
Appeal Decision

Site visit made on 19 July 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2022

Appeal Ref: APP/P2114/W/21/3287940

9 Hilton Road, Gurnard, Isle of Wight PO31 8JB

- 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 Kevin Downer against the decision of Isle of Wight Council.
 - The application Ref 21/01142/FUL, dated 5 June 2021, was refused by notice dated 21 July 2021.
 - The development is described as “proposed dwelling”.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the appeal, 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 to which I return later in my decision.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of 7 Hilton Road, having regard to light and outlook impacts; and
 - The effect of the proposal on the integrity of the Solent Special Protection Area (the SPA).

Reasons

Character and appearance

4. The appeal site is located on the southeast side of Hilton Road, within an established residential area to the west of Cowes. It comprises a long rectangular-shaped site. At the front of the site, facing the street, is a detached bungalow. Vehicular access is from Hilton Road and there is a gravelled driveway to the side of the property.
5. Hilton Road has a strongly semi-rural character, due in part to the unmade nature of the road surface and the prevalence of soft landscaping amongst the

built environment. There are a variety of different dwelling designs, heights and materials, and part of the opposite side of the road comprises more ad-hoc built development within the rear gardens of a number of dwellings which front onto Church Road.

6. Notwithstanding the mix of building designs, rectangular shaped plots, with significantly long back gardens, are a defining feature of the townscape. These gardens provide a spacious and verdant backdrop to the residential built environment, making a positive contribution to the semi-rural character of the street. This is a notable characteristic of the appeal site side of the road and the western end of the opposite side of the road. In the case of the former, the back gardens abut open countryside to the rear, thereby reinforcing the edge-of-settlement location of the road.
7. Moreover, whilst there is a degree of variety of front building lines onto the street, there is also a strong consistency of linear built residential development facing both sides of the road, with dwellings positioned directly fronting the street and at the road end of their plots.
8. The rear garden of the appeal site is mainly given over to grass and soft landscaping. Although there are several small outbuildings and temporary structures including a mobile home and a small caravan sited close to the host property, the majority of the garden has an open and verdant character and makes a positive contribution to the semi-rural character and appearance of the area.
9. The Council has drawn my attention to a discrepancy between the block plan submitted as part of the appeal scheme and that which was the subject of an earlier refused application¹ for a new dwelling, which although providing a similar ordnance survey plan as that of the appeal scheme, included a block plan showing a shorter site depth. For the avoidance of doubt, I have dealt with this appeal on the basis of the current appeal plans, which were refused by the Council, and which indicate that the appeal site extends as far back as the rear boundaries of the neighbouring properties along this side of the road, abutting the open countryside to the rear.
10. The proposal would introduce a tandem siting of the new dwelling behind the host property. This would be notably at odds with the established linear, road-fronting layout of dwellings on this side of the road.
11. Moreover, due to a combination of the proposed generous building footprint, proximity of the building to both side boundaries, part two-storey height, and position in the rear garden behind the host property, the proposal would appear cramped, and would harmfully erode the aforementioned spacious and verdant qualities of the appeal site.
12. The incongruous positioning of the new dwelling would also be discernible in some views from the public realm of the street, particularly from the site access, due to the proposed building height and scale in relation to the host bungalow.
13. I have noted that the host property benefits from two permissions², an extant planning permission and a Prior Approval consent, which relate to

¹ Ref 21/00091/FUL

² Refs 19/01190/HOU and 19/01540/1APA

enlargements to the rear of the property. If implemented, these schemes would further erode the space between the host property and the proposed dwelling, thereby exacerbating the cramped relationship between the new property and its built surroundings.

14. The appellant has drawn my attention to an existing dwelling situated to the rear of 21 Hilton Road. The evidence before me is that this property predates the 1947 Town and Country Planning Act and has previously been subject to a dismissed appeal which acknowledged that the current property layout was unsatisfactory and that the backland position of the existing dwelling is out of keeping with the prevailing pattern of development.
15. Whilst this appeal decision dates back a significant number of years, there is no evidence before me of any approvals for similar rear garden housing on this side of the road since that date. As such, that development comprises an anomaly to the established pattern of built development, and is not considered to be a positive representation of the prevailing spacious layout of built development that makes a positive contribution to the townscape. The wider size of the appeal site in comparison to that of the dwelling rear of No.21 and the provision of better on-site parking facilities for the appeal scheme than for that property, as suggested by the appellant, are not considered sufficient justification for allowing the appeal scheme.
16. The appellant has also drawn my attention to a residential development at Tutton's Hill. I have not been provided with detailed information in respect of the planning history of this property. From my site visit, I observed that the site context differs from that of the appeal site in respect of the layout and juxtaposition of built development in relation to frontage development in Hilton Road and Tutton's Hill, which is more varied at this corner location, and includes All Saints Church. As such, I am not persuaded that this provides justification for the appeal scheme.
17. For the above reasons, I conclude that the proposal would have a detrimental impact on the character and appearance of the area. As such, the appeal scheme would be contrary to Policy DM2 of the *Island Plan Isle of Wight Core Strategy* (2012) (the Core Strategy). This Policy supports high quality design, and, amongst other things, seeks to ensure that development proposals provide an attractive built environment with a sense of place and that they complement the character of the surrounding area.
18. For similar reasons, the proposal would also be contrary to Policies of the *National Planning Policy Framework 2021* (the Framework) which seek to achieve well-designed places, as set out in Chapter 12.

Living conditions

19. The Council's second reason for refusal, in conjunction with the Officer Report, confirms that the Council's concern in respect of this main issue relates to the impact on the occupiers of 7 Hilton Road, a detached chalet bungalow positioned to the northeast of the proposed new dwelling, in respect of outlook and light impacts.
20. The new dwelling would be sited to the southwest of the site of No.7, and close to the boundary with that property. As such, the appeal scheme has potential to restrict light to, and impact on the outlook from, No.7. However, the new

dwelling would be sited some distance away from the dwelling on the neighbouring site, and this proposed building positioning, in conjunction with intervening boundary fencing, an outbuilding within the garden of No.7 and a preponderance of mature trees and shrubs in the garden of that property adjacent to the new dwelling, would mitigate against such impacts.

21. Taking these site circumstances into account, together with the proposed sloping roof form of the new dwelling, which would gradually rise in height away from the side boundary, I am not persuaded that that any resulting light and outlook impacts would be unduly harmful to the occupiers of No.7. In coming to this view, I have also had regard to the long rear garden depth of No.7, so that the new building would only extend adjacent to a relatively small part of that garden.
22. Having regard to the above, I find that there would be no demonstrable harm to the living conditions of the occupiers of 7 Hilton Road, having regard to light and outlook impacts. As such, the appeal proposal would accord with Core Strategy Policy DM2, in so much as this Policy seeks to ensure that all new development responds to a clear understanding of social context and provides a functional built environment.
23. 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).

SPA

24. In response to the Council's third reason for refusal, 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).
25. The appeal scheme comprises new residential development with additional occupiers which would generate additional wastewater. The appellant has not addressed the matter of the impacts from foul water on the SPA, which comprise a further part of the third reason for refusal. In this respect, 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.
26. Natural England has confirmed that, provided wastewater from new residential development is treated at Wastewater Treatment Works (WwTW) which outfall into the English Channel rather than the Solent catchment, nutrient neutrality would not need to be demonstrated. This accords with the Council's Position

Statement on nitrogen neutral housing development. Although the appellant has not provided evidence that the appeal scheme would connect to the relevant WwTW, the Council is satisfied that this matter can be dealt with by means of a planning condition.

27. 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. I would need to be satisfied that any mitigation schemes for addressing the recreation and foul water impacts of the development on the SPA are certain at the time of AA, so that no reasonable scientific doubt remains as to the effects of the development on the internationally designated European site.
28. However, as the first main issue provides clear reasons 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.

Other Matters

29. I have noted that the proposal represents an amended scheme from that refused under planning application Ref 21/00091/FUL. The changes to the scheme have been noted, including changes to the roof form and elevational treatment of the building. However, this does not alter my findings with respect to the current proposal.

Affordable housing

30. The Council has confirmed that a lack of delivery of affordable housing is a significant issue, and that there is an acknowledged need to increase the supply of such housing for the Island. The appeal site lies within a designated settlement boundary where small-scale residential developments are expected to provide financial contributions towards the delivery of off-site affordable housing, in accordance with the requirements of Core Strategy Policy DM4, which expects all new housing developments to provide for either on-site or off-site affordable housing, and the Council's *Affordable Housing Contributions Supplementary Planning Document* (2017).
31. Having regard to the available evidence, I am satisfied that a financial contribution towards affordable housing, which is calculated using a standard formula which accounts for the market value of the development, and 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.
32. 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

33. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites. It considers that it can deliver a 4-year supply of deliverable housing³. Moreover, the results of the 2021 Housing Delivery Test were published on 14 January 2022 and show that the Isle of Wight delivered 58% of its housing requirement over the preceding 3 years.
34. Accordingly, 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 or where the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years. 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.
35. 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.
36. It would make a small contribution towards the Council's housing supply, 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, having regard to the small-scale nature of the housing development.
37. The Council has raised no objection to the appeal scheme in respect of matters including the principle of development, highway safety and parking, and biodiversity, and I have found no harm in respect of the second main issue. 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 character and appearance of the area.
38. As a result, the social objective of sustainable development of providing a well-designed built environment would not be achieved.
39. 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.

³ Isle of Wight Council Five Year Housing Land Supply Annual Position Statement on 1st April 2021

40. 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

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

S Leonard

INSPECTOR