



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: 31 August 2023

Appeal Ref: APP/P2114/W/22/3308251

Land to the rear of 31 Pallance Road, Northwood, PO31 8LW

- 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 and Mrs Derek Atkinson against the decision of Isle of Wight Council.
 - The application Ref 21/01960/FUL, dated 30 September 2021, was refused by notice dated 4 April 2022.
 - The development proposed is a dwelling with detached garage and store; access and driveway from Westway.
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Decision

1. The appeal is allowed and planning permission is granted for a dwelling with detached garage and store; access and driveway from Westway at land to the rear of 31 Pallance Road, Northwood, PO31 8LW in accordance with the terms of the application, Ref 21/01960/FUL, dated 30 September 2021, subject to the conditions set out in Annex A.

Main Issue

2. The main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site forms parts of the extensive rear garden of No 31 Pallance Road. Housing along Pallance Road varies considerably in type and design. Whilst other properties to the west of No 31 also have extensive rear gardens, this is not readily apparent from Pallance Road. Nor would the proposed dwelling be seen from this road. As such, the proposal would not have any impact on the character and appearance of this area.
4. The proposed dwelling would be accessed from Westway and would relate more closely to this area rather than to Pallance Road. Westway and the other nearby streets are characterised by bungalows situated on modest plots, that have a similar design and scale and utilise similar materials. This gives a distinctive character to this suburban estate.
5. Views of the appeal site from Westway are limited due to the row of protected mature trees and other vegetation along the eastern boundary, although they are likely to be greater in winter. At present the appeal site is somewhat overgrown and as a result appears semi-rural in character. However, as the site forms part of the garden of No 31 this character could easily change and become more domestic should it be more formally maintained as a garden. Whilst the proposal would introduce some built form into what is currently open

land, much of the site would remain as open garden land. Moreover, given the limited visibility into the site from Westway, the change that the proposal would bring to the site would not be overly noticeable. As such, the effect it would have on the character and appearance of the area would be minimal.

6. The proposed dwelling would be a chalet style bungalow that would have a detached outbuilding located to the south. Whilst the dwelling would be slightly larger than the bungalows in the vicinity, it would still respect the prevailing form of development in the locality. Given the distance that would be maintained between the proposal and the nearby dwellings, and the limited visibility of it that would be possible from outside the site, the difference in scale would not make it an incongruous or overly prominent feature in the area.
7. Whilst the detached outbuilding would be relatively large, it would be set some distance from the dwelling. This, combined with its appearance created by the garage door and limited fenestration would clearly establish it as a subservient annexe to the main dwelling.
8. Overall, I consider that the proposal would not unacceptably harm the character and appearance of the area. Consequently, it would accord with Policies SP1, DM2 and DM12 which seek to ensure developments, and specifically those not on previously developed land, have a high quality of design that complements the character and appearance of the area and conserves, enhances and promotes the landscape of the island.

Other Matters

Protected Habitat Sites

9. The appeal site lies within the 5.6km buffer zone for the Solent and Southampton Water Special Protection Area (SPA). This is a European Site of Nature Conservation Importance that is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. As the competent authority for the purposes of this appeal, I am prevented from granting permission unless the proposal would not adversely affect the integrity of the protected sites.
10. The waters of The Solent are internationally important for wildlife and the coast, particularly its mudflats, shingle and salt marshes, are important for a significant number of overwintering and breeding bird species. 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.
11. Any new residential development in this area is likely to have a significant effect on the designated sites as a result of increased recreational pressure from future occupants. To avoid such harmful impacts, mitigation is required. The *Solent Recreation Mitigation Strategy (December 2017)* sets out the mitigation measures required for new housing development and a sliding scale of contributions based on property sizes, which increase each April.
12. The appellant has submitted two Unilateral Undertakings (UU) dated 5 February 2022 and 9 August 2023. Together these make provision for mitigation in the form of a financial contribution which accords with what the Council has indicated would be necessary to address its concerns in respect of the mitigation from recreational impacts.

13. I am satisfied that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Therefore, it meets the three statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework. Furthermore, there is no reason to doubt that the Solent Recreation Mitigation Partnership, which consists of the relevant local authorities and public bodies operating in the area, as the responsible public body, will spend the money in the way that it is intended.
14. As such, I have completed my appropriate assessment and conclude that the proposal would not adversely affect the integrity of the habitat sites through increased recreational pressure.
15. In addition, 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 highlights that the Wastewater Treatment Works (WwTW) at Sandown, Brighstone, Shorwell or St Lawrence outfall into the English Channel and so developments that connect to these do not have to demonstrate nutrient neutrality. It has been confirmed that foul water from the site would connect to the existing sewer system and would be treated at the Sandown WwTW. Subject to a condition securing this arrangement, the proposal would not affect nitrogen inputs into The Solent and so would not adversely affect the SPA in this regard.

Affordable Housing

17. 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.
18. The UU dated 5 February 2022 submitted by the appellant would provide a contribution calculated on the basis of the approach set out in the SPD and the Council have confirmed that it meets the requirements of Policy DM4.
19. Given this policy context I am satisfied that the planning obligation for affordable housing is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Therefore, it meets the three statutory tests outlined above.

Other Considerations

20. To the west of the site lies the bottom of the rear garden of No 37 Pallance Road. Given the height and density of the vegetation along the common

boundary, most of which is in the control of the adjoining occupier, and the type of windows facing in this direction, I am satisfied that the proposal would not result in a loss of privacy to this property. Nor would the location of either the dwelling or the garage building create an unneighbourly sense of enclosure to the garden, particularly bearing in mind the considerable length of this garden. In addition, a condition can be used to ensure the outbuilding is used only as ancillary accommodation to the main dwelling.

21. It has been suggested that the proposal would set a precedent for other development in the rear gardens of properties on Pallance Road. However, no other directly comparable sites to which this might apply have been put forward particularly in relation to access to the highway. Each application and appeal must be considered on its own merits and a generalised concern of this nature does not justify withholding permission in this case. In addition, as the development of this site is heavily constrained by the protected trees around it, the proposal would be unlikely to result in further houses being developed on this site.
22. I note the concerns raised about the impact of the development on trees and wildlife. The application was accompanied by an arboricultural report and impact assessment plan, a tree constraints plan and a preliminary ecological appraisal. These conclude that, subject to mitigation measures that can be controlled by conditions, the development would not have an unacceptable impact on either trees or wildlife. In the absence of any persuasive evidence to the contrary I see no reason to conclude differently. It is suggested that the site preparation and tree protection work would make the development unviable. However, whether the proposal would be viable or not is a matter for those seeking to implement the scheme and does not provide justification to withhold permission.
23. Given the proposal is for one dwelling, any disruption caused by the construction period would be limited in scale and time. Moreover, there is no indication from the highway authority that the roads leading to the site would be unable to cope with the traffic related to the construction period. Nor is there any substantive evidence to show that the water and sewerage systems in the area would be unable to accommodate the demands of one additional dwelling.

Conclusion and Conditions

24. For the reasons set out above, I conclude the appeal should be allowed.
25. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord (condition 2). Condition 3 is necessary in the interests of the character and appearance of the area and to accord with CS Policy DM2, however given the limited visibility of the dwelling I consider it is not necessary to control the colour of the mortar. Also in the interests of the character and appearance of the area and to accord with CS Policies DM2 and DM12 condition 10 is required. Condition 4 combines condition 10 and 11 suggested by the Council and simplifies some of the requirements to reflect the information already shown on the submitted plans or required in other conditions and the fact that this is a single dwelling.
26. In the interests of biodiversity and to accord with CS Policy DM12, condition 5 is necessary. To ensure adequate parking on the site, for highway safety and to

ensure compliance with CS Policies DM2 and DM17 conditions 4, 7, 8 and 9 are necessary. To ensure the site is satisfactorily drained, to ensure the protection of protected habitats and to accord with Policies SP5, DM2, DM12 and DM14 condition 11 is necessary.

27. Conditions 6 and 11 both need to be pre-commencement conditions as they relate to works that need to take place either before or as part of the construction of the development. In accordance with Section 100ZA of the Town and Country Planning Act 1990, I note that the appellant raised no objection to the pre-commencement conditions.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site, Block and Location Plans Drawing No 1502/02A; and Floor Plans and Elevations Drawing No 1502/03
- 3) No development above ground level shall take place until details of the materials and finishes to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The garage and studio building hereby permitted shall not be used or occupied at any time other than for purposes ancillary to the residential use of the dwelling hereby permitted.
- 5) Development shall be carried out in accordance with the mitigation measures detailed within the Preliminary Ecological Appraisal (E3S Consultancy, November 2021).
- 6) No development shall take place until an Arboricultural Method Statement has been submitted to, and approved in writing by, the local planning authority detailing how the potential impact to the trees will be minimised during construction works, including details of the protective tree fencing to be installed for the duration of construction works. The agreed method statement shall then be adhered to throughout the development of the site.
- 7) The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with the principles shown on Drawing No 1502/02A, and drained and surfaced in accordance with details previously submitted to, and approved in writing by, the local planning authority for three vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The space shall thereafter be kept available at all times for those purposes.
- 8) No part of any boundary wall or fence erected on the site roadside frontage, nor any hedge planted to mark the roadside boundary or alongside such boundary, wall or fence, shall at any time be permitted to be more than 900mm above the level of the adjacent carriageway and resultant visibility splays shall be kept free of obstruction.
- 9) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority in respect of:
 - Steps to prevent material being deposited on the highway as a result of any operations on the site in connection with the approved development. Such steps shall include the installation and use of wheel cleaning facilities for vehicles connected to the construction of the development. Any deposit of material from the site on the highway shall be removed as soon as practicable by the site operator.

- The parking, loading, unloading, circulation and turning of all construction vehicles to include for operative vehicles within the confines of the site throughout the build process.

The agreed facilities shall be installed prior to the commencement of development and shall be retained in accordance with the approved details during the construction phase of the development.

- 10) The dwelling hereby permitted shall not be occupied until details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority and these works shall be carried out as approved. These details shall include:
- i) proposed finished levels or contours;
 - ii) means of enclosure;
 - iii) hard surfacing materials;
 - iv) minor artefacts and structures [e.g. refuse, cycle or other storage units;
 - v) proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc];
 - vi) all existing trees and hedgerows on the land and details of those being retained;
 - vii) planting plans;
 - viii) written specifications (including cultivation and other operations associated with plant and grass establishment);
 - ix) schedules of plants noting species, plant sizes and proposed numbers/densities; and
 - x) an implementation programme.

The landscaping scheme shall incorporate measures detailed in the submitted Preliminary Ecological Assessment (E3S Consultancy November 2021) and the landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme.

- 11) No development shall take place until a scheme for the drainage and disposal of surface and foul water from the development hereby permitted has been submitted to, and approved in writing by, the local planning authority. Foul drainage shall be connected to the public sewer and shall be served by the Southern Water Wastewater Treatment Works at Sandown. Development shall be carried out in accordance with the approved scheme, which shall be completed prior to the first occupation of the dwelling hereby permitted and be retained thereafter.