



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: 23 May 2022

Appeal Ref: APP/P2114/W/21/3277214

Land off Westhill Road, Shanklin, Isle of Wight PO37 6PY

- 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 A.P.P. Springman & BCM (IOW) LLP against the decision of Isle of Wight Council.
 - The application Ref 20/00991/FUL, dated 18 June 2020, was refused by notice dated 18 December 2020.
 - The development proposed is 6 new dwellings with parking, garages, access, landscaping; including permissive footpath to be adopted as a public footpath and extensive new native tree planting scheme.
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Decision

1. The appeal is dismissed.

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. The initial proposal consisted of four chalet bungalows and two single storey bungalows. During the course of the planning application process the scheme was revised and reduced so that all units were single storey. Both proposals are before me.
4. The appellant's appeal submission has been supported by additional drawings 'Existing and Proposed Sections' (drawing PL03-010) and a 'Street Scene CGI Elevation' (drawing PL03-011). These drawings provide additional information and context showing the main elevations and land levels. This additional information does not materially alter the proposal. In accepting these drawings, I do not consider the interests of parties who might wish to comment would be prejudiced. For this reason, I have had regard to these drawings.
5. The Council has confirmed as part of its Statement of Case that the site lies outside of the Solent Special Protection Area (SPA) buffer and as such, mitigation relating to the development's impact upon the SPA would not be required. It is also confirmed that reason for refusal 3 relating to the SPA as set out in the Council's decision notice has been included in error. This confirmation from the Council constitutes a withdrawal of refusal reason 3. I, therefore, have not dealt with this matter within my decision letter.
6. The Council considers that reason for refusal number 4 that relates to affordable housing could be addressed through the submission of a Unilateral

Undertaking if this is forthcoming during the appeal process. A signed and dated Unilateral Undertaking has been provided by the appellant. The legal undertaking covenants the owner to pay the affordable housing contribution to the Council prior to occupation of the development. I consider that this addresses the matter of affordable housing and has removed any conflict with development plan policy. I have, therefore, not dealt with this matter any further within my decision letter.

Main Issues

7. The main issues in this case are the effect of the proposed development on: -
- a) The character and appearance of the Isle of Wight Area of Outstanding Natural Beauty (the AONB); and
 - b) Trees.

Reasons

Character and appearance of the AONB

8. Policy DM2 of the Isle of Wight Core Strategy Island Plan 2012 (the Island Plan) requires development to complement the character of the surrounding area, particularly in AONBs, amongst others. Policy DM12 of the Island Plan expects development to reflect the aims and objective of the AONB Management Plan. The Management Plan's overarching objectives for the AONB are to ensure its conservation and enhancement according to its statutory purpose. The Framework requires great weight to be given to conserving and enhancing the landscape and scenic beauty of AONBs, which has the highest status of protection.
9. The Landscape Character Assessment Countryside Commission (1994) assessment of the AONB is one of Traditional Enclosed Pasture. The assessment identifies the landscape's key characteristics to be one of well preserved and dense hedgerows, irregular small fields, narrow enclosed winding lanes and wooded areas with numerous copses. The East Wight Landscape Character Assessment 2015, categorised the site as Southern Downland Edge Pastureland with those key characteristics being sloping, rolling pastoral landscape, hedgerows, hedgerow trees, copses and Ancient Woodland.
10. The site is to the southwest of Westhill Road. The site itself is open and undeveloped forming part of a larger field. Trees and vegetation run along the Westhill Road boundary where the land is at a higher level to that of the Westhill Road highway.
11. There is a clear change of character to the landscape beyond the existing built settlement. The appeal site is situated within the open land and its undeveloped character exhibits all the attributes of the countryside that is designated AONB. The verdant vegetation running along Westhill Road contributes to its appearance as a countryside lane. In its current form the site's open and rural character makes a positive contribution to the AONB. The open, rural qualities of the site can be experienced and appreciated by those using the permissive paths running within and close to the site and Westhill Road.

12. The proposed development would be low density, hosting spacious plots reflecting that of the prevailing character and grain of the development within the adjoining settlement, including that of Wentworth Close to the west. Notwithstanding this, by creating a development of urbanised appearance this would substantially alter the character and appearance of this undeveloped site.
13. The creation of dwellings and urbanisation of the site would substantially diminish the rural characteristics of the site and its visual contribution to the AONB landscape. Creation of a row of dwellings, even if 'dug-in' to appear lower in the landscape slope, with formalised engineered accesses onto Westhill Road would substantially alter the appearance of this part of the countryside lane urbanising its appearance. The site is elevated above the highway. When seen in public views from Westhill Road, the dwellings, being in the foreground, would obscure wider views of the rolling AONB landscape southwest of Westhill Road. Furthermore, the rural AONB landscape enjoys the benefit of tranquillity. Urbanising of the site and corresponding domestic activity would be detrimental to the open, rural, peacefulness of this landscape. Taken collectively, the proposal would be harmful to the character and appearance of the area and the AONB.
14. I saw that a good number of the trees along the road frontage boundary are dead (or dying), understood to be as a result of Ash die back. The proposal would involve specific tree removal along the frontage, notably the removal of dead/dying trees. Extensive planting is proposed as part of the development frontage. New tree planting is also proposed alongside Hungerberry Wood and around the dwellings themselves, along with the reinstatement of the historic hedgerow. An area of ground equal to or greater than the visibility splay areas to be removed is proposed to be re-planted behind the splay line where there would be room for larger trees to grow. This could off-set the removal of the existing road frontage trees within the visibility splays. However, the new native planting landscaping would take a long time to mature and would not mitigate the loss of existing vegetation that runs alongside the highway that contributes to its verdant appearance.
15. Even when the landscaping matures the CGI image indicates that the development would be visible in the street scene of Westhill Road through the landscaping. The accesses would open up the site and make the harm arising from the elevated development prominent in public views. The development would erode views into the AONB. Whilst in wider views from the AONB landscape the development would be seen as part of the backdrop of the existing settlement, this does not justify a development that would be visually harmful to a landscape that is afforded the highest status of protection.
16. o30 Design Studio's Landscape and Visual Baseline Appraisal and Strategy February 2020 that supports the appellant's proposal concludes that the visual and landscape receptors and the effect on these receptors are very localised. I accept that the visual impact of the development would be relatively localised, as the viewpoint assessment within the appraisal illustrates. However, for those reasons set out above, I do not agree with the conclusions of the appraisal that the development would likely result in negligible residual effect on both the landscape resource and qualities of the site and its immediate context (including the AONB).

17. There are currently permissive paths available to the public on the field and in the wider area that connect up with other paths within the AONB landscape. Views can be gained of the site from these permissive paths that traverse private land. It is contended that views from these permissive paths should not be assessed as public receptors or public viewpoints when considering the landscape impact as these relate to private land. The owner has granted the right for the public to use these routes and there is no clear indication that this might be rescinded. The harm arising from the development would be clear to those using the localised permissive paths.
18. The proposal, either for four chalet bungalows and two single storey bungalows or all single storey units, would fail to safeguard the natural beauty and open countryside characteristic of the site and would, therefore, not preserve or conserve the AONB landscape. For these reasons, I conclude that the proposed development would have a harmful effect on the character and appearance of the AONB. This brings the proposal into conflict with Policies DM2 and DM12 of the Island Plan and the Framework.

Trees

19. The perimeter of the site on three sides hosts trees. These form woodlands to the east and west, as well as trees along the roadside boundary. The trees contribute to the verdant rural character of the area and the AONB landscape.
20. The roadside vegetation is made up of ash, sycamore and oak, amongst other species, that are of early maturity and, given their size, contribute substantially to the verdant and leafy appearance of this part of Westhill Road. The canopies oversail the highway and in parts meet with the canopy of trees on the opposite side of the road, however those oversailing trees would not be within the visibility splays and could be retained.
21. The access to the site that is located opposite Westhill Drive is existing. However, to provide acceptable access to the development, the existing access would be enlarged and incorporate visibility splays. To create an acceptable access would result in the removal of several sycamores and an oak tree starting to reach maturity. The proposal would involve planting of juvenile trees. Whilst these would take some time to reach the size of those trees that are to be removed, in reality they likely would be kept small in order to maintain egress visibility at the access. The proposal would result in the loss of sizeable trees. Their loss would be visually detrimental to the verdant character and appearance of this part of Westhill Road.
22. The easternmost dwelling would be within close proximity to a group of 3 oak trees within the eastern woodland. The appellant suggests that one of the group could be removed. These trees contribute to the rural character of the area and grow as a group that have unified crowns. This group of quality trees coexist harmoniously. Removing one of the group would leave the other two trees being of poor form. This would be visible from the wider views. I accept that these trees and the woodland are not protected by a designated Tree preservation Order. Notwithstanding this, the proposal has the potential to negatively impact this group of oak trees that are an important part of the woodland and the character and appearance of the area.
23. The proposal envisages the reinstatement of a man-made water catchment area within the area of woodland to the east of the site. The woodland has

been left unmanaged and the pond has been encroached by vegetation. The appellant's tree report does not give full details of the trees around the pond, and it is not clear how this part of the development would impact upon the woodland. Nonetheless, this is an existing water catchment area. Dredging it could make the pond effective once again. Whilst reinstating the pond could have a detrimental impact on the woodlands arboreal character, I do not consider that it would be reasonable to object to its re-use. As such, I consider that a suitably worded planning condition could ensure an assessment of vegetation and trees around the catchment could take place to identify those trees suitable for retention or removal.

24. To the west of the site is a wooded area which a sign at the woodland indicates is part of a community woodland project. This woodland comprises young trees and forms part of the setting of the permissive footpath that runs through the woodland. It is suggested that the existing scrub vegetation between the development and these trees could be removed back to the woodland boundary line, however it appears to me that the proposed development would retain the majority of scrub.
25. I find that the proposed development would have an unacceptable impact on trees along the roadside and has the potential to negatively impact upon 3 oak trees that form part of the eastern woodland. Consequently, the proposal would be harmful to trees which significantly contribute to the character and rural setting of the AONB landscape and Westhill Road. This brings the proposal into conflict with Policies DM2 and DM12 of the Island Plan and the Framework that require, amongst other matters, development to have regard to features which significantly contribute to the character of the area, complement the AONB and conserve and enhance the natural environment.

Planning Balance

26. The Council advises that it does not have a five-year supply of housing sites in place and, therefore, this reduces the weight that can be applied to those development plan policies that relate to spatial strategy. Paragraph 11 d) of the Framework indicates that where a five-year supply of deliverable housing sites cannot be demonstrated the development 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.
27. Although new housing is not precluded within the AONB by the Framework, I have found that the proposal would cause harm to the scenic beauty of the AONB, and this carries great weight and importance given that such landscapes have the highest status of protection. This brings the proposal into conflict with development plan policies and provides a clear reason for refusing the proposed development. Added to this is the conflict with the development plan in terms of the loss of trees that contribute to the character and rural setting of the AONB landscape. This holds substantial weight.
28. On the other hand, six homes would make a modest contribution to the supply of housing. The proposal would provide family homes within walking distance of shops, facilities and transport links. This is a modest benefit of the scheme. In addition, the proposal would secure a contribution towards affordable housing and create a dedicated formal Public Right of Way. These are modest social and environmental public benefits of the scheme that contribute to

health and well-being. Native planting could benefit biodiversity and ecology at the site. Again, this is a modest benefit of the scheme. Employment during construction and future occupiers' contribution to local spend would represent another modest benefit of the proposed development. These would be in line with the Framework's social, economic and environmental objectives.

29. Nonetheless, even if the shortfall in HLS is acute and there would be some modest social, economic and environmental benefits as a result of the proposal, the housing would be a permanent and a harmful intrusive feature within the AONB landscape. The adverse impacts to the landscape character of the AONB, which holds great weight and provides a clear reason for refusing the proposed development, along with the negative impact upon trees, would outweigh the benefits that hold modest weight when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply.

Conclusion

30. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
31. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR