



Appeal Decision

Site visit made on 15 August 2023

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/P2114/W/22/3311003

Site to rear of 20 & 20A Argyle Road, Newport, Isle of Wight, PO30 5SB

- 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 P Tate against the decision of Isle of Wight Council.
 - The application Ref 22/01538/FUL, dated 24 August 2022, was refused by notice dated 25 October 2022.
 - The development proposed is the demolition of existing garages; construction of dwelling with landscaping and car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of nearby residents with particular regard to outlook and privacy; and
 - Protected habitat sites.

Reasons

Character and appearance

3. The appeal site is located to the rear of the gardens of Nos 20 and 20A Argyle Road, whose gardens are considerably shorter than the adjacent properties. It is currently an overgrown site that contains 3 garages that front onto the existing garage court located between the rear of the properties on Argyle Road and Northumberland Road. High timber fencing is found along the other three boundaries of the site. It is proposed to demolish the existing garages and construct a dwelling in a similar position that would front onto the garage court.
4. Whilst there are some exceptions, the majority of the properties in the surrounding area comprise semi-detached or short terraces of 2 storey houses that share a similar design and range of materials. The properties are laid out in a linear pattern, fronting onto the roads, with modest front gardens. This gives a strong sense of character and unity to the area.
5. In marked contrast the proposed dwelling would not front onto the highway, would not form part of an established line of dwellings, and would have very little front garden. As such, it would not respect the defining characteristics of

the area. Although a number of the adjacent properties have single storey sheds and other outbuildings towards the end of the gardens, a two storey dwelling in this position would appear as an incongruous feature that was completely out of keeping with the locality.

6. Whilst Nos 20 and 20A have shorter gardens than the other properties on Argyle Road, this is currently not readily visible from the public realm as the appeal site is undeveloped. However, the proposed development, would highlight that both the existing and proposed properties have smaller plots than others in the vicinity. As such, it would introduce a cramped form of development that would be out of keeping with the more spacious layout of the surrounding residential estate.
7. Moreover, the size and pattern of the fenestration on both the front and rear elevations of the property would be out of character with that found on other houses, which exhibits a strong degree of consistency. As a result, this would add to the incongruous nature of the proposal.
8. Consequently, the proposed development would unacceptably harm the character and appearance of the area. As such, it would be contrary to Policy DM2 of the *Island Plan Core Strategy (adopted March 2012)* (CS) which seeks to ensure that proposals have a high quality of design that complements the character and appearance of the surrounding area. It would also be contrary to the *National Planning Policy Framework* (the Framework) (paragraph 130) that requires developments to be sympathetic to local character, including the surrounding built environment.

Living Conditions

9. The gable end of the proposed dwelling would be located close to the common boundary with the rear garden of No 18. Whilst the occupiers of this property have not objected to the proposal, nonetheless I consider that a blank gable wall that would have a ridge height of around 7m, would have an overbearing impact on, and create an unneighbourly sense of enclosure to, this part of the neighbouring rear garden.
10. The boundary treatments around the site would prevent any overlooking from the proposed ground floor windows, and the nature and design of the two small first floor windows on the rear elevation would ensure no loss of privacy would occur for the occupiers of the nearby dwellings on Argyle Road. In addition, the distance to the properties on Northumberland Road would be sufficient to ensure no loss of privacy to the occupiers of these houses. Due to the orientation of the property and the adjacent garden, the proposal would also not cause overshadowing of the neighbouring garden.
11. Notwithstanding my findings with regard to impact on privacy and overshadowing, the proposal would have an adverse impact on the living conditions of nearby residents with regard to outlook. It would therefore be contrary to both Policy DM2 of the CS, which amongst other things requires proposals to have regard to the constraints such as adjacent buildings and to the Framework (paragraph 130) which requires developments to create places that have a high standard of amenity for existing and future users.

Protected Habitat Sites

12. The appeal site lies within the buffer zone for the Solent and Southampton Waters Special Protection Area (SPA) which is a European Site of Nature Conservation Importance as the waters of The Solent are internationally important for wildlife. The conservation objectives for the protected sites within this area are to ensure that the integrity of the sites are maintained or restored as appropriate.
13. As a result of increased recreational pressure from future occupiers any new residential development in this area is likely to have a significant effect on the designated sites. So, to avoid such harmful impacts mitigation is required. The *Solent Recreation Mitigation Strategy (December 2017)* sets out the mitigation measures required from new dwellings and a sliding scale of developer contributions based on property sizes, that are updated each April.
14. A lack of any planning obligation to address this mitigation was a reason for refusal. However, the appellant has now submitted two Unilateral Undertakings (UU) dated 31 October 2022 and 21 April 2023. Together these make provision for mitigation in the form of a financial contribution. The Council have confirmed that these address its concerns in respect of the mitigation from recreational impacts.
15. However, recent advice from Natural England has indicated that The Solent is in an unfavourable condition from nitrate enrichment, causing eutrophication of the designation sites and that this is having a detrimental impact upon protected habitat and species. Natural England have advised that wastewater arising from additional housing that, once treated, discharges into the SPA is likely to contribute further to these adverse effects and so avoidance measures are required.
16. To address this the Council have issued a position statement on nitrogen neutral housing development (April 2022). This indicates that, if a development will connect to the public sewer system written confirmation should be obtained from Southern Water that it would drain to either Sandown, Brighstone, Shorwell or St Lawrence Wastewater Treatment Works (WwTW). This is because these WwTWs outfall into the English Channel rather than into The Solent and so do not contribute to the adverse effects on the SPA.
17. Whilst the appellant has indicated that generally wastewater from Newport drains to Sandown WwTW, written confirmation from Southern Water that this would be the case for this site, as required in the position statement, has not been provided. Without this site-specific confirmation, I cannot be certain that the proposed development would not have an adverse impact on the integrity of protected habitat sites in respect of nutrient impacts.
18. As the competent authority, I am responsible for undertaking an Appropriate Assessment (AA) of the implications of the appeal scheme on the SPA in view of their conservation objectives, including the effectiveness of any proposed mitigation. Had I been minded to allow the appeal, it would have been necessary for me to examine this further, but as the first two main issues provide clear reasons for dismissing the appeal, the outcome of the AA would have no bearing on the overall outcome of the appeal and so I do not need to consider this matter further.

19. Overall, I consider the proposal would adversely affect protected habitat sites. Accordingly, it would be contrary to Policies SP5 and DM12 of the CS and the Framework which seek to ensure proposals protect the integrity of internationally designated sites.

Other Matters

20. Policy DM4 of the CS indicates that in order to deliver the necessary affordable homes over the plan period, small sites such as the appeal site, are required to provide a financial contribution towards affordable housing. The *Affordable Housing Contributions Supplementary Planning Document (adopted March 2017)* (SPD) sets out the approach for calculating the required financial contribution which is based upon the value of the property at first sale/occupation.
21. The lack of any planning obligation to provide this financial contribution was a reason for refusal. However, the appellant has now submitted a UU dated 31 October 2022 that provides a contribution calculated in line with the approach set out in the SPD. The Council has confirmed this meets the requirements of Policy DM4.
22. Given the policy context, I find this planning obligation for affordable housing is necessary; directly related to the development; and fairly and reasonably related in scale and kind to the development. It would therefore comply with the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework. As such, I consider that the proposal would make an adequate contribution for affordable housing.

Planning Balance and Conclusion

23. The Council accepts that it cannot demonstrate a five year supply of housing land. In such circumstances paragraph 11d) of the Framework indicates that permission should be granted unless i) the application of policies in the Framework that protect areas or assets of importance provides a clear reason for refusing the development proposed or ii) 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.
24. Footnote 7 of the Framework identifies habitat sites as one of the areas that paragraph 11di) relates to and so the harm I have identified the proposal would cause to these would be sufficient to reject this proposal. In addition to the harm to protected habitat sites, I have also found that the proposed development would have an adverse impact on both the character and appearance of the area and the living conditions of nearby residents.
25. Whilst the highway authority had no objections to the proposal, an absence of harm in this regard is a neutral matter.
26. The proposed dwelling would be located in a key regeneration area with good accessibility to services and facilities. It would make a small contribution to the housing supply and towards the provision of affordable housing on the island. There would also be benefits to the local economy through the construction of the dwelling, and the spend of future occupiers. The proposal would also make effective use of what is currently a vacant and seemingly unused site. These are all benefits of the scheme.

27. However, I consider that the harms I have identified would significantly and demonstrably outweigh the small benefits that would arise from the proposed development. Therefore, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR