
Appeal Decision

Site visit made on 5 September 2023

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 September 2023

Appeal Ref: APP/P2114/W/23/3317662

Land adjacent Moorfield, Blackwater Road, Newport PO30 3BD

- 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 H Prichard against the decision of Isle of Wight Council.
 - The application Ref 22/00059/FUL, dated 13 January 2022, was refused by notice dated 9 December 2022.
 - The development proposed is the construction of two detached dwellings with carports and parking; formation of vehicular access and associated access driveway (revised scheme).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the appeal form, rather than the application form, as it is more precise and reflects the description given in the Council's Decision Notice.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - i) The character and appearance of the area including protected trees.
 - ii) Ecology and biodiversity.

Reasons

Character and appearance

4. The appeal site is located to the western side of Blackwater Road, a busy highway which leads into the settlement of Newport. To the north of the site is ribbon development of detached dwellings, of different ages, types and designs.
5. The site is currently an extensive woodland which is covered in its entirety by a Tree Preservation Order. The site is a wet woodland which is in various stages of its life. Species are predominantly alder with some other species such as ash and oak. A mature hedgerow defines the eastern boundary along the roadside and there are a number of individual established trees near to the roadside, within the site, T1-T5. Within the site there are areas of mature trees, maiden trees and areas of shrubs, grassland and scrub. Permission was granted in 2021 for coppicing in order to rejuvenate the site which had been in decline.

6. The appeal proposals would result in the removal of trees, including T3 (Alder), T4 (Blackthorn) and T5 (Ash) which are located nearest to the road, scattered along the eastern boundary of the site. The proposals would also entail the removal of 10 alder specimens and the younger alder coppice to the eastern part of the site.
7. As set out within Planning Practice Guidance (PPG), TPOs are used to protect selected trees and woodland if their removal would have a significant negative impact on the local environment and its enjoyment by the public.¹
8. The protected woodland has some open areas of scrub and grassland within it, particularly to the north-eastern part of the site. However, it is attractive site which has a particularly verdant character and acts as a green end stop to the ribbon development along Blackwater Road. Trees T1-5 are attractive specimens and make a significant contribution to the street scene.
9. While T1-2 would be retained, the loss of T3-5 would diminish the quality of this loose roadside linear grouping. T3 is identified as a B2 tree however its removal is simply to facilitate access to the site. There is a debate in terms of the category of T4, but in any case, even if I were to consider the C2 category suggested by the appellant to be justified, as a group this tree makes an important contribution. T5 is an A grade Ash. The reason for its removal relates to highway visibility and it is also noted that it could be susceptible to Ash die-back. However, this is a large prominent tree which is currently in good health.
10. I note that there would be a scheme of tree replacement with 27 extra heavy standard trees to offset this loss. However, in order to facilitate the development of two dwellings, these would be primarily located in the western and southern parts of the site, with some replacement planting located towards the roadside. Even with the additional planting, the integrity of the woodland area would thus be lost and the area would have a domesticated appearance.
11. As identified in the submitted Arboricultural Report (as amended 24 March 2022) I am also concerned that, of the remaining trees, some of the footprints of the properties would impinge into the root protection areas (RPAs). The report also notes that it has not taken into account underground services which may require excavation. The report also identifies some shading conflict. I note that the dwellings would be located away from tree canopies, however the proposed layout of habitable rooms looking west may be subject to restricted daylight in the summer months. Outdoor amenity space may also be affected in this regard.
12. In my judgment, it is likely that there would be pressure to substantially cut back other trees. Although the Council would retain formal control over any such request for tree works, in practice I consider that it is likely to be difficult to resist such pressure in the long term.
13. Overall, while there is no in-principle objection to the extension of ribbon development in general terms, the protected woodland forms a natural end stop to the existing row of dwellings and the addition of two further dwellings here would encroach into this area. Together with the loss of a significant number of trees and area of protected woodland, this would urbanise and erode the verdant character of the site. This effect would be particularly visible

¹ Reference ID: 36-007-20140306

from within the street scene, causing harm. The development would therefore conflict with Policies DM2 and DM12 of the Island Plan Core Strategy (2012). These policies seek to have regard to existing constraints such as trees and protect the integrity of sites in terms of their landscape and geodiversity (amongst other things).

Ecology and biodiversity

14. The protected woodland also forms an important habitat and, as the submitted Ecological Report (as amended 11 January 2022) notes, is of value to a range of protected and priority species. The site is also located adjacent to River Medina Site of Importance for Nature Conservation (SINC) and the value extends to its relationship with this, as well as other areas around the site, for its connectivity.
15. The report makes a number of recommendations including phase 2 survey work for bats and dormice. It is clear that the development of the site for two dwellings, and the clearance of areas of woodland and trees could also have ecological and biodiversity implications. At this stage, these are unquantified due to a lack of detailed survey work.
16. I appreciate the appellant's frustration with the Council in not giving an extension of time for the further studies to be undertaken at the correct time of year. However, that work has still to be carried out. In light of the nature of habitat on the site and the wider areas, including the SINC, and the nature of the proposals, there is significant potential for ecological effects which need to be fully understood at the outset. Accordingly, it would not be reasonable to condition further survey work as part of any approval. Instead, I consider that it is necessary to adopt a precautionary approach in order to prevent any potential harm to ecology and biodiversity.
17. The Council also refused the application on the grounds that the application failed to demonstrate why the development cannot connect to the public mains sewer. The proposals include the use of cesspits with surface water attenuation tank which would be discharged into a filtration system of gravel French drains to the existing wetland habitat and adjacent water course. As set out in the Council's position statement, it must be demonstrated that developments would not cause harm to the Solent protected sites as a result of drainage that would result in a net increase in nutrients which has a detrimental impact upon protected habitats and bird species.
18. There is a presumption against private sewage treatment works and systems should discharge into a public sewer as a first preference. Unfortunately, the information contained within the application and the appellant's appeal statement is deficient. I note that the appellant has taken the advice of Southern Water to further interrogate GIS mapping, however the Digdat Map extract included is illegible in the form provided. Even if it is accepted that the nearest public sewer is too far away, there is limited information before me to justify the proposed means of surface and foul water drainage at the site. Again, I must adopt a precautionary approach.
19. I note the dissatisfaction of the appellant in terms of the information requirements for applications and appeals, and the cost burden this places on individuals. Councils should always take a proportionate approach to the information requested in support of planning applications. However, as I have

found above, the proposals before me do not provide sufficient information in terms of ecology and biodiversity, which is subject to stringent regulations as part of the Habitats Regulations and the legislative requirements around protected species and sites.

20. Overall, without any certainty on these matters, I consider that the development would conflict with Policy DM12 which seeks to conserve, enhance and promote the landscape and biodiversity interest of the Island, and ensure that new development avoids both direct and indirect adverse effects upon the integrity of designated sites.

Planning Balance

21. In terms of benefits, as demonstrated by the Energy Statement, the proposed dwellings have been designed so that they would achieve a 100% reduction in carbon dioxide emissions. I also note that the Council is currently unable to demonstrate a 5-year supply of housing. The development of two units would therefore contribute to that supply and would be a benefit.
22. The site is also located in an area which is accessible to local services and facilities. However, the lack of such harm in this regard is neutral in the planning balance.
23. However, I have found harm in terms of character and appearance (including protected trees) and to ecology and biodiversity. I consider that these matters provide a clear reason for refusing the development proposed, in accordance with paragraph 11 of the Framework.

Other Matters

24. A signed Unilateral Undertaking was submitted as part of the appeal. This secures a contribution for habitat mitigation in respect of recreation and I note that the Council consider this to be appropriate. However, in light of my findings, I have not considered this matter in any detail.
25. My attention has been drawn to a number of other development sites in the area whereby permission has been granted, however, I have determined this appeal on the evidence before me, based on the site-specific circumstances of this case.

Conclusion

26. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Searson

INSPECTOR