
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: 14 February 2022

Appeal Ref: APP/P2114/W/21/3277705
74 Watergate Road, Newport PO30 1XP

- 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 Richard Alexander John Minns against the decision of Isle of Wight Council.
 - The application Ref 20/01260/FUL, dated 5 August 2020, was refused by notice dated 28 January 2021.
 - The development proposed is detached dwelling and repositioned access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the refusal of the planning application and the submission of this appeal, 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.
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), in respect of financial contributions towards affordable housing and mitigating the potential impacts of the proposal on the Solent Special Protection Area (SPA). These are matters which did not constitute reasons for refusal, but to which I return later in my decision.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of 74 Watergate Road, having regard to private outdoor amenity space provision, outlook and privacy; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

5. The main areas of private functional garden space for the occupiers of the host property lie to the west and south of the bungalow. The former is at a higher

level than the property and includes a large area of lawn with a small group of trees, together with an area which is used for cultivation, and includes a greenhouse, plant frames and growing beds. The area to the south of the dwelling includes a large paved patio and a glazed conservatory.

6. It appears to me, from my observations during my site visit, that these areas of the garden provide the main areas of outdoor living space for the existing occupants due to the presence of domestic paraphernalia, including garden furniture, and evidence of gardening activities therein. I also note that the enclosed, smaller and northerly-facing garden adjacent to the boundary with No.72, and the sloping and less private area of lawn to the front of the building, are less attractive as outdoor living space due to their orientation and/or lack of privacy.
7. The areas immediately to the west and south of the building also have an important role in the outlook enjoyed from within the property due to the presence of large principal windows and glazed conservatory walls.
8. The proposed new building, garden, driveway and turning area would cumulatively 'wrap around' the west and south side of the host property. This would significantly reduce the size of these important areas of outdoor amenity, and have a notable impact on the outlook from them as a result of the introduction of domestic built development and independent residential use in their place. The result would be an enclosing and oppressive impact on the outlook from these areas of the host property, which would be detrimental to the living conditions of its occupants.
9. These negative effects would partly arise due to the elevated position of the proposed dwelling in relation to the host property and its remaining, and reduced, south and west facing outdoor amenity space, combined with the steeply-pitched roof design of the new building and its orientation with gables ends facing the host property.
10. The harmful effects would be compounded by impacts arising from the close proximity of the proposed new driveway to the patio and conservatory of the host property, both in terms of physical built development, and the impacts of passing vehicles and pedestrians accessing and exiting the new dwelling.
11. The juxtaposition of the new driveway and turning area for the new dwelling would give rise to a loss of privacy for the occupiers No.74. There would also be potential noise disturbance impacts associated with vehicle engines, which may be subject to revving when accessing the dwelling due to the increase in land levels towards the rear of the site, driver and passenger conversations, and in-vehicle music/entertainment systems, and light disturbance from vehicle headlights.
12. I acknowledge the appellant's intention to address the matter of living conditions by means of a comprehensive landscaping scheme, to maximise segregation between the new and host properties and provide a sense of place for the remaining garden of the host property. This would include evergreen Griselinia hedging adjacent to the eastern boundary of the new plot and along part of the side of the access drive. However, the proposed boundary hedging, together with a smaller section of heavy duty privacy trellis panels, if sufficiently dense and high to provide effective screening, would also be likely

to exacerbate negative oppressive impacts on the outlook from the host property.

13. Moreover, the implementation and future retention of landscaping could not be guaranteed in the future, and it is not appropriate to rely upon sufficiently high boundary landscaping to screen new built development of an inappropriate design and layout for its surroundings.
14. My attention has been drawn to the access arrangements in respect of new dwellings which have been approved at Nos. 68 and 70. However, the site circumstances in respect of these developments are not identical to those of the appeal scheme, including the orientation of the dwellings, the spacing between the host and new properties, and the juxtaposition of the shared access roads in relation to the most well-used areas of outdoor amenity and outlook of the host properties.
15. The appellant has also compared the impact of an approved two-storey dwelling at No.80 with the proposed single storey appeal scheme dwelling, stating that the former would have a greater impact upon the outlook from the host property. However, the two schemes differ notably in respect of the juxtaposition of each dwelling in respect of the host property and ground level differences. As such, the approved scheme at No.80 does not justify approval of the appeal scheme. In any event, I must determine this appeal on the merits of the appeal scheme before me, and the appeal site circumstances.
16. I acknowledge that the proposal represents an amended scheme from that refused under planning application Ref 19/01125/FUL. Whilst the changes to the scheme have been noted, including a reduction in the dwelling size, change to building layout, repositioning of the vehicular access, and inclusion of a comprehensive soft landscaping scheme, this does not alter my findings with respect to the current proposal.
17. For the above reasons, I therefore conclude that the proposal would materially harm the living conditions of the occupiers of 74 Watergate Road, having regard to private outdoor amenity space provision, outlook and privacy. As such, the development would be contrary to Policy DM2 of the *Island Plan Isle of Wight Core Strategy* (2012) (the Core Strategy), which, amongst other things, seeks to ensure that all new development responds to a clear understanding of social context and provides a functional built environment.
18. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (Paragraph 130).

Character and appearance

19. The appeal site lies on the west side of Watergate Road within an established residential area near the southern edge of Newport. This side of the road, within the vicinity of the appeal site, is characterised by detached, bungalow, chalet and two storey dwellings, set within maturely landscape plots, and at a higher ground level than the road, reflecting the rising ground levels towards the rear of the sites.
20. There is a prevailing loose urban grain, comprising a sporadic arrangement of dwellings, set within wide, well-landscaped plots and having no regular front building line, or building orientation in relation to the street. This contrasts

markedly with a more formal arrangement of detached and semi-detached dwellings on the opposite side of the road, which are set at a lower level than the road, within narrower plots, and having a more regular street-facing orientation and front building line.

21. Soft landscaping and trees around buildings and site frontages contribute to a pleasant verdant townscape, which is reflective of the proximity of this part of the road to open countryside to the south and west, and the site and surrounding area are covered by group Tree Preservation Order.
22. The appeal site is occupied by a detached bungalow and garage, which are centrally located on a large plot, which includes well-established front and rear gardens, incorporating mature trees and shrubs, planted beds and lawns. As such, the site is reflective of the prevailing character of the area and makes a positive contribution to the street scene.
23. Recent residential development has taken place close to the site, which has introduced a tandem arrangement of detached dwellings at Nos. 68, 70 and 80, with new properties having been approved either to the front or rear of existing dwellings, and, in the case of the former two approvals, utilising shared accesses from Watergate Road.
24. The proposed layout of development would be in keeping with the prevailing ad hoc positioning of detached dwellings in this part of the road, and it would result in a similar separation distance between front and rear properties to that which exists on the neighbouring site to the south. Although sited towards the rear of the site, the new building would not appear unduly cramped or intensive, having regard to the variety of dwelling layouts within the locality.
25. The proposal would retain a notable amount of soft landscaping as part of the garden to the new dwelling and the retained garden to the host property. The gardens of both side neighbouring properties would provide intervening space between those buildings and the new bungalow, and the open undeveloped land to the rear would contribute to providing a spacious setting to the building. Accordingly, the proposal would not be perceived as significantly less spacious in layout terms than some of the neighbouring existing dwellings, and would retain a sufficiently verdant setting so as not to harm the visual amenities of the locality.
26. Moreover, subject to appropriate tree protection and replacement tree planting, the proposal is capable of being carried out without detrimentally harming trees of high visual amenity value, or eroding the positive role played by intervening trees in softening built development.
27. Whilst sited in an elevated position at the rear of the site, and in alignment with the new access drive rather than the rear of the host property, the proposed building would not appear unduly visually prominent when viewed from the public realm of the street. This is in part due to the proposed low rise single storey design and the muted grey materials. I also observed that views of rear-positioned dwellings of recently redeveloped plots within the site vicinity are currently evident within the street scene. As such, the proposal would not appear unduly visually prominent within the townscape.
28. Accordingly, the appeal scheme would assimilate into the surrounding built development without resulting in demonstrable harm to the character and

appearance of the area. As such, the proposal would accord with Core Strategy Policy DM2, in so far as this policy supports proposals for high quality design, and requires new development to provide an attractive built environment, have regard to existing constraints including adjacent buildings, topography, trees or other features which significantly contribute to the character of the area, and to complement the character of the surrounding area.

29. For similar reasons, the development accords with guidance in Chapter 12 of the Framework which requires well-designed places.

Other Matters

SPA

30. 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 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).
31. 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 (AA) of the implications of the appeal scheme for the European designated site.
32. However, as the first main issue provides a clear reason for dismissing the appeal, the outcome of any such AA 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.
33. In addition, Natural England has advised that a net increase in housing development within the Solent catchment area is likely to have significant effects on internationally designated European sites due to the prospect of increased levels of nitrogen and phosphorus entering the water from waste water from residential development, resulting in eutrophication affecting the nutrient water quality of the SAC estuary, mudflats and sandflats and sandbanks, and resulting thick mats of algae which can cause important habitat and bird feeding grounds to be unavailable for use, thereby affecting the status and distribution of key bird species against the stated conservation objectives of the SPA.
34. The appeal scheme comprises new residential development with additional occupiers which would generate additional wastewater. The Council states that Southern Water has confirmed that wastewater from the development would discharge to the Sandown Wastewater Treatment Works which outfall into the English Channel, so that wastewater from the development would not enter the Solent Catchment. As such, in accordance with the Council's Position Statement on nitrogen neutral housing development, the appeal scheme does not have to

demonstrate nutrient neutrality. The Council is satisfied that this matter can be dealt with by means of a planning condition.

35. As the competent authority, I need to be satisfied that any mitigation scheme for neutralising nitrogen is certain at the time of AA, so that no reasonable scientific doubt remains as to the effects of the development on the international sites. However, as the outcome of any such AA would not affect the overall outcome of this appeal, there is no requirement for me to consider this matter further.

Affordable housing

36. The appeal site lies within a designated Key Regeneration Area, where residential developments of 1 – 14 units are expected to provide financial contributions towards affordable housing, in accordance with the requirements of Core Strategy Policy DM4 and the Council's *Affordable Housing Contributions Supplementary Planning Document* (2017).
37. Having regard to the available evidence, I am satisfied that the financial contribution towards affordable housing, which would be secured through the submitted signed and dated planning obligation, 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.
38. As such, the submitted obligation, in so far as it relates to the affordable housing contribution, would meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

Planning balance

39. The Council is unable to demonstrate a five-year supply of deliverable housing sites. As such, paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a five-year housing land supply cannot be demonstrated. Paragraph 11 states that where relevant policies are out of date, 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, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.
40. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be within a designated settlement boundary, where access to facilities and public transport connections is likely to be greatest.
41. It would make a small contribution towards the Council's housing supply, including providing a size of dwelling for which there is an identified need, and it could be built out relatively quickly, having regard to paragraph 69 of the Framework. There would be economic benefits as a result of the construction of the dwelling and economic and social benefits as a result of its future occupation. The proposal would also make a financial contribution towards

affordable housing. These considerations weigh in favour of the development, and I afford them moderate weight.

42. The appellant has stated an intention to provide a self-build home, and there is positive support for the provision of such units in national and local policy. This also weighs in favour of the scheme. However, the weight I attach to this is significantly diminished by the absence of a legal agreement or other mechanism before me to secure the delivery of the proposal as a self-build unit.
43. The Council has raised no objection to the appeal scheme in respect of matters including the principle of development, highway safety and parking, the living conditions of the occupiers of Nos. 72 and 80, and the impact on trees. In terms of the planning balance, the lack of identified harm is a neutral factor that does not diminish the significant harm that would arise from the proposal in respect of the impact on the living conditions of the occupiers of No.74.
44. There is no cogent evidence before me that the deficit in the Council's supply of housing is currently acute. Moreover, the harm I have identified to the living conditions of occupiers of the host property would be significant. As a result, the social objective of sustainable development of providing a good standard of residential amenity, would not be achieved.
45. Whilst the Framework encourages the effective use of land in meeting the need for homes, and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified, and would not address or outweigh the aforementioned harm that I have identified in respect of the first main issue.
46. I have given careful consideration to the appellant's family-related requirements for additional living accommodation close to No.74. 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.
47. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits, and the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

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

S Leonard

INSPECTOR

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