



Appeal Decision

Site Visit made on 11 October 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2021

Appeal Ref: APP/P2114/W/21/3272543

31 Ventnor Road, Apse Heath, Sandown PO36 0JT

- 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 Mrs C Bentley against the decision of Isle of Wight Council.
 - The application Ref 20/01535/FUL, dated 11 September 2020, was refused by notice dated 8 January 2021.
 - The development proposed is demolition of attached garage, creation of garage (no.31), formation of new vehicular access, construction of 7 dwellings with garaging, parking and associated landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. With the appeal the appellant submitted an executed unilateral undertaking (the UU). It contains obligations for proposed improvements to a public footpath, which I deal with in the 'main issue' below, and the provision of affordable housing which I deal with in 'other matters' below.

Main Issue

3. The main issue is whether the appeal proposal would provide a suitable site for housing development, having particular regard to its location and whether it would give a genuine choice for future occupiers to travel to facilities and services by modes other than the private car.

Reasons

4. Apse Heath is a small settlement with a built-up area of mostly frontage dwellings along its main cross roads, including No 31 Ventnor Road. The proposal would develop a paddock to the rear of this property with seven dwellings and means of access through the existing garden onto Ventnor Road.
5. In Island Plan¹ Policy SP1 the Council's spatial strategy intends to meet the Island's housing needs in the most sustainable locations within or immediately adjacent the defined settlement boundaries. Apse Heath does not have a defined settlement boundary and the appeal site is not immediately adjacent to any other such boundary. It is not therefore appropriate land for housing development in these terms, nor is it previously-developed brownfield land².

¹ The Island Plan, the Isle of Wight Council Core Strategy (including Minerals & Waste) and Development Management Policies Development Plan Document, March 2012

² Framework glossary

The site is in the countryside (the Wider Rural Area) where this policy anticipates that some development may meet an identified local requirement for housing, maintain local facilities and maintain or enhance the viability of local communities³. It must be read in conjunction with IP Policy DM17 which supports proposals that increase travel choice and provide alternative means of travel to the car. These policies were adopted more than five years ago⁴ but are broadly consistent⁵ with objectives of the National Planning Policy Framework (the Framework) in these regards.

6. The proposal is not a rural exception site for affordable housing but it would contribute towards meeting the Council's Island housing requirement. The mix and size of dwellings would meet a need identified by the Council for family occupation. Apse Heath has a convenience store with a Post Office counter and car park (the store) and bus stops in Newport Road. There are services and facilities in Newchurch, Arreton and Lake, including the wider 'Bay area', and also further afield at Ryde and Newport. These locations are served by buses that stop at Apse Heath and are therefore mutually accessible to residents of these communities, and also by the private car. Additional residents in Apse Heath would likely help to support these services and facilities.
7. However, it has not been suggested that the viability of any of these uses is at risk or that there is a specific local need to enhance the vitality of Apse Heath (including the store or bus services) or the communities of Newchurch, Arreton or Lake or anywhere else. Moreover, the extent to which future occupiers of the proposed dwellings would have any meaningful effect in this regard, and be able to meet their daily living needs, would be significantly influenced by their ability to access these services and facilities (and employment uses) and by what mode of travel.
8. Some people may be able, and choose, to cycle to the store or to some of these other locations. This would likely meet a narrow spectrum of need to travel but, nonetheless, cycling would provide a degree of choice that could reduce reliance on the private car to that limited extent.
9. The store would be within walking distance of the proposed dwellings for pedestrians and likely in range of a wheelchair or mobility scooter. However, it is on the opposite (west) side of Ventnor Road and separated by a significant portion of this road (160m⁶). There is no controlled crossing point or central refuge, no footway along the west side and no dropped kerb with tactile paving in the apron in front of the store. Moreover, on-street parking in parts of the east side of this road would partially conceal the presence of people seeking to cross from the vision of passing drivers or cyclists. It would also cause traffic from the north to veer closer to the west side of this road and towards anyone in the carriageway.
10. There is a kerbed strip along the east side of this road used as an informal pedestrian route. However, it is part of the publicly maintainable carriageway not a footway⁷ and in places is 1.0m wide but mostly 0.8m with localised reductions to 0.65m and 0.40m. It is therefore significantly narrower than the

³ IP paragraph 5.31

⁴ Framework 33

⁵ Framework 219

⁶ All measurements are approximate

⁷ Hereinafter I refer to the 'carriageway' as meaning that part of Ventnor Road excluding the kerbed strip

national design guidance⁸ that I have been referred to and it is not possible to achieve even the Council's 1.0m minimum standard along the entire strip. In addition, some cars parked in front gardens oversail it and wing mirrors of cars parked in the carriageway protrude across it. These factors would therefore unduly hinder or obstruct people who may enter the carriageway by accident, inadvertently or out of necessity, including to pass on-coming users. This would result in people emerging suddenly into unacceptable close proximity or conflict with moving vehicles or cycles with little or no space for refuge, especially if there were no parked cars in the carriageway.

11. Lake would likely be within walking distance along Newport Road for the most able bodied pedestrian future occupiers and may be within range of wheelchair or scooter users, albeit an uphill return journey. However, this would require using Ventnor Road (or public footpaths – see below) and there is in any event no continuous footway along the south side of Newport Road. There is no controlled crossing point, central refuge or tactile paving on the east side of the roundabout. Dropped kerbs are staggered vehicular access points and the decreasing width of the publicly maintainable footway eastwards, along the south side of Newport Road, constrain access to these parts of the road. Moreover, the footway along the north side of the road is partially obstructed by inconsiderate vehicle parking and it becomes an unsurfaced bridleway for a significant part of its length before reverting to a footway closer to Lake.
12. The bus stops are on the east side of the roundabout. The displayed timetables indicate a reasonable level of service. However, access to these would require using Ventnor Road (or the public footpaths) and for buses in one direction, including to Lake, would require crossing Newport Road. There is a controlled crossing and central refuge on the west side of the roundabout, including dropped kerbs and tactile paving. However, access from this direction from the appeal site would require crossing Ventnor Road and then Alverstone Road, which has a dropped kerb with tactile paving but no controlled crossing point or central refuge and it is also a well-used road. The bus stops have no seating and one does not have a shelter from inclement weather. In addition, there is no raised footway or kerb at the bus stops and no evidence that buses incorporate a suspension system that allows the vehicle to drop its doors towards footway level for easy entry/egress. No improvements in these regards are proposed in this appeal.
13. Despite what I was shown, the route of public footpath NC28 (or NC29) does not connect the appeal site to Newport Road or the bus stops⁹. NC28 could be accessed to the south from the proposed site access. This edge of Ventnor Road is a grass bank which is publicly maintainable verge but there is no proposal in this appeal to improve it. Even if it became a footway, the appeal site would remain separated from NC28 by a private vehicular access and a strip of vegetation that is not publicly maintainable verge. It would therefore be necessary to use the road carriageway. Both footpaths are unlit, unsurfaced tracks and there is an appreciable gradient including steps up to Newport Road which would need to be crossed for bus services to Lake and beyond or to walk to Lake. While the financial contribution to be secured by the UU would improve NC28, it would not improve NC29¹⁰ which connects NC28 to Newport

⁸ Manual for Streets

⁹ Appellant's Planning Statement - image 38 'extract from the Council's Public Right of Way Definitive Map'

¹⁰ Definition of 'Rights of Way Contribution' in the UU

Road. I have not, in any event, been provided with any details of the envisaged 'surface'¹¹ improvements to NC28 or how it would connect to the site.

14. The walking environments of Ventnor Road and Newport Road as a means for future occupiers to access the store, bus services or Lake would therefore be an unduly dangerous experience, including during hours of darkness. In addition, the use of footpaths NC28 and NC29 would be inconvenient for even abled bodied pedestrians, especially during inclement weather or hours of darkness.
15. These circumstances would as a result materially reduce the attractiveness of walking, especially for the elderly or infirm, people with disability (including wheelchair and mobility scooter users or the visually impaired or deaf), children and adults with pushchairs. This includes people who are more likely to be distracted from, or unaware of, passing traffic by these personal considerations. It would also put pedestrians (and drivers of vehicles and cyclists) at an unacceptable risk of accident or injury and would not provide a safe or convenient route for future occupiers. Consequently, it would likely deter anyone contemplating walking or using the bus routinely and who may otherwise resort to access by the private car, especially if they are unable or unwilling to cycle. For the same reasons it would likely also deter visitors to the proposed dwellings from walking or using buses.
16. The proposal would add relatively few vehicles to traffic in Ventnor Road or Newport Road, which are subject to a 30mph speed limit. Nonetheless, these are busy roads with limited street lighting and while vehicle speeds are likely to be lower near the roundabout, there is turning or approaching traffic from other directions and as a result a high complexity of vehicle movements. The absence of a formal accident record does not mean an absence of risk of accident or injury, or that there is an acceptable risk to road users and future occupiers. Furthermore, the limited extent of the public highway and the juxtaposition of private land ownerships would not enable any meaningful improvements to these roads in these regards and, in any event, none are proposed in this appeal.
17. The site is in a rural area and the opportunity to maximise sustainable transport solutions would not be as great as in an urban area. Some car journeys, including to drop people at the bus stops or at the store, would be short distance. These would, nonetheless, be additional car journeys and add to traffic on Ventnor Road and Newport Road (which is part of the Island's strategic road network) and in this regard increased car use would not be aligned with the objective of the Framework to reduce congestion. Moreover, there is no evidence that the level of emissions 'saved' by short journeys, compared to those generated by longer journeys, would better or off-set emissions generated by engine 'cold starts' associated with more inefficient short journeys. Nor is there any proposal or suggested appropriate mechanism in this appeal to promote car-sharing or the use of ultra-low and zero emission vehicles or the provision of electric car charging points at individual properties.
18. Considering the above, I find that the location of the appeal site would not provide a suitable site for housing development and the proposal would not give a genuine choice for future occupiers to travel to facilities and services other than by the private car. Consequently, it would be contrary to IP Policies

¹¹ Council's officer report

SP1 and DM17. These policies seek to ensure that residential development takes place in the most sustainable locations to reduce the need to travel to services and facilities (and employment), particularly by the private car, and to increase choice by alternative means of travel and improve accessibility for pedestrians and by public transport, including between urban and rural areas.

19. It would also conflict with the Framework which seeks to manage patterns of growth to support opportunities to promote genuine alternatives for walking and public transport, to ensure safe and suitable access for all users, avoid an unacceptable impact on highway safety and minimise the scope for conflicts between pedestrians, vehicles and cyclists.

Other Matters

Affordable housing

20. The lack of delivery of affordable housing is a significant issue for the Island and there is a need to increase this type of housing. By virtue of the UU a requisite payment would be made towards the provision of affordable housing off-site elsewhere because the Council does not require any to be provided on the site due to the number of dwellings proposed. This obligation would comply with IP Policy DM4 and the Council's Affordable Housing Contributions supplementary planning document, March 2017. It would be an appreciable benefit of the proposal and be aligned with the objective of the Framework to meet the needs of people with specific housing requirements for affordable housing. In this regard the UU would therefore be necessary, related directly to the development and fairly related in scale and kind and, as such, accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the Framework tests for planning obligations.

Other development

21. I have been referred to some other residential development granted permission by the Council¹². 'Branstone Farm' is a mixed use development, including redevelopment or conversion of existing buildings and the residential part is a rural exceptions affordable housing scheme. At Apse Heath, none of the sites referred to required access along Ventnor Road and the Council's decision to grant permission at 'Thornbury' was also informed by the removal of two sub-standard vehicular accesses. Even if the existing vehicular access at No 31 is substandard in highways terms, it is not clear whether it is comparable to Thornbury and, in any event, the proposal would result in the removal of one access not two.
22. Development at the Methodist Church includes the conversion of existing buildings to dwellings and is close to the store and the bus stops. The site adjacent to 'Nilmotnor' is connected to the store and the bus stops initially by a service road and then a relatively narrow but unobstructed publicly maintained footway. While the Council did not use the IP Policy SP1 words 'immediately adjacent', it nonetheless considered that the site at The Ryes was 'within close proximity (35 metres approximately) to the settlement boundary of The Bay Key Regeneration Area'.

¹² Appellant's Appeal Statement – Appendix A

23. I have also been referred to some appeal decisions. In one decision¹³ permission was granted for a new dwelling in a garden not in a built-up area on previously developed land. In the other decision¹⁴, the proposal was for a conversion of existing barns to dwellings. Both cases involved access to other settlements and materially different circumstances with regard to travel by car, walking, cycling or bus.
24. All of these decisions can therefore be distinguished from the specific circumstances of the current appeal proposal.

SHLAA and emerging development plan

25. The site is included in the Council's most recent published SHLAA¹⁵ but the proposal is not for affordable housing, as is indicated in the SHLAA. In any event, its inclusion does not mean that the Council (or an Inspector) would grant planning permission for its development. The site was included as a proposed housing allocation in the Draft Island Planning Strategy but was subsequently omitted. This emerging development plan is at an early stage (Regulation 18) and accordingly, it has limited weight in this appeal¹⁶.

Revised scheme

26. I appreciate that the appeal application is a revised scheme and that the appellant considers that the proposal reflects pre-application advice given by Council officers, who also recommended that planning permission be granted. I have also been referred to the circumstances in which the application was considered by the Council's planning committee. Nonetheless, the Council made the decision that it did and I have determined the appeal on its individual planning merits.

Planning Balance

27. The main parties agree that the Council cannot demonstrate a 5-year housing land supply (5YHLS). The appellant suggests that the Council's relevant report in this regard¹⁷ indicates a forward supply of 83.15% of that necessary to demonstrate a 5YHLS. The Council has not disputed this figure. Against the Government's Housing Delivery Test (HDT) the delivery of housing was substantially below¹⁸ (ie less than 75%) the Council's housing requirement over the previous three years (at 54%). As a consequence, and either way, Framework paragraph 11(d) is engaged.
28. In terms of social benefits, the provision of seven dwellings would make a modest, but notable, contribution to housing supply on the Island and would help to meet a local need for 2 and 3-bedroom dwellings. In addition, the UU would help to meet a local need for the provision of affordable housing. In these regards, the proposal would be aligned with objectives of the Framework to meet people's specific housing needs and significantly boost the supply of homes. There would also be some economic benefits from employment and the supply of materials during the construction of the

¹³ APP/P2114/W/18/3209772

¹⁴ APP/P2114/W/19/3235033

¹⁵ Strategic Housing Land Availability Assessment, 2018

¹⁶ Framework paragraph 48

¹⁷ Five Year Land Supply Update 2018

¹⁸ Framework paragraph 222

development. Commensurate with the relatively modest scale of the proposal, these benefits therefore have moderate weight.

29. While future occupiers would likely help to maintain facilities and services, these social and economic benefits would not be achieved without undue reliance on travel by the private car. Moreover, the alleged benefit of surface improvements to public footpath NC28 have not been demonstrated. I therefore give limited weight to these considerations.
30. Notwithstanding the concerns of some interested parties, and subject to relevant conditions were I minded to grant planning permission, the proposal would be satisfactory in layout (including the vehicular access and parking provision), scale, appearance and landscaping, and in these terms would deliver high quality design. It would also provide net gains for ecology and biodiversity and would not have an unacceptable adverse effect on the living conditions of occupiers of existing dwellings. In addition, it would make suitable provision for foul and surface water drainage and would not adversely affect any mineral interest. The absence of harm, or compliance with the Council's development plan or the Framework, in these regards are therefore neutral factors in my decision.
31. However, the location of the appeal site would not provide a suitable site for housing development and the proposal would not give a genuine choice for future occupiers to travel to facilities and services other than by the private car. It would conflict with the Council's relevant development plan policies and diminish the Council's objectives in these respects. The IP approach to these matters is consistent¹⁹ with aims of the Framework to balance meeting housing needs with the objectives of sustainable development. Consequently, I give substantial weight to these considerations.
32. Notwithstanding that the benefits would be aligned with the Framework, the absence of a 5YHLS (including the extent of the shortfall) and a failure to meet the HDT, the adverse impacts of the proposed development would therefore significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.

Conclusion

33. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
34. Therefore, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR

¹⁹ Framework paragraph 219