

Appeal Decision

Site visit made on 19 November 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2022

Appeal Ref: APP/P2114/W/21/3273055

Land adjacent to Premier Inn, Newport Road, Lake, Isle of Wight

- 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 Louis Smith (W.S Group) against the decision of Isle of Wight Council.
 - The application Ref 20/01908/FUL, dated 2 November 2020, was refused by notice dated 1 March 2021.
 - The development proposed is erection of detached bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published after the determination of the planning application. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the revised Framework in determining this appeal.
3. The appellant has submitted a signed and dated planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended), which would provide financial contributions towards affordable housing and mitigation measures towards the Solent Special Protection Area (SPA). I shall address these later in my decision.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the surrounding area;
 - The effect of the proposal on the safety of users of the adjacent public right of way; and
 - Whether the proposal would make adequate provision for affordable housing.

Reasons

Character and appearance

5. The appeal site lies within proximity to an area of mixed character, which comprises some residential properties and a number of commercial premises, as well as a primary school. The site comprises a narrow strip of land, which is largely overgrown. By virtue of its open and undeveloped appearance, the appeal site has a stronger connection with the adjacent playing field and surrounding countryside, which collectively make an important contribution to the character and appearance of the area, in providing visual relief to the edge of the settlement.
6. Within this context, the proposed bungalow would, despite its proximity to existing development, appear as an intrusive built form within this otherwise open and undeveloped area. Furthermore, the incongruous nature of the development would be exacerbated by the fact that the bungalow would be sited in a somewhat segregated position on the eastern side of the footpath, and away from the road frontage. As a result, this would give the site a disjointed appearance, in that the proposal would fail to reflect the prevailing form and pattern of development in the area.
7. The single storey nature of the dwelling would to some extent reduce the visual impact of the development, and the design approach which characterises the bungalow is considered acceptable, especially as the architectural style and palette of materials found in the immediate vicinity is relatively varied. Nevertheless, this would not overcome the harm resulting from the introduction of built development on the site in a piecemeal fashion, and which would be visible within the public realm, notably along the right of way.
8. Whilst the site is not located in the Green Belt or a designated landscape, the appeal scheme would nevertheless unacceptably harm the character and appearance of the surrounding area, and would consequently conflict with Policies SP1 and DM2 of the Island Plan Core Strategy¹ (CS). These require proposals on non-previously developed land to demonstrate how it will enhance the character and context of the local area, whilst also seeking to ensure that developments are of a high quality and inclusive design.

Safety

9. As part of the proposal, a vehicular access would be created onto a relatively narrow lane, which is designated as a public footpath (SS24). The unbound surface is dedicated to the Council as the Local Highway Authority, and the Council is responsible for ensuring that it is maintained in a safe and convenient condition for pedestrians.
10. Although the lane presently provides access to two houses, the proposed development would generate additional motor vehicle movements on a surface principally designed for pedestrian use and which does not lend itself to an intensification of use. As a result, this would, overtime, damage the physical condition of the public footpath which in turn could cause hazards for users of the lane.
11. Despite the widening and improvement works along the lane and at the junction with Newport Road which are included within the proposal and even though vehicles would be likely to travel at low speed, the development would also increase the risk of conflicts with users of the right of way. In particular,

¹ March 2012.

and whilst the Local Highway Authority raised no objection to the development, I am concerned that vehicles would be unable to enter and leave the site in a forward gear. Drivers exiting the site would be likely to reverse onto the lane, which could increase the risks of conflicts occurring with users of the right of way. Whilst the movements associated with one dwelling may remain limited, the intensification of use by motor vehicles would overall reduce the pedestrians' ability to use the public footpath in a safe and convenient manner.

12. It is of note that the Council has previously granted planning permission² for the erection of a dwellinghouse with vehicular access onto the lane which, I understand, neither the Local Highway Authority nor the Rights of Way section objected to. Other than the proposed site plan and the decision notice, limited information has however been presented regarding this particular scheme. Accordingly, I cannot be certain that the circumstances of this neighbouring development, which would have been approved prior to the publication of the Framework or the adoption of the development plan, constitute a direct parallel to the proposal before me.
13. For the foregoing reasons, the proposal would prejudice the safety of those using the public footpath and would subsequently conflict with the design aims of CS Policy DM2 and the requirements of CS Policy DM17, which notably seeks to ensure that development proposals improve accessibility for pedestrians.

Affordable Housing

14. The appeal site lies within a Key Regeneration Area where, in accordance with the requirements of CS Policy DM4 and the Council's Affordable Housing Contributions Supplementary Planning Document³ (SPD), developments of 1-14 units are expected to provide financial contributions towards affordable housing.
15. As noted above, a signed and dated planning obligation was submitted during the course of the appeal, which would notably secure a financial contribution towards affordable housing. Having regard to the available evidence, I am satisfied that this contribution is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
16. The submitted obligation, insofar as it relates to the affordable housing contribution, would meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Accordingly, the proposal would make an adequate provision towards affordable housing and on this basis, I find no conflict with CS Policy DM4 and the Council's Affordable Housing Contributions SPD.

Other Matters

17. The site lies within proximity to the Solent and Southampton Water Special Protection Area (SPA), which is recognised as being of international significance for supporting significant numbers of overwintering bird species. The Council considers that the proposed development could have a likely significant effect on the integrity of the SPA (either individually or in combination with other

² Local Planning Authority Reference P/01838/06.

³ Adopted March 2017.

plans and projects) notably by reason of additional recreational pressures, unless suitable mitigation is provided.

18. The Solent Recreation Mitigation Strategy⁴ (SRMS) therefore aims to prevent bird disturbance arising from recreational activities, through a series of measures which seek to mitigate against the impacts from additional development. In particular, it requires development proposals located within the 5.6km zone of influence for the protected areas to make a financial contribution towards mitigation measures, which are normally secured through the completion of a planning obligation. As the appeal is being dismissed on other substantive grounds, this is not a matter which needs to be considered further here. However, had I been minded to allow the appeal, I would have sought to complete an Appropriate Assessment, to ensure the development's compliance with Habitats Regulations.

Planning Balance

19. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites, although limited evidence has been presented regarding the extent of the shortfall. In these circumstances, paragraph 11d) of the Framework, as directed by Footnote 8, states that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
20. The proposed development would enable the construction of an additional dwellinghouse within a relatively accessible location also identified as a Key Regeneration Area. The appeal scheme would support the local economy, not just during the construction period, but also because future occupiers of the development would in all likelihood use local services and facilities. The appeal scheme would also make a financial contribution towards affordable housing. These considerations weigh in favour of the development, and are ascribed moderate weight.
21. However, I have also found that the appeal scheme would have a detrimental impact on the character and appearance of the surrounding area, and compromise the safety of the users of the adjacent public right of way. The harm which would result from the development is afforded significant weight. Overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits associated with the proposal. Taken as a whole, the appeal scheme does not constitute sustainable development which the Framework carries a presumption in favour of.

Conclusion

22. There are no material considerations, which indicate that the appeal should be determined other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

⁴ December 2017.