



Appeal Decisions

Site visit made on 7 September 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal A Ref: APP/P2114/W/21/3284066

Land between Sun Meadow and Stone Close, Station Road, Shalfleet PO41 0TQ

- 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 Alan Ingram against the decision of Isle of Wight Council.
 - The application Ref 21/01362/FUL, dated 30 June 2021, was refused by notice dated 26 August 2021.
 - The development proposed is described as 'a three-bedroom detached dormer bungalow on an infill site in Station Road, Ningwood, Shalfleet.'
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Appeal B Ref: APP/P2114/W/22/3292015

Land between Sun Meadow and Stone Close, Station Road, Ningwood, Shalfleet, PO41 0TQ

- 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 Alan Ingram against the decision of Isle of Wight Council.
 - The application Ref 21/01919/FUL, dated 24 September 2021, was refused by notice dated 8 December 2021.
 - The development proposed is described as 'a three-bedroom detached dormer bungalow on an infill site in Station Road, Ningwood, Shalfleet. This is a revised application with additional information.'
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Decision

1. Appeal A is dismissed. Appeal B is dismissed.

Preliminary Matters

2. This is a linked appeal, with the schemes being identical except for the proposed means of dealing with wastewater. I have therefore dealt with the appeals together, as and where appropriate, to avoid duplication.
3. In the Council's Statement they concede that, following further assessment, the proposed means of dealing with wastewater for Appeal B would now be considered acceptable. The appellant has subsequently indicated that he would be prepared to adopt a similar approach to wastewater in respect of Appeal A. I return to this matter later.

Main Issues

4. The main issues are a) the principle of the proposed development with specific regard to access to services and facilities; and b) the effect of the proposals on the integrity of the Solent Water Special Protection Area (SPA).

Reasons

Principle of Development

5. Policy SP1 of the Isle of Wight Core Strategy 2012 (CS) sets out a spatial strategy which directs development to appropriate land within or immediately adjacent to the defined settlement boundaries of the Key Regeneration Areas, Smaller Regeneration Areas and Rural Service Centres. The policy stipulates that proposals outside of these locations will not be supported unless a specific local need is identified or the proposal is tourism related.
6. As the site is not within or adjacent to any of the areas or settlements identified in Policy SP1, the proposal would be contrary to the spatial strategy of the CS.
7. However, given the current absence of a 5-year housing land supply, the main parties agree that the most important policies are out-of-date. On this basis the proposal would have to be assessed against the Framework taken as a whole and considered in accordance with the presumption in favour of sustainable development. If the proposal was found to amount to sustainable development within the terms of the Framework, this could be a material consideration, which could indicate that planning permission should be granted notwithstanding the conflict with the development plan.
8. The National Planning Policy Framework (the Framework) advises that patterns of growth should be managed in order to support, amongst other things, sustainable transport objectives. It goes on to note that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making. Accordingly, a higher proportion of journeys by car may be expected within rural areas.
9. The appellant points to the No.7 bus service which connects the appeal site with Newport. The service appears to be regular, running from just after 0700 hours until just after 2130 hours Monday to Saturday, with a more restricted service on Sundays and Bank Holidays. Whilst the route to the bus stop from the appeal site is not served by footpaths or street lighting, there is a grass verge which offers pedestrians some informal refuge from oncoming vehicles.
10. Given the distances involved, the absence of dedicated footpaths and street lighting may not be a significant deterrent to future occupiers accessing the bus stop. However, the absence of footpaths and street lighting in the area are likely to be significant disincentives to walking further distances to access services and facilities, including the pub at the northern end of Station Road or the village store in Shalfleet. The appellant suggests that local residents are used to walking with a torch and standing in the verge when a car passes. It is also pointed out that houses have security lighting. However, journeys would not generally be one way and so the walking option would not in my opinion be attractive to many people, especially at night, after dusk during the winter months or during periods of inclement weather.
11. Whilst the local primary school is also situated at the northern end of Station Road, the nature of the route and distance involved are not likely to be attractive for young children to cycle. More generally, cycling to access other services and facilities is unlikely to be attractive to many people given the

distances involved. Any cycling options are likely to be even less attractive during periods of poor weather or hours of darkness.

12. The proposed dwelling would not be isolated, being in relatively close proximity to other dwellings to the north and south and on the opposite side of Station Road. Nonetheless it would be located within a rural setting with no facilities such as village store/post office/hall etc. In view of all of the above, it is not unreasonable to conclude that future occupants are likely to require access to a range of shops, education establishments, health services, leisure/entertainment attractions and other such facilities. The walking/cycling options are not likely to be attractive for anything but very infrequent journeys.
13. The proximity of the bus stop and times/frequency of the service offers some accessibility to services and facilities and this aspect weighs moderately in favour of the appeals. However, the nature of the area suggests that the future residents of the development would have to rely heavily on the facilities and services of other larger settlements. It is more likely that occupiers would choose the convenience of a car in order to access such day-to-day services and facilities. This would be the least sustainable mode of transport. In this sense, the appeal site would not be in a sustainable location. As such, the proposals would fail to accord with the Framework, even making allowance for it being a rural area.
14. In conclusion on this main issue, and for the reasons outlined above, the proposals would not accord with Policy SP1 of the CS and would be contrary to the aims of the Framework in maximising the use of sustainable modes of transport.

Designated Habitats Site

15. Natural England (NE) has identified that high levels of nitrogen and phosphorus are being discharged to the water environment in the Solent. The Council concluded on both schemes that there was insufficient evidence to demonstrate that they would be nitrate neutral and thus would not have significant effects on the integrity of the Solent Water SPA.
16. The Council's Position Statement on nitrogen neutral housing development, ratified by NE, together with NE's published guidance on achieving nutrient neutrality, has now led the Council to indicate that the use of a sealed tank in Appeal B would avoid harm to the integrity of the SPA, and so be acceptable. However, the Council maintains its position that the proposed on-site treatment plant proposed for Appeal A would not be acceptable, as in its opinion it would not achieve nutrient neutrality.
17. The appellant has queried the Council's approach to this matter, particularly with regard to the Council's reluctance to use a pre-commencement condition and the appellant not being given the opportunity to consider alternative options such as the purchase of nitrate credits, the use of nitrogen-fixing plants or the removal of some land from agricultural use. Whilst disagreeing with the Council's approach and conclusions, the appellant would nevertheless be prepared to install a sealed tank on both schemes, if that is the only option available to him.
18. However, as I have found the proposals to be unacceptable for another reason, there is no need for me to consider the implications of the appeals on the

integrity of the SPA or the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended), notwithstanding the appellant's preparedness to adopt the Council's preferred approach towards mitigation on both schemes.

Other Matters

19. I have not had further regard in this decision to concerns over how the Council handled the schemes, as this is an administrative matter to be taken up directly with them. I have focused on the planning merits of the schemes in regard to the main issues of each case.
20. I note that the appellant is unable to drive and so makes use of the No.7 bus service. I also note the appellant indicates there to be a lack of suitable and adapted housing for those with disabilities and their carers. Although the proposals would clearly assist the appellant in meeting his personal circumstances and that of his family, Planning Practice Guidance¹ advises that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission but there are not sufficient grounds in these cases to justify such an approach. Accordingly, I must consider the proposals with regard to the specific circumstances of the site and its surrounds rather than the appellant's personal circumstances.
21. I also acknowledge that there is local support for the appellant's current aspirations for a dwelling as well as for his current operations on site. However, such support in itself does not mean that the current schemes are acceptable and does not in any event absolve me from making an assessment as to their effects in regard to the main issues of these cases. Furthermore, the appeals which are before me are not predicated on there being an operational necessity for a dwelling to serve the current activities on site.
22. The appellant makes reference to other appeals including one which involved a contribution towards sustainable transport. However, such a contribution is not before me, and I have no substantive evidence from the main parties to suggest that it would be appropriate in the current appeals. Also, I cannot be certain that these other cases represent a direct parallel with the appeals which are before me. Therefore, whilst these other decisions provide helpful background, I have considered the appeal proposals on their individual merits and with regard to the specific circumstances of the site and its surrounds.
23. I have also been referred to the Draft Island Planning Strategy and in particular the provision of housing and infill sites outside settlement boundaries. However, this document does not yet appear to be at a stage to which I can attribute it more than limited weight.
24. The appellant has referred to the Council's pre-application suggestion of an extension to an existing house, in preference to a new dwelling. Although parallels are drawn by the appellant between the two approaches, an extension to an existing dwelling does not form part of the schemes which are before me and is therefore not a factor to which I can attribute weight in my decisions.

¹ Paragraph: 015 Reference ID: 21a-015-20140306

25. The provision of unilateral undertakings to address matters relating to affordable housing and the Solent Recreation Mitigation Strategy are noted. However, these are necessary to address other requirements, including those of the development plan, and are therefore neutral factors rather than matters to be weighed in the scheme's favour.

Planning Balance and Conclusion

26. Both main parties agree that the Council cannot demonstrate a five-year supply of housing land. On that basis, Paragraph 11(d) of the Framework is engaged and the policies which are most important for determining the appeals should be considered to be out of date.
27. The proposals would accord with the Framework's support for windfall sites and wider objective to significantly boost the supply of housing. The provision of a single dwelling, by its nature, would make only a small contribution towards housing supply although I accept that the extent of the under-delivery in the Island's housing supply puts added emphasis on all new housing developments, of whatever scale. The erection of a dwelling would lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment. Future occupiers may make a contribution towards supporting the services in the surrounding and wider area. However, given the small scale of the proposal this would attract only modest weight.
28. Conversely, the appeal site is not well located in terms of its accessibility to local services and facilities. As such, it would not provide sufficient encouragement to residents such that it would be likely to reduce their propensity to use private motor vehicles. It would be contrary to the Framework's approach towards sustainable locations and transport. As a consequence, this would be worthy of substantial weight.
29. My final judgement is that the harm I have identified would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework as a whole.
30. Notwithstanding that there may be compliance with some development plan policies, it is my finding that the appeal schemes conflict with the development plan as a whole. There are no other considerations, including the Framework and its presumption in favour of sustainable development, that outweigh this conflict.
31. For the reasons given above, I conclude that the appeals should be dismissed.

Stewart Glassar

INSPECTOR