



Appeal Decision

Site visit made on 4 January 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2022

Appeal Ref: APP/P2114/W/21/3274322

Land adjacent car park, Shore Road, Bonchurch PO38 1RN

- 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 D and J Scovell against the decision of Isle of Wight Council.
 - The application Ref 20/02118/FUL, dated 2 December 2020, was refused by notice dated 28 January 2021.
 - The development proposed is described as 'new holiday unit'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. 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 main parties have had the opportunity to comment on this matter, and I have taken account of the updated Framework in determining this appeal.
3. The Council's second reason for refusal refers to the effect of the development on the adjacent Site of Special Scientific Interest (SSSI). Within its statement of case, the Council has however clarified that the SSSI was quoted in error, and that the reason for refusal should have instead been referred to the adjacent Site of Importance to Nature Conservation (SINC). I shall proceed on this basis.

Main Issue

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area and wider landscape; and
 - The effect of the proposal on protected species.

Reasons

Character and appearance

5. The appeal site comprises a garage with pitched roof and appears to be largely used for storage purposes. Whilst the garage is of no particular architectural merit, its modest size and nestled position against the retaining wall forming the site's western boundary, set back from the road frontage, mean that it

remains relatively inconspicuous and does not stand out within the street scene. The site lies immediately adjacent to the cliff top and, together with the neighbouring car park and area of public open space, forms part of a stretch of open and exposed frontage providing extensive sea views. For these reasons, the appeal site makes an important contribution to the locality's coastal setting.

6. The site lies outside of any defined settlement boundary and therefore falls within the Wider Rural Area. Outside of defined settlements, the Council supports sustainable growth in high quality tourism proposals that increase the quality of accommodation across the Island, in accordance with the requirements of Policy SP4 of the Isle of Wight Core Strategy¹ (CS). By reason of its proximity to the shore of Ventnor and its range of facilities, it is agreed that the proposal would support the Island's tourism industry.
7. Although the existing garage is proposed to be demolished, the intensification of development relative to the size of the plot would be significant, especially by virtue of the excessive depth and overall footprint of the new building, as well as the extensive hardstanding area required for the provision of parking and turning. Despite its single storey scale, these aspects of the proposal would be exacerbated by the siting of the building along the site's eastern boundary which, combined with its excessive depth, would unduly stand out within the street scene and when viewed from the adjacent car park. Whilst additional landscaping would be positive, there is no certainty, having regard to the available evidence, that it would provide effective screening from all vantage points, or that it could remain in place for the lifetime of the development.
8. It is accepted that the appeal building would be within proximity to existing single- and two-storey dwellings situated either side of the Shore Road frontage. However, for the reasons given above and due to the site's particular characteristics, the appeal scheme would constitute an incongruous addition to this open frontage, which would detract from the prevailing pattern of development and diminish the landscape character of the locality.
9. Given the above, the proposed development would fail to preserve or enhance the character and appearance of the surrounding area and the wider landscape, and would subsequently conflict with CS Policies SP4, SP5, DM2 and DM12, as well as paragraph 130 of the Framework. Whilst being supportive of tourism related development, these Policies seek to ensure that proposals are of a high quality design and utilise the unique characteristics of the historic and natural environments, without compromising their integrity.

Protected species

10. The appeal site is immediately adjacent to the Bonchurch Undercliff SINC, which is designated for the coastal flora and invertebrate species it supports. The Council's submissions indicate that a number of protected species such as invertebrates, breeding birds or reptiles may be present on site, having particular regard to Glanville Fritillary butterflies and wall lizards. It is therefore suggested that conservation and enhancement measures may be required to mitigate the effect of the development.
11. The appellants have sought to address the Council's concerns by submitting a Preliminary Ecological Report² (PEA) prepared by Woodside Tree Consultancy.

¹ March 2012.

² Ref: AS/AS/0321, dated 19 March 2021.

As detailed within the PEA, no evidence of bats, badgers, nesting birds, reptiles, great crested newts, dormice, invertebrates or any protected or priority species was found during the survey. This could to some extent be explained by the site's characteristics, including its relatively constrained size.

12. However, it is also of note that the survey may not have been conducted at the most appropriate time of the year, to ascertain whether reptiles, in particular, could be present on site and adversely affected by the proposed development. As set out in Circular 06/2005³, 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
13. Furthermore, the presence of various reptile species has previously been recorded within proximity to the site, which is also recognised as providing suitable reptile habitat. On this basis, and in the absence of further survey work, the reasonable likelihood of protected species being present and affected by the development cannot be excluded. As surveys should only be required by condition in exceptional circumstances, and given the site's proximity to the SINC, I consider that this matter could not be satisfactorily addressed through the imposition of a planning condition.
14. The PEA includes a number of recommendations, to ensure that opportunities to improve biodiversity are integrated as part of the design. These include landscaping and habitat enhancement measures which, despite the works that may have taken place recently on site, could theoretically be subject to a condition requiring the implementation of a scheme to be firstly approved by the Council.
15. However, some of these recommendations, which were formulated after the determination of the planning application, are not reflected on the proposed plans, and I am mindful that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused. By reason of the discrepancies between the proposed plans and the recommendations of the PEA, and without the benefit of further survey work, this issue could not overcome either by way of a condition.
16. Having regard to the available evidence, the reasonable likelihood of a number of protected species being present on site cannot be excluded, and there is no certainty that the suggested mitigation measures would appropriately safeguard protected species and their habitats. Accordingly, the appeal scheme would not accord with paragraph 180 of the Framework, and CS Policies SP5 and DM12. These Policies notably require development proposals to protect, conserve and/or enhance the Island's natural environment.

Other Matters

17. The Council has issued a Position Statement following concerns raised by Natural England of likely significant effects on several internationally designated sites, including Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites. The Solent is currently in an unfavourable condition by reason of excessive levels of nitrogen notably

³ Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.

associated with new developments, which are causing an excessive growth of green algae. This is having a detrimental impact upon protected habitats and bird species.

18. As the appeal is being dismissed on other substantive grounds, this is not a matter which needs to be considered further here. However, had the development been considered acceptable in all other respects, an Appropriate Assessment would have had to be carried out, to ensure the proposal's compliance with Habitats Regulations.

Planning Balance and Conclusion

19. The provision of a holiday unit in this area would support the tourism industry. There is also a suggestion that there would be ecological benefits as a result of the landscaping improvements associated with the proposal, but these could be similarly achieved without necessitating the construction of the proposed holiday units. Overall, the economic benefits which would be derived from the appeal scheme would be outweighed by the harm which would be caused to the character and appearance of the area and protected species, in the absence of sufficient information to ensure that any disturbance would be satisfactorily mitigated.
20. 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