5YHLS or HDT in these appeals. On the evidence before me, and notwithstanding what the level of housing shortfall might be, the Council cannot therefore presently demonstrate a 5YHLS or meet the HDT.
34. In these circumstances, by virtue of footnote 7, Framework paragraph 11(d) is engaged such that the policies which are most important for determining the appeal are out-of-date. Accordingly, the presumption in favour of sustainable development as set out in Framework paragraph 11 requires planning permission to be granted unless either of two circumstances apply. The second of these is where any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole, in which case in accordance with Framework 11(d)(ii) the presumption in favour of sustainable development would not apply.

Planning Balance and Conclusion

35. As explained in the main issue above, the development proposed would cause significant harm to the character and appearance of the area. I attach substantial weight to this harm. The development would provide a net gain of 3 new homes of an appropriate size and make provision for affordable housing. Mindful of the 5YHLS and HDT position, and even if the housing supply shortfall is substantial, I give moderate weight to these benefits. It would also provide employment during construction and support local services. I give limited weight to these benefits.

²¹ Framework paragraph 54 and PPG Paragraph: 002 Reference ID: 23b-002-20190901

²² CS Policy SP1 and paragraph 5.4

²³ Framework paragraph 59

²⁴ Framework paragraphs 59 and 61

²⁵ Framework paragraph 215(c)

²⁶ Officer report - application reference 20/01013/OUT

36. The proposals in both Appeal A and in Appeal B would not therefore accord with the development plan overall. Consequently, I find that the scale of the development proposed and the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh those benefits. There are no material considerations which indicate that my decision should not be taken otherwise in accordance with the development plan.

37. For the reasons given, I conclude that the appeals should not succeed.

Robin Buchanan

INSPECTOR