

Appeal Decision

Site Visit made on 10 August 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2021

Appeal Ref: APP/P2114/W/20/3264333

Sunflower Lodge, Cleveland Road, Wroxall, PO38 3DZ

- 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 SJT Construction against the decision of Isle of Wight Council.
 - The application Ref 20/00547/FUL, dated 5 December 2019, was refused by notice dated 2 June 2020.
 - The development proposed is demolition of existing bungalow and 5 holiday units. Proposed development of 7 residential units.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by SJT Construction against Isle of Wight Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council's first reason for refusal relates to inadequate ecological information. The appellant submitted an Ecology Report with the appeal. The Council has confirmed that, subject to a pre-commencement condition requiring a reptile survey and, if necessary, a reptile mitigation strategy, and a condition requiring the implementation of wildlife enhancements as set out in the Report, should permission be granted, the reason for refusal would be addressed. I return to this matter below.
4. The second reason for refusal relates to the lack of a contribution towards affordable housing provision. The appellant submitted a unilateral undertaking (UU) in respect of the affordable housing contribution with the appeal. The Council has confirmed that the UU addresses the reason for refusal. I also return to this matter below.
5. I saw at my site visit that the demolition works had already taken place for which prior approval was granted dated 18 May 2020 and the site largely cleared. I have determined the appeal on this basis.
6. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have determined this appeal in the context of the revised Framework, on which the parties have been given the opportunity to comment and I have had regard to those comments in my decision.

Main Issues

7. The main issues are the effect of the proposed development on:
- i) the character and appearance of the area and the Isle of Wight Area of Outstanding Natural Beauty (AONB);
 - ii) the living conditions of the occupiers of neighbouring residential properties with particular regard to outlook and privacy; and
 - iii) the safe and convenient use of the highway, with particular regard to the width and alignment of Clevelands Road, access for the Fire Service / refuse vehicles, traffic generation and parking provision.

Reasons

Character and appearance

8. The appeal site is located on the side of a valley to the east side of Wroxall and is within the Isle of Wight AONB, which sweeps around to the east, south and west of Wroxall. The statutory purpose of AONBs is to conserve and enhance the natural beauty of an area. The Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs, which together with National Parks and the Broads have the highest status of protection in relation to these issues.
9. The site formerly accommodated a bungalow and five holiday chalets. To the east, south and west of the site are existing dwellings, primarily detached bungalows although Clevelands Country House, the northern and eastern boundaries of which the site adjoins, is 2-storey. Robins Rest and Springfield to the east of the site are 2-storey and partially 2-storey respectively. Dwellings in the vicinity are principally set back from the road in reasonably generous plots providing a soft landscaped edge to the village with open agricultural land to the north. There are extensive and attractive views from the site to the north and to the other side of the valley to the west.
10. Even in its current cleared state, the site makes a limited contribution to the landscape and scenic beauty of the AONB. It is experienced primarily in the context of the existing residential development to the other three sides, in which context it would be seen in any views from the north. These existing dwellings are of a variety of ages and designs and form part of the significant areas of housing on the east side of Wroxall which are also within and an established feature of this area of the AONB. Consequently, in principle, residential development on the site would not be out of character with the area nor necessarily harmful to the landscape or scenic beauty of the AONB.
11. However, the proposed development includes one detached and six semi-detached two-storey dwellings, three with attached single garages, in smaller plots than predominate in the locality. Whilst it is important to make efficient use of land, it is also important to respect the character of an area. The Isle of Wight AONB Management Plan 2019 - 2024 expects development proposals within the AONB to be of high quality design and be in keeping with the landscape character of the local area. The 2-storey and the mainly semi-detached form of the proposed dwellings would be at odds with the prevailing pattern and form of development in the locality.

12. The density of the proposed development and the proximity of the proposed dwellings with their associated hardstandings to each other and the access road, leaving little room for planting to soften their impact, would result in a cramped form of development. This too would be uncharacteristic of the area and harmful in this location on the edge of the village. Although the proposed development would not extend into undeveloped land, the proximity of the proposed 2-storey dwellings to the northern boundary of site would form a hard, uncharacteristic edge to this part of the village. The flank wall and parking spaces of Unit 2 in the north-west corner of the site would be particularly close to the northern boundary of the site, with very little room for planting.
13. The Council and AONB Unit have concerns with windows in the proposed dwellings. However, I have no evidence that there is a particular traditional window design in Wroxall and there is a variety of design of dwellings in the vicinity of the appeal site. Consequently, I do not find that the proposed fenestration would be significantly harmful to the appearance of the dwellings or to the character and appearance of the area.
14. For the reasons above, I conclude that the proposed development would be harmful to the character and appearance of the area and cause limited harm to the landscape and scenic beauty of the AONB. Accordingly, in this respect, the proposals would not accord with Policies DM2 and DM12 of the Island Plan Isle of Wight Core Strategy (2012) (the Island Plan). These policies expect, amongst other things, proposals to complement the character of the surrounding area, particularly in the AONB, and reflect the aims and objectives of the AONB Management Plan, with proposals that conserve or enhance the landscape of the Island being supported.

Living conditions

15. Clevelands Country House is sited in the northern corner of its plot with its rear and eastern elevations close to the boundary of the plot. Four of the proposed dwellings would be in proximity to this existing dwelling with a separation of only 3 m between Unit 1 and the rear elevation of the existing dwelling.
16. The rear and eastern side elevations of Clevelands Country House have several windows at ground and first floor level and a conservatory on the rear elevation. The proximity, height and bulk of Units 1, 3, 4 and 6 would result in a sense of enclosure and loss of outlook from these windows, exacerbated by the slightly higher level of Unit 6 than the existing dwelling. This enclosure and loss of outlook would be significantly in excess of that which would have been likely to be experienced with the former bungalow and chalets on the site. Furthermore, Units 3, 4, 6 and 7 would face directly towards this property resulting in overlooking and consequent loss of privacy.
17. In addition, there would be approximately 13 m between the rear elevation of proposed Units 6 and 7 and the front elevations of Robins Rest and Springfield. Although existing vegetation on the boundary between the appeal site and these properties provide some screening, I cannot be certain that screening would be retained for the lifetime of the proposed development, even if the subject of a condition. The proximity of these existing and proposed dwellings could therefore also result in mutual moderately harmful overlooking and consequent loss of privacy.

18. I therefore conclude that the proposed development would be harmful to the living conditions of the occupiers of neighbouring residential properties. Notwithstanding that conclusion I find no conflict with Policy DM2 of the Island Plan in this respect as the policy does not specifically protect the living conditions of the occupiers of neighbouring properties. However, I do find conflict with paragraph 130 f) of the revised Framework, which sets out that decisions should ensure that developments create places that have a high standard of amenity for existing users.

Safe and convenient use of the highway

19. Access to the appeal site is via a narrow spur off Cleveland Road, which is unadopted and has no footway. The spur is only wide enough to allow one vehicle to pass at a time, with little room for pedestrians to stand aside out of the way of vehicles and a sharp bend restricting visibility. The Council is concerned that this road is inadequate for a refuse vehicle or a fire appliance. Furthermore, the Council also contends that the proposed development would increase traffic flow along this spur by approximately 60%, with a resulting detrimental impact on highway safety, and have inadequate parking provision.
20. The appellant submitted an Access Statement and 3 drawings during the course of the application in response to the Council's concerns. The Statement indicates that the spur road is within the appellant's control. This would allow the widening of the bend by the removal of some small trees and stumps and the turning area at the end of the spur to be widened to allow two cars to pass. The drawings include both a swept path to demonstrate that with this widening a refuse vehicle or fire appliance could negotiate the bend and a revised layout with an amended access and parking space configuration.
21. However, no evidence has been provided to confirm that the spur road is within the appellant's ownership. In addition to the removal of trees the swept path indicates that other trees would need to be trimmed and a shed removed or relocated. It is not clear to me that these are within the appellant's ownership such that a condition for these works, were planning permission to be granted, would be enforceable and effective.
22. In any event, the appellant's suggestions of widening the road at the bend would not significantly improve the safety of its use, particularly for pedestrians or cyclists. Whilst the site is within reasonable walking distance of a convenience store, school and bus stop, safety concerns could discourage walking or cycling.
23. Although contending that there would be no significant increase in traffic generation from the proposed development, the appellant has not provided estimates of vehicle movements for the previous or proposed use to challenge those suggested by the Council. It has thus not been demonstrated that the proposed development would not result in a significant increase in such movements as contended by the Council.
24. The revised layout shows a provision of 2 parking spaces for each of the proposed dwellings which would conform with the Council's adopted Guidelines for Parking Provision as Part of New Developments Supplementary Planning Document. The provision and retention of these parking spaces, including the two spaces in the layby outside the access to the site, could be required by a suitably worded condition were planning permission to be granted. I am

satisfied that the 2 spaces for the dwelling in the north-west corner of the site could be satisfactorily accessed with a minor revision to the layout.

25. For the reasons given above, I conclude that the proposed development would have an unacceptably harmful effect on the safe and convenient use of the highway. Accordingly, in this respect, the development would conflict with the general thrust of Policy SP7 of the Island Plan to increase travel choice and with Policies DM2 and DM17 which, amongst other things, promote sustainable travel and expect development proposals to provide an accessible and safe built environment and improve accessibility for pedestrians and cycling.

Other Matters

Affordable housing

26. Policy DM4 of the Island Plan sets out that development proposals will be expected to provide financial contributions towards affordable housing for developments of 1 - 9 units in rural areas. The Council's Affordable Housing Supplementary Planning Document 2017 sets out the justification for such a contribution, identifying the high overall housing requirement per annum from households requiring some form of affordable housing and the acute housing affordability issue on the Island. It also sets out the formula for calculating the level of contribution above a threshold value and the mechanism for collecting contributions through planning obligations. The appellant's UU contains an obligation for the payment of a contribution towards the provision of affordable housing.
27. Paragraph 64 of the revised Framework sets out that contributions should not be sought for residential developments that are not major developments (10 houses or more), other than in designated rural areas, where policies may set out a lower threshold of 5 units or fewer. Such areas include Areas of Outstanding Natural Beauty. Although Policy DM4 is not entirely consistent with the Framework as its requirement for rural areas is not restricted to the AONB, I am therefore satisfied that the contribution towards the provision of affordable housing is justified and necessary in this case.
28. The appellant's willingness to pay the requisite contribution demonstrates that it would not be a disproportionate burden. I am satisfied that the obligation meets the tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended) and paragraph 57 of the revised Framework. I have therefore taken it into account in my decision and the contribution weighs in favour of the proposals.

Other considerations

29. The site is within the settlement boundary for Wroxall identified in the Island Plan, which is also designated as Rural Service Centre for its range of services and facilities. The principle of the proposed development is therefore acceptable in accordance with Policies SP1 and SP2 of the Island Plan to which the appellant draws my attention. Although the stones lining the spur road are said to be associated with the building of Cleveland's Country House in the 1870's I have no evidence that they are designated or identified as non-designated heritage assets or that the proposal would otherwise affect any such assets. Thus Policy DM11, to which the appellant also refers and which relates principally to heritage assets, is not specifically relevant to this appeal.

30. The appellant's Ecology Report concludes that there is no in principle objection to the proposed development from an ecological perspective. No species of reptiles or amphibians were recorded during the Report's author's site visit, which was undertaken in August, although the Report noted that most species do not return to non-breeding hibernacula until October. The Report also notes that the Wroxall area is known to have populations of slow worm and grass snake, both UK BAP Priority Species, and there were potential hibernacula on the site at the time of the survey.
31. However, the Report does not indicate that there is a reasonable likelihood of protected reptile species being present on the site. Nor has any evidence been provided by the Council or by interested parties to this effect, notwithstanding references to bats, badgers and slow worms in representations on the proposals. Consequently, I am satisfied that it would not be necessary to establish the presence or otherwise of protected species before a planning permission is granted, with conditions as suggested by the Council providing sufficient protection in this circumstance.
32. Although not cited as a reason for refusal, the Council expresses its concern over the living conditions of future occupiers of the proposed dwellings in regard to garden areas. The proposed rear garden for Unit 3 would be of an awkward shape and those for Units 3, 4 and 5 would be north-facing. However, these gardens would have an open outlook and all the gardens would provide adequate space for sitting out, drying washing and play. I therefore find that the proposed garden provision would not justify withholding planning permission.
33. I note that a local resident supports the principle of the redevelopment of the site and another local resident supports the specific proposals. However, this support does not itself outweigh the harm I have identified above.

Planning Balance

34. The Council cannot demonstrate a 5-year supply of deliverable housing sites. The latest figure available to me is from April 2018, when the supply was 83.15% of that necessary to demonstrate a 5-year supply. Furthermore, the 2020 Housing Delivery Test measurement of 54% shows that the delivery of housing on the Island is substantially below its housing requirement.
35. Paragraph 11 d) of the Framework is therefore engaged and Policies SP7, DM2, DM12 and DM17 of the Island Plan are deemed to be out of date. Nevertheless, the aims and requirements of these policies in respect of sustainable travel, the character / landscape of the area and the AONB are broadly consistent with the revised Framework. Therefore, in accordance with paragraph 219 of the Framework, the conflict with these policies attracts significant weight.
36. Paragraph 11 d) i) sets out that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 confirms that these policies include those relating to AONBs. I have found above that the proposals would cause limited harm to the landscape and scenic beauty of the AONB. This harm should be given great weight in the planning balance in accordance with the Framework.

37. However, it should also be balanced against the benefits of the proposals. The net additional 6 dwellings would make a very modest contribution to the housing supply on the Island but generally accord with the Government's objective of significantly boosting the supply of homes. The proposed 3 bedroom dwellings would meet the housing needs of the wider area.
38. The Framework recognises that small sites can make an important contribution to meeting the housing requirement for an area. It promotes the efficient use of land and the use of suitable previously developed land within settlements. The proposals would result in limited economic benefits and on-site biodiversity enhancements, and the contribution to affordable housing would be a further benefit.
39. Having undertaken this balancing exercise, I find that the application of the policies of the Framework for AONBs does not provide a clear reason for refusing the proposed development. Accordingly, 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 revised Framework taken as a whole in accordance with paragraph 11 d) ii) of the Framework.
40. Paragraph 124 d) of the revised Framework sets out that the desirability of maintaining an area's prevailing character should be taken into account in planning decisions. Paragraph 130 a), b) and c) set out that planning decisions should ensure that developments add to the overall quality of the area, are visually attractive, including as a result of layout and landscaping and are sympathetic to local character, including the surrounding built environment and landscape setting.
41. I have found conflict with the Framework in respect of the living conditions of the occupiers of neighbouring properties. The revised Framework sets out that it should be ensured that a safe and suitable access to the site can be achieved for all users (paragraph 110). Development can be refused if there would be an unacceptable impact on highway safety (paragraph 111). Paragraph 112 requires priority to be given to pedestrian and cycle movements and development proposals to minimise the scope for conflicts between pedestrians, cyclists and vehicles.
42. I therefore conclude that, in combination, these adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of the additional 6 dwellings. The presumption in favour of sustainable development therefore does not apply in this case.

Conclusion

43. I have found that the proposals would conflict with the policies of the development plan taken as a whole. There are no considerations, including the policies of the Framework, that indicate that a decision should be taken other than in accordance with the development plan.
44. For this reason, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR