
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: 02 August 2022

Appeal Ref: APP/P2114/W/22/3292006

Gurnard Farm, 4 Cockleton Lane, Gurnard PO31 8JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Hepburn against the decision of Isle of Wight Council.
 - The application Ref 21/01442/OUT, dated 12 July 2021, was refused by notice dated 13 September 2021.
 - The development proposed is seven new dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form, with access and layout to be considered as part of this proposal. I have dealt with the appeal accordingly.
3. The Council's second reason for refusal relates to insufficient information to enable an assessment of the impact of the proposal on archaeological heritage assets. Following the submission of additional information from the appellant since the refusal of the application, the Council is satisfied that this matter can be dealt with by means of conditions.
4. The Council has also confirmed that, following the submission of additional information from the appellant, the third and fourth reasons for refusal, in respect of highway safety concerns arising from the design of the on-site access roads could be satisfactorily addressed by means of a condition requiring the traffic island features to be flush and appropriately surfaced.
5. As such, the Council does not intend to pursue the second, third and fourth reasons for refusal. On the basis of the information before me, I have no reason to disagree with this. I have dealt with the appeal accordingly.
6. During the course of the appeal, in order to address the Council's fifth and sixth reasons for refusal, 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).
7. The Council is satisfied that the Planning Obligation satisfactorily addresses the reasons for refusal numbered 5 and 6. These are matters to which I return later in my decision.

Main Issues

8. Having regard to the above procedural matters, and because, within the context of the appeal, the responsibility for assessing the effects of the proposal on the Solent Special Protection Area (SPA) falls to me as the competent authority, the main issues are:
- The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the integrity of the Solent SPA.

Reasons

Character and appearance

9. The appeal site comprises undeveloped agricultural land which is located on the southwest side of Lower Church Road, outside of, and adjacent to, the Cowes and East Cowes Key Regeneration Settlement boundary. Residential properties on the opposite side of the road and to the northwest of the site form part of an established residential area within the settlement.
10. The rectangular-shaped appeal site is reasonably flat, and is enclosed by mature hedging and trees along the site frontage, both side boundaries and part of the rear boundary. It lies in an elevated position in relation the Gurnard Luck Valley which lies to the west, and it forms part of a larger roughly L-shaped area of agricultural grassland which descends beyond the appeal site towards Gurnard Luck.
11. To the southeast of the site are a group of buildings associated with Gurnard Farm, including a Grade II Listed Farmhouse and outbuildings, which are largely surrounded by mature trees which separate them from the appeal site.
12. The site is not one where new housing development adjacent to the Gurnard settlement boundary would have the 'lowest landscape impact' *according to the adopted Gurnard Neighbourhood Development Plan 2016-2017* (2017) (the NP). However, this, in itself, does not preclude its residential redevelopment in principle, as confirmed by the Council, particularly in light of an identified shortfall in housing delivery across the Island, and, given that the proposed 2-bedroomed houses would meet an identified local housing need.
13. Notwithstanding the above, and the outline nature of the application, I need to be assured that the development would respond positively to the features of the appeal site itself, and the surrounding context beyond the site boundary, and that the development is capable of combining access, layout, form and scale in a way that would respond positively to the site context.
14. The appeal site lies in a visually prominent location, near the junctions of Lower Church Road with Bay View Road and Church Road, and in an elevated position in relation to the open countryside of Gurnard Luck Valley to the west. As undeveloped farmland with soft landscaped boundaries, it currently makes a positive contribution to the rural setting of the western edge of the settlement of Gurnard. It also allows for views from the public realm of these streets over the site towards the Gurnard Luck Valley and the Solent, particularly during winter months when the boundary hedging is less substantial.
15. Moreover, a grassed verge opposite the site, where there is a bus stop and a public bench, comprises a public area where people could reasonably be

expected to linger, and from where the wider views and the undeveloped and tranquil nature of the appeal site would be appreciated.

16. Existing residential development within the vicinity of the site in Lower Church Road comprises a mix of detached, semi-detached and terraced houses, bungalows and chalet bungalows of varying designs and materials, and with no regular front building line or property orientation in relation to the street frontage. As such, the prevailing character is that of an 'ad-hoc', organically derived arrangement of dwellings, where properties are generally served by individual vehicular accesses, and have a presence within the streetscene.
17. A lack of pavement edge to the highway along parts of the road, and trees, hedges and soft landscaping interspersed amongst the built development, also contribute to a pleasant, informal, green and semi-rural arrangement of built development, reflective of the edge-of settlement location.
18. Due to a formal road arrangement, comprising a central shared access road with subsidiary internal access roads running at right angles to both sides, extending across almost the full width of the appeal site and parallel to the site frontage, the development would introduce a notably more suburban layout of residential development than that which is characteristic of the immediate area. In addition, the new dwellings would be set back from the street and contained within an enclosed development.
19. As such, the proposal would be at odds with the prevailing, individually accessed, frontage residential development which is characteristic of this part of the street. The incongruous layout of built development would be exacerbated by the proposed regular and linear arrangement of the dwellings on plots 4 – 7.
20. Moreover, due to the proposed cumulative extent of dwelling footprints, access roads, parking and turning areas, including a relatively large central turning head positioned in a visually prominent position directly opposite the entrance to the development, built development would dominate the scheme, to the detriment of the semi-rural character of the area.
21. I am not persuaded that this incongruous and suburban layout could be satisfactorily mitigated by the proposed retention and reinforcement of boundary hedging, including along the frontage, as such an arrangement of landscaping around the site boundaries would have the effect of closing off the housing, which would be inward-looking and focussed upon the internal access roads, in contrast to the more open and street facing residential built environment of this part of the road. Nor would the dominance of roads, turning space and parking areas be satisfactorily ameliorated by the proposed use of grasscrete surfacing.
22. Whilst the appeal site fronts directly onto the road, there would be a perceived visual incursion into the undeveloped countryside of the Gurnard Luck Valley, since the site currently forms part of a larger parcel of undeveloped agricultural land which flows downwards towards Gurnard Luck. The proposal would encroach onto this land, introducing new built residential development at a higher ground level. The appellant states that the new dwellings could be single storey or chalet bungalow properties. However, due to a lack of illustrative information in respect of the scale and height of the dwellings, and no supporting landscape visual assessment demonstrating how the proposal

could appear in wider views towards the site from the Gurnard Luck Valley, I cannot be assured that the development would not be unduly visually prominent in term of its landscape impact.

23. The proposal is to incorporate new hedging along the current open part of the rear boundary of the appeal site leaving only a small gap to facilitate a field gate. However, in the absence of details of the design of the dwellings on plots 1 – 3, there is no demonstrative evidence before me of how effective such landscaped boundary treatment would be in screening the built development. 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 for its surroundings.
24. As such, and notwithstanding that the site and surrounding area are not within the AONB, and there would be no coalescence of the settlements of Gurnard and Cowes, the proposal would introduce a discordant feature within this edge of settlement location, which would be at odds with the prevailing pattern of development, resulting in a harmful erosion of the landscaped setting of the settlement of Gurnard and the Gurnard Luck Valley, to the detriment of the prevailing character and appearance of the area.
25. I have noted the appellant's contention that an agricultural hardstanding could be constructed on the appeal site under Agricultural Permitted Development Rights, whereby there would be no mechanism to ensure that it is landscaped. However, such agricultural related permitted development can be reasonably expected to feature within a countryside location. I do not find it directly comparable with the appeal scheme, whereby the new turning head, even if subject to controls in respect of its materials, would form a key component of an unduly suburban arrangement of residential development.
26. The appellant has drawn my attention to a recently allowed appeal¹ in respect of 6 new dwellings on a site in Baring Road, which also relates to small-scale residential redevelopment on non-previously developed land on the settlement edge. However, that appeal scheme and the site surroundings in respect of nearby built development and landscaped environment differ notably from those of the current appeal. In particular, the allowed scheme relates to a detailed planning application for detached dwellings fronting directly onto the street, with individual accesses. The design of the dwellings, their orientation in relation to the street, and their strong linear building line are compatible with the surrounding built development.
27. 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 Policies SP1, SP2, DM2 and DM12 of the *Island Plan Isle of Wight Core Strategy* (2012) (the Core Strategy) and NP Policy E1, in so much as these policies support high quality design which provides an attractive built environment with a sense of place, and, whilst allowing change to take place, seek to ensure that new development protects, conserves and enhances the existing environment and landscape and complements the character of the surrounding area.

¹ Ref APP/P2114/W/21/3278577

28. 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 and the conservation and enhancement of the natural environment, as set out in Chapters 12 and 15 respectively.
29. The Council's first reason for refusal also refers to NP Policy H1. I do not find this policy, which relates to the spatial allocation of new housing and a requirement to meet identified local need or housing delivery shortfall to be directly relevant to this reason for refusal, which is concerned with the impact of the proposal on the character and appearance of the area, given that the Council has raised no objection to the principle of residential development on the appeal site.

SPA

30. In response to the Council's sixth 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).
31. The appeal scheme comprises new residential development with additional occupiers which would generate additional wastewater. 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.
32. 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.
33. 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.

34. 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

35. I have noted that the proposal represents an amended scheme from that refused under planning application Ref 20/01243/OUT. The changes to the scheme have been noted, including additional boundary hedging, and a reduction in the size of the footprints of the dwellings together with their repositioning, incorporating the siting of nos.1 and 7 further away from the site boundaries, increasing the gap between nos. 3 and 4, and providing a more staggered front building line. However, this does not alter my findings with respect to the current proposal.

Affordable housing

36. 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. 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).
37. 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.
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 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 housing. 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.
40. 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.

41. 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 immediately adjacent to a designated settlement boundary, where access to facilities and public transport connections is likely to be greatest.
42. It would make a modest contribution towards the Council's housing supply, would provide dwellings of a size which meet an identified local 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 dwellings and economic and social benefits as a result of their 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 modest size of the proposed housing development.
43. There would also be a potential community benefit from an additional stretch of public footpath in front of the development. However, as it stands, there is no certainty that this will be provided as part of the appeal scheme, and I am not persuaded, on the basis of the evidence before me, that it is necessary, having regard to an existing footpath on the opposite side of the road. I therefore afford minimum weight to this potential benefit within the overall planning balance.
44. Under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act), I am, as the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
45. In determining the application, the Council concluded that no harm would result to the significance and setting of the Grade II listed buildings comprising Gurnard Farmhouse and two other buildings within the farm complex, which are located to the southeast of the appeal site.
46. Based on my site visit, which included observation of the separation distance between the appeal site and the listed buildings, and the intervening trees and mature landscaping which would screen the proposed development from the listed buildings, I have no reason to disagree with Council in respect of this matter. I find that this is a matter of neutral consequence in the overall planning balance, and that the proposal is not, therefore, contrary to paragraph 11 d) i) of the Framework in this respect.
47. The Council has raised no objection to the appeal scheme in respect of matters including the principle of development, living conditions of neighbours and future occupiers, highway safety and parking, biodiversity, heritage assets and

drainage and flooding. 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.

48. As a result, the social objective of sustainable development of providing a well-designed built environment would not be achieved.
49. 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.
50. 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

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

S Leonard

INSPECTOR