
Appeal Decision

Site visit made on 1 February 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2022

Appeal Ref: APP/P2114/D/21/3280945

5 Hollowood Road, Newchurch PO36 OHR

- 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 Alison Newland against the decision of Isle of Wight Council.
 - The application Ref 20/01525/FUL, dated 9 September 2020, was refused by notice dated 6 July 2021.
 - The development proposed is alterations and single storey extension to existing garage to form self-contained annex.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above is taken from the appeal form and decision notice, since this more succinctly describes the proposed development than the description on the application form.
3. Since the refusal of the planning application, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. I have taken the revised Framework into account where relevant to my decision.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, having particular regard to the impact on protected trees.

Reasons

5. The appeal site is located on the east side of Hollowood Road, a cul-de-sac within Alverstone Garden Village (AGV), and within an Area of Outstanding Natural Beauty. The residential development has an inherently sylvan character, comprising detached bungalows and two-storey dwellings, which are sited within a wooded, green and tranquil setting. Properties are generally open plan with soft landscaped front gardens, or set behind hedged or treed frontages.
6. The evidence before me is that the AGV was developed within an established deciduous woodland. The appeal site lies within an area covered by a Woodland Tree Preservation Order. Mature trees are visually dominant within the townscape, providing a green backdrop to dwellings, verdant separation between properties, and tree-lined roadsides. As such, the trees are integral to,

- and make a positive contribution towards, the existing pleasant, leafy semi-rural townscape of the AGV.
7. The appeal site lies near the middle of the residential estate, and the existing detached two-storey house, and detached garage to the side, are set back from the site frontage and positioned amongst soft landscaping and trees. As such, the relationship between built development and surrounding mature vegetation on the appeal site reflects that which is characteristic of the AGV as a whole.
 8. Three mature Oaks make a notable positive contribution to the visual amenities of the appeal site, and are visually prominent within views from the public realm. Tree T1, as identified on the appellant's submitted Tree Protection Plan, Ref BS191203TPP, comprises two trees which form one canopy, located near the front of the appeal site and the boundary with No. 6. Trees T2 and T3 are sited on neighbouring land to the rear of the garage. These three Oaks are in a good condition, and due to their heights, and canopy sizes and spreads, are of high public amenity value and make a positive contribution to the townscape of the locality.
 9. Due to their proximity to the front and rear of the existing garage and their large canopies, these trees result in significant enclosing and shading effects upon the building and its immediate surrounds.
 10. At present, given the storage use of the garage building, such impacts are not unduly inconvenient, having regard to the living conditions of the occupants of the appeal site. However, the proposal would result in a self-contained unit of living accommodation. As such, the occupants of the building would expect to enjoy a reasonable standard of living conditions, and this would potentially impact on the future maintenance and retention of these trees.
 11. Accordingly, whilst I am satisfied, on the basis of the evidence before me, that subject to appropriate protective construction methodology, there would be no direct adverse effect on the three Oaks during the construction of the appeal scheme, I have concerns in respect of the longer term impact of the appeal scheme.
 12. The appellant's submitted Arboricultural Impact Assessment, Tree Survey and Tree Protection Plan dated 1 February 2020 (the Tree Report) acknowledges that there may be a need for periodic light pruning of the canopies of trees T1 and T2 in order to maintain clearance with the roof of the converted and extended building. The report also acknowledges the potential need for future maintenance of the building to ensure that falling leaves and twig debris do not block the guttering. The appellant maintains that the anticipated amount of pruning would be reflective of that required for trees in general within the AGV, which was built within an existing woodland setting, so that buildings are generally sited close to trees.
 13. I must determine this appeal on the basis of the existing appeal site circumstances, and the merits of the appeal scheme before me. The proposed extension would be partially under the crown spread of Tree T1. Whilst there would be a gap of around 0.5 m between the lowest part of the crown and the roof ridge at the closest point, the tree appears to be healthy, and it is likely that it will continue to grow. As such I find that, given its likely continuing future dominance over the garage building, it has the potential to result in inconvenience or fear of danger to future occupants of the appeal scheme, as a

result of shading, an overbearing presence, and debris or branch fall. As such, there is a strong possibility that future occupiers of the appeal site would want to undertake pruning or similar works to the tree, which have the potential to prejudice its long-term health and amenity value.

14. My view is reinforced by consideration of the living conditions of the future occupants of the annex. The proposed residential unit would be small in size, and positioned in a constricted location within close proximity to the rear and side site boundaries, where mature trees and shrubs result in an enclosing effect to the rear and southwest side of the building.
15. Accordingly, the only proposed fenestration to the bedroom, a door and small window, would be sited in the northeast elevation, as would the French doors to the combined living/kitchen/dining room. As such, natural daylight entering these rooms from these openings would be severely limited as a result of their orientation, and due to screening/shadowing effects arising from the mature trees close to the building. In addition, the proposed northwest facing window to the combined living area, would have additional light restrictions as a result of direct shading by Tree T1 during an extensive period of the day.
16. Whilst acknowledging that the proposal would not extend under the canopies of trees T2 and T3, these trees, together with groups of smaller boundary trees, identified as G1 and G2 in the Tree Report, would contribute to the gloomy environment around the converted and extended building.
17. I have noted the proposed inclusion of three sun tubes to provide additional light to the living/kitchen/dining room. However, I am not persuaded that it is appropriate to rely upon these sources of light in respect of this principal room, and this would not satisfy my concerns about the overall oppressive living environment for future occupiers, where there would be no windows within the dwelling which would enjoy a reasonably sunny outlook. As such, this does not overcome my concerns about potential future pressure for works to reduce the shading effects resulting from surrounding trees.
18. Moreover, although the trees are protected, and two lie outside the appeal site, the Council would struggle to refuse subsequent tree work applications for felling or lopping the trees on safety grounds due to their proximity to the new annex dwelling. Therefore, the potential for future damage to the trees arising directly from the appeal proposal would conflict with the Council's confirmed intention to protect these trees, and would present a credible threat of causing harm to the visual amenities of the area.
19. With the precautionary principle in mind, I cannot be certain that the proposal would not risk the long-term health and survival of these trees, and thereby harm the character and appearance of the area, having regard to the positive contribution the trees make to the visual amenities of the locality.
20. For the above reasons, I therefore conclude that the proposal represents a significant threat to the character, amenity value and longer-term survival of the Oaks referred to in the Tree Report as T1, T2 and T3, which would materially harm the character and appearance of the area. As such, the proposal would be contrary to Policies SP5, DM2 and DM12 of the *Island Plan Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document* (2012). These policies, amongst other things, seek to ensure that new development protects the Island's built

environment, that where appropriate and practical, it contributes to environmental conservation and enhancement, that it provides an attractive and functional built environment with a sense of place, and that it has regard to existing constraints such as trees, which significantly contribute to the character of the area.

21. The proposal would also conflict with the objectives of chapters 12 and 15 of the Framework, of achieving well-designed places and conserving and enhancing the natural environment.

Other Matters

22. The appellant has submitted a completed unilateral undertaking (UU), pursuant to section 106 of the Town and Country Planning Act 1990, in respect of the payment of a Habitat Mitigation Contribution to provide appropriate mitigation against potential harm caused by recreational disturbance arising from the development to the Solent Special Protection Area (SPA). This European designated site is identified as being of international importance for the breeding, feeding, wintering or migration of rare and vulnerable species of European Union birds. This proposed mitigation accords with the *Bird Aware Solent Recreation Mitigation Strategy* (2017).
23. Notwithstanding that this matter does not constitute a reason for refusal, within the context of the appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment of the implications of the appeal scheme for the European designated site.
24. However, as the main issue provides clear reasons for dismissing the appeal, the outcome of any such Appropriate Assessment would have no bearing on the overall outcome of this appeal. Therefore, I do not need to consider this matter any further as part of my decision.
25. I acknowledge that the proposal represents an amended scheme from that refused under planning application Ref 20/00373/FUL, including the replacement of roof lights with sun tubes, and French doors with a single door and window, and the proposed incorporation of shallow engineered foundations. However, these changes do not alter my findings in respect of the current proposal.
26. I have given careful consideration to the appellant's requirements for additional living accommodation for an elderly relative. However, I am not persuaded by the evidence before me that the proposal is necessary to achieve the required accommodation. Also, I am mindful of the advice contained in Planning Practice Guidance¹ that, in general, planning is concerned with land use in the public interest. It is also probable that the proposed development would remain long after the current personal circumstances cease to be material. For these reasons, I therefore find that this factor is not sufficient to outweigh the harm that would be caused contrary to the development plan and the Framework.

¹ Paragraph 008 Reference ID 21b-008-20140306 – 'What is a material planning consideration?'

27. I acknowledge that no neighbour objections have been received. However, this does not affect my conclusions in respect of the main issue.
28. The Council has raised no objection to the appeal scheme in respect of matters including detailed design, living conditions of the host property and neighbouring dwellings, and impact on dark skies. However, these are requirements of national and local planning policies in any case, and do not outweigh my conclusions on the main issue.

Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR