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# Appeal Decision

Site visit made on 4 May 2022

**by Nicola Davies BA DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2022**

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**Appeal Ref: APP/P2114/W/21/3276858**

**Woodland to the south of Love Lane, Bembridge, Isle of Wight, PO35 5XY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Love Lane IOW Ltd against Isle of Wight Council.
  - The application Ref 21/00224/FUL, is dated 3 February 2021.
  - The development proposed is 2 holiday units with parking.
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## Decision

1. The appeal is dismissed and planning permission is refused.

## Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was submitted to the Council. I have had regard to the revised Framework in reaching my decision.
3. During the course of the Council's consideration of the planning application revised plans LP001 P3 and LP002 P2 were submitted to the Council. I have had regard to these updated plans in reaching my decision.

## Background and Main Issues

4. This appeal has been lodged following the Council's failure to determine the planning application. Notwithstanding this, the Council, in their appeal statement, has put forward reasons for refusal had it been in a position to determine the application. Having regard to those reasons given, I consider the main issues are: -
  - a) The effect of the proposed development upon the character and appearance of the woodland that is subject to a Tree Preservation Order (TPO);
  - b) Whether a satisfactory standard of accommodation would be provided for use as holiday let accommodation; and
  - c) Whether the holiday let accommodation would result in pressure to cut back or remove woodland trees.

## Reasons

### *Character and appearance*

5. The land to the north and east of the site on the opposite side of Love Lane is characterised by sizeable dwellings that host large, landscaped gardens with open lawns surrounded by dense belts of woodland. To the west the

development comprises residential housing estates of modestly sized dwellings within smaller plots. The well-used public path of Love Lane has a verdant and leafy appearance that contributes to the change in character between the residential estates to its west and the coastal landscape to its east. The woodland contributes to this change in character and although a small woodland area, it nonetheless makes a positive contribution to the coastal landscape.

6. The holiday lets would be sited within a clearing within the woodland where some dead trees have been removed. I accept that the development would be seen in a similar way as those other properties along Love Lane. They would be set back from Love Lane; however, a parking area and pedestrian access would be created directly onto Love Lane. The units would be smaller than the dwellings within the housing estate and be to some extent nestled within the woodland. However, the access with highway visibility splays would require tree and vegetation along Love Lane to be removed. This would increase the development's prominence when seen from Love Lane.
7. Given the wooded nature of the site and absence of built development, placing built development with associated decking, parking area and access on this land would significantly diminish the rural woodland character of the site and its contribution to the wider coastal landscape area. Consequently, the proposal would not be a sympathetic development within this protected woodland or to the leafy character of Love Lane. The development would be visually harmful for these reasons. The visual harm arising from the development would be clearly visible to the public from Love Lane. The design of the holiday lets, incorporating a bespoke moss-roofed designed and timber finish would not overcome this harm.
8. Mitigation planting of trees and woodland plants within the site has been put forward but this would take a long time to establish. Even with new tree planting the proposal would not be a sympathetic development within the woodland. I do not consider that additional trees would ameliorate this objection sufficiently to allow permission to be granted.
9. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the protected woodland. The proposal would, therefore, conflict with Policies SP4, SP5, DM2 and DM12 of the Isle of Wight Core Strategy Island Plan 2012 (the Island Plan) and Policies BNDP T1 and BNDP D1 of the Bembridge Neighbourhood Development Plan 2014 (the Neighbourhood Plan). These policies seek, amongst other matters, proposals to protect, conserve and/or enhance the Island's natural environments and to avoid development that would have a demonstrable adverse impact on the Island's natural environment. Developments are required to have regard to existing constraints such as trees, amongst others, which significantly contribute to the character of the area.

#### *Standard of accommodation*

10. The site is narrow and is sandwiched between the rear boundaries of properties at Meadow End to the west and Love Lane public path to the east. To the north and south of the holiday lets is woodland. The primary outlook respectively for these small holiday units would be north and south. The outdoor decked areas associated with the units would be close to Love Lane.

11. The indoor and outdoor living spaces would be oversailed by woodland trees resulting in these spaces being dark and gloomy environments in which to spend time. This would be so despite the development hosting large windows. Furthermore, the holiday visitors would not be afforded significant privacy due to the close proximity of Love Lane. Taking these matters collectively, this would not create a high-quality environment for holiday visitors. Holiday visitors are likely to spend time away from the accommodation, however this does not justify accommodation of lesser than high-quality standard.
12. For the above reasons, I conclude that the proposed development would not provide a satisfactory standard of accommodation for use as holiday lets. The proposal would, therefore, conflict with Policies SP4, SP5, DM2 and DM12 of the Island Plan and Policies BNDP T1 and BNDP D1 of the Neighbourhood Plan. These policies seek, amongst other matters, high quality tourism accommodation across the island.

### *Impact upon trees*

13. The trees would shade both the holiday lets and their associated outside environments and would create gloomy living environments. As such, the trees would be under significant pressure for removal or works to improve the living environments for visitors. Although the TPO could control such works, the proximity of the trees and the effect on outlook and daylight/sunlight would make it hard to resist such future works.
14. Holiday visitors would not necessarily be limited to the accommodation and deck area, they would also have access to the woodland. Activity relating to storing of bicycles or surfboards, amongst other paraphernalia, could cause compaction and general loss of fauna over time and this would be a loss to the woodland characteristic attributes and would reduce the regeneration potential and tree seed availability thus lowering the woodland potential.
15. Further to the above, dominance of the trees would bring about a perception of the threat of the trees collapsing or damaging the holiday accommodation's structure in some way. This could be felt by both the owner and occupiers. Given the proximity of trees and their collective oversailing nature, this perception could be a concern that could add to the pressure for trees to be removed or reduced in size.
16. The proposed development, therefore, has significant potential to negatively impact upon the woodland trees and have a detrimental impact on their wellbeing in the long-term that could lead to pressure to remove the trees in the future. This would be an erosion of the statutory protection placed upon the trees by the serving of the TPO. As a consequence, the proposal should be resisted.
17. For the above reasons, I conclude that the holiday let accommodation would lead to pressure to cut back or remove woodland trees and this would be harmful to the character and appearance of the protected woodland. The proposal would, therefore, conflict with Policies SP5 and DM12 of the Island Plan and Policy BNDP EH4 of the Neighbourhood Plan. These policies seek, amongst other matters, development to protect the Island's natural environments and to take account of the environmental capacity of an area to accommodate new development.

### **Other Matters**

18. Interested parties have raised other objections to the proposal. These are all important matters but given my findings in relation to the main issues, these are not matters that have been critical to my decision.
19. Concern has been expressed over the Council's handling of the planning application, as well as to the conduct of other persons. With regard to the Council, this is a matter that, if necessary, should be raised with the Council away from this appeal. In any event, these concerns would not lead me to alter my findings above.
20. The site is within walking distance of shops, facilities and beaches of Bembridge. Ecological mitigation and enhancements at the site could be controlled by the imposition of a suitably worded planning condition. Whilst these are merits of the scheme, they do not outweigh my above findings or justify the proposed development.

### **Conclusion**

21. Having regard to the above findings, the appeal should be dismissed and planning permission refused.

*Nicola Davies*

INSPECTOR