



Appeal Decision

Site visit made on 12 April 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/P2114/W/21/3282283

Site adjacent to 72 Victoria Road, West Cowes, Isle of Wight PO31 7JJ

- 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 Anne Robinson against the decision of Isle of Wight Council.
- The application Ref 21/00312/FUL, dated 8 February 2021, was refused by notice dated 8 April 2021.
- The development proposed is a detached 3 storey dwelling with parking.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. I am satisfied that the updates to the Framework do not materially affect its content insofar as it is relevant to the main issues of this appeal. I have therefore determined this appeal with regard to the current version, published in July 2021.
3. The site is within the 5.6km Zone of Influence of the Solent and Southampton Water Special Protection Area (Solent SPA), which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Although not forming part of the Council's reason for refusal, it is incumbent upon me as competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the Solent SPA. It is therefore necessary to consider this matter as a main issue.

Main Issues

4. The main issues are therefore the effect of the proposed development on:
 - the integrity of the Solent SPA;
 - the character and appearance of the area; and
 - the living conditions of the occupiers of neighbouring properties, with particular regard to outlook, privacy and natural light.

Reasons

Integrity of SPA

5. The Solent SPA is afforded protection under the Habitats Regulations, owing to its importance to wildlife, as it plays host to over 90,000 waders and waterfowl,

including 10% of the global population of Brent Geese. These birds come from as far as Siberia to feed and roost, before returning to their summer habitats to breed. The Solent SPA was designated, predominantly, to protect these over-wintering birds.

6. The proposed development has the potential to lead to increased recreational use of the Solent SPA, owing to the proposed additional residential unit. In combination with other similar small-scale development, this means the proposal could result in increased disturbance to the protected habitats and species found in this protected area, owing to the corresponding increase in visitor numbers. As a result, it is not possible to rule out likely significant effects on the Solent SPA.
7. Nonetheless, the Isle of Wight is a member of the Solent Recreation Mitigation Partnership, which has procured a strategic solution to help mitigate against the potential effects from new housing. This mitigation is achieved through financial contributions towards the Solent Bird Aware Strategy (SBAS). The SBAS includes a series of management measures which actively encourage all coastal visitors to enjoy their visits in a responsible manner. These include education initiatives, preparation of codes of conduct, provision of new or enhanced greenspaces as an alternative to visiting the coast, site specific projects to better manage visitor numbers and provide secure habitats for birds, as well the employment of coastal rangers and other officers to facilitate the implementation of these objectives.
8. The relevant financial contribution levels towards the SBAS were increased in April 2022, in line with the Retail Price Index. Whilst I note the appellant has submitted a unilateral undertaking which secures payment of a financial contribution towards the SBAS, this contribution falls short of the latest rates. Despite being given the opportunity to provide a new or updated version of the planning obligation (in line with the latest figures), nothing further has been received.
9. This means that the financial mitigation secured in connection with the appeal would be insufficient to meet the current costs of the mitigation measures set out in the SBAS. I therefore cannot exclude the possibility of likely significant effects on the integrity of the Solent SPA, however small the shortfall. Moreover, as the proposed development is for a single dwelling, there would be no imperative reasons of overriding public interest which would justify permission being granted in the absence of adequate mitigation.
10. On this basis, I am left with no option but to conclude as competent authority that the proposal, in combination with other plans and projects, would have significant adverse effects on the integrity of the Solent SPA. The development would therefore conflict with Policy SP5 of the Isle of Wight Core Strategy (2012) (Core Strategy), which requires new development to protect the integrity of protected sites, which in this case includes the Solent SPA.
11. The development would be within the catchment area of the Sandown Wastewater Treatment Works (WwTW), which discharges effluent into the English Channel. Evidence has been submitted to demonstrate that drainage from the development will be processed at the WwTW. In line with the Council's Position Statement¹ and its agreed approach with Natural England,

¹ Isle of Wight Council Position Statement: Nitrogen neutral housing development (April 2020)

this means there is no requirement for the development to demonstrate nutrient neutrality, as any associated impact can be reasonably excluded. I have no reason to disagree with this assessment. Nonetheless, this is a neutral factor, and not a benefit which would carry weight in favour of the scheme.

Character and Appearance

12. The appeal site is located between two dwellings along the north-eastern side of Victoria Road. Victoria Road is residential in character, and is made up of a variety of properties which include both period and modern dwellings. Whilst the architectural style of properties along the road is mixed, houses are typically tightly spaced and sited within narrow plots, and mostly benefit from small gardens to their front. This gives a degree of coherence and rhythm to the pattern of built form, which contributes positively to the character of the road. The appeal site, which itself is currently used for off-street parking, forms a notable gap between the properties along the road. This currently disrupts the tightly spaced rhythm of built form, which is to the detriment of the street scene.
13. The proposed development would introduce a detached dwelling within the gap, which would broadly reflect neighbouring properties in terms of size, height and scale. Its narrow, pitched roof would mirror the form of many others along the road, ensuring that it would assimilate properly with the prevailing roofscape. Moreover, I consider that the eradication of the gap between properties would improve the street scene, as there would no longer be such disruption to the tightly spaced rhythm and pattern of built form along the road.
14. The development would include an integrated garage, accessed via its principal frontage. Whilst garages are not prevalent along the road, given the variety of architectural design and style between houses, particularly along the north-eastern side of the road (on which the appeal property is located), I consider that this element of the design would integrate properly, without appearing unduly prominent or discordant in the context of its neighbours.
15. For these reasons, I am satisfied that the proposed development would not harm the character and appearance of the surrounding area. It would therefore be consistent with Policy DM2 of the Core Strategy, which seeks to ensure new development protects, conserves or enhances the character of existing environment, whilst also allowing change to take place. The Policy also highlights that development should optimise the potential of a site, having regard to adjacent buildings and prevailing topography.

Living Conditions

16. The proposed new dwelling would be located to the front of no. 74, which is sited much further back from the road than other dwellings along Victoria Road. Due to the siting of no. 74, the rear elevation of the new dwelling would directly face its western flank elevation, as well as part of its garden.
17. Nonetheless, and given the relative narrowness of the gap between nos. 72 and 76, this side of no. 74 is already severely compromised by the other houses along Victoria Road in terms of outlook and levels of natural light. The introduction of a new dwelling in this location, and the corresponding infill of the small gap, would therefore be unlikely to make a meaningful difference to

these factors. Moreover, there is an absence of built form in close proximity to the front and eastern side boundaries of no. 74, which means it is surrounded by a distinct sense of openness on these sides. Its primary outlook is therefore derived from these directions, which would not be impacted by the development.

18. Due to the siting and orientation of no. 74, its western side is already overlooked by the rear of properties running along Victoria Road, many of which already include large windows on their upper floors, and/or Juliet balconies. Much like above, the addition of another balcony in a similar location is therefore unlikely to make a meaningful difference to any actual or perceived levels of overlooking already experienced.
19. In terms of no. 72, whilst the flank elevation of the new dwelling would be sited close to its south-eastern flank elevation, this arrangement would be typical of neighbouring dwellings along Victoria Road, given the tightly spaced grain of development which characterises the road. In this context, and irrespective of the door and fenestration on the side of no. 72, the outlook and levels of natural light experienced from this property would remain as expected of a domestic property in this location, and I therefore consider any corresponding impact would be acceptable.
20. On this basis, I am satisfied that the development would not have an undue impact on the living conditions of neighbouring properties, with particular regard to outlook, privacy and natural light. In this regard, the development would be consistent with Policy DM2 of the Core Strategy, which seeks to optimise the development potential of new sites, whilst also having appropriate regard to adjacent buildings.

Other Matters

21. As well as a financial contribution towards mitigation for any adverse impact on the Solent SPA, the planning obligation submitted in connection with the appeal application includes obligations relating to the payment of a contribution towards off-site affordable housing. Whilst the affordable housing contribution is not central to the issues in dispute, as I am dismissing the appeal on other grounds, I have not considered whether these obligations meet the necessary statutory tests in terms of necessity, relatedness and reasonableness.

Conclusion

22. Whilst I have found in favour of the appellant with regard to character and appearance and living conditions, I have not been able to rule out the possibility of likely significant effects on the integrity of the Solent SPA. The proposal would therefore conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR