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# Appeal Decision

Site visit made on 6 September 2023

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> September 2023**

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## **Appeal Ref: APP/P2114/W/22/3302552**

### **The Barn, Elenors Grove, Binstead, Isle of Wight PO33 4HE**

- 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 & Mrs Hawker against the decision of Isle of Wight Council.
  - The application Ref 22/00024/FUL, dated 4 January 2022, was refused by notice dated 7 March 2022.
  - The development proposed is described on the application form as, "Demolition of existing Barn on site, and the construction of a new "barn style" three-bedroom detached dwelling with access and car parking, and associated landscaping".
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### **Decision**

1. The appeal is allowed and planning permission is granted for demolition of barn; proposed detached dwelling with parking, access and associated landscaping at The Barn, Elenors Grove, Binstead, Isle of Wight, PO33 4HE, in accordance with the terms of the application, Ref 22/00024/FUL, dated 4 January 2022, and subject to the conditions set out in the attached schedule.

### **Preliminary Matters**

2. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Demolition of barn; proposed detached dwelling with parking, access and associated landscaping". I have used this description in my consideration of the appeal and in my decision since it best describes the proposed development in precise and concise terms.
3. Amended plans were submitted at the appeal stage<sup>1</sup>, which correct a minor error with regards to the red line boundary, identified by the Council subsequent to the determination of the application. These plans do not substantially alter the nature of the proposal, and I am satisfied that the parties' interests, including those of interested parties, would not be prejudiced by the amended plans being considered in this appeal. Therefore, I have considered these plans as part of this appeal.

### **Background and Main Issue**

4. Aside from the minor amendment to the site boundary mentioned at paragraph 3 above, this appeal proposal is identical to that considered by the Inspector in appeal decision Ref APP/P2114/W/21/3266727. In that appeal decision, the Inspector found that the proposal before them would result in limited harm to the character and appearance of the area, in conflict with Policies DM2 and

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<sup>1</sup> Location Plan & Highways Details (Drawing No. 2019/EG/110) (Rev. B), Extract from Site Location Plan (showing revised red line boundary) (Drawing No. 2019/EG/201), Site Location Plan (for Planning Inspectorate) (Drawing No. 2019/EG/202).

- DM12 of the Core Strategy<sup>2</sup>, which set out, amongst other things, that proposals will be expected to complement the character of the surrounding area and that proposals that conserve or enhance the landscape of the Island will be supported.
5. Additionally, the Inspector found that it had not been adequately demonstrated that the proposal would not have an adverse impact on the integrity of the Solent and Southampton Water Special Protection Area (SPA) through the discharge of additional nutrients from wastewater, in conflict with Policy DM12 of the Core Strategy which, amongst other things, expects development proposals to protect the integrity of international biodiversity designations.
  6. Since the latter issue constituted a clear reason for refusing the proposed development, the so-called 'tilted balance' found at paragraph 11 d) ii. of the National Planning Policy Framework (the Framework) was not engaged. The Inspector concluded that there were no considerations, including the policies of the Framework taken as a whole, that indicated that a decision should be made other than in accordance with the development plan, and that appeal was dismissed.
  7. Following the publication of the Isle of Wight Council Position Statement: Nitrogen neutral housing development (Position Statement), which was drafted in consultation with Natural England, the Council have now put forward a pre-commencement condition which would ensure that foul drainage emanating from the site would be connected to the public sewer and be served by the Southern Water Wastewater Treatment Works (WWTW) at Sandown.
  8. On this basis, the Council are satisfied that the proposed development can be excluded from having to demonstrate nutrient neutrality in relation to the SPA. As such, the Council consider that this issue, which formed the primary reason for dismissing the previous planning appeal, has now been addressed. I have no evidence to indicate otherwise.
  9. It therefore follows that the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

## **Reasons**

10. The appeal site comprises The Barn, a detached dwelling situated in an elongated plot on Elenors Grove, which is part of the A3054, a major road which links the eastern and central areas of the Island. The Barn is found at the end of a run of several detached dwellings, each situated roughly centrally in generously-sized plots, and which are set-back from Elenors Grove to a similar extent as The Barn. An access track runs along the rear boundary of those plots, towards the site. Appeal decision Ref APP/P2114/W/21/3266727 confirmed that the site is previously developed land.
11. The site is situated adjacent to a wide field to the east of the site. The site is largely obscured from views from both the road adjacent to Oakwood Lodge to the west of the site and from the long track present to the rear of the expansive field immediately to the south of the site, due to the presence of trees and mature hedgerow bounding the site to its western and southern boundaries.

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<sup>2</sup> Island Plan: Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document (adopted 2012)

12. The proposal seeks to demolish the existing timber barn on site, located to the rear of The Barn, and erect a new dwelling on previously-developed land which would be positioned further to the south of that timber barn. In this location, it undoubtedly would conflict with the existing pattern of development along Elenors Grove, which consists of a clearly-defined line of dwellings set-back to a similar extent from Elenors Grove.
13. Given that the proposed new dwelling would be physically larger than the timber barn and sited such that it would be noticeably separated from The Barn when viewed from the rear of nearby dwellings to the east on Elenors Grove, it would visually encroach into an area of land which shares a visual connection with the wider countryside.
14. Nevertheless, the proposed new dwelling would be set well-back from Elenors Grove, and located partially behind The Barn, which is itself largely obscured from views from Elenors Grove by trees and hedgerow. Hence, it would not be visible from Elenors Grove. It would also be off-set from the long garden at Oakwood Lodge and partially obscured by mature hedgerow from views from that garden.
15. Moreover, much of the site to the south and west is bounded by trees and hedgerow, and as a fairly low-rise structure, the proposed new dwelling would be largely shielded from wider views. These areas of mature hedgerow and trees have an important influence on the character and appearance of the area and contribute to the identity of Elenors Grove as being part of a wider semi-rural area which contains extensive areas of woodland, and I have no evidence to indicate that they would be, either wholly or partially, likely to be removed in the foreseeable future.
16. The dwelling would be most visible from the rear of other dwellings to the east along Elenors Grove, but the off-set siting of the proposed new dwelling from those dwellings would ensure that it would not be seen in direct views from them. It would also be located close to existing trees and hedgerow which would soften its visual impact, as would the additional soft landscaping proposed immediately around it.
17. Considering all of the above, and that the design of the proposed new dwelling would be evocative of a modern agricultural barn which would be in keeping with its context, I consider that the proposed development would have a limited adverse impact on the appearance of the area and the surrounding rural landscape.
18. The proposal would generate a level of activity on site commensurate with one family-sized dwelling only, which would in all likelihood not be significant. The uplift in comings and goings to the site, including traffic along the accessway to the proposed new dwelling, would likely be similarly limited. As such, although the siting of the proposed new dwelling would be strictly out-of-character with the context of the pattern of development in the area and the distinct building line present along this part of Elenors Grove, the proposal's adverse impact on the area's character would be limited.
19. I therefore find that the proposed development would have a limited harmful effect on the character and appearance of the area. To that extent, it would conflict with part 4. of Policy DM2 of the Core Strategy which provides that, amongst other things, development proposals will be expected to complement

the character of the surrounding area, and with the first paragraph of Policy DM12 of the Core Strategy which provides that, amongst other things, the Council will support proposals that conserve, enhance and promote the landscape of the Island.

20. There would also be limited conflict with paragraph 130 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

### **Other Matters**

21. The concerns of Fishbourne Parish Council and the occupiers of Elenors, Elenors Grove, are noted, but as any further planning application would be decided on its own merits, the proposal would not set a precedent for future similar developments.
22. As mentioned at paragraph 16 above, the proposed new dwelling would not be seen in direct views from the rear of the existing properties along Elenors Grove. A wide array of outlook from the rear garden of Elenors towards the rolling countryside would remain. The additional traffic generated along the accessway which runs adjacent to Elenors, arising from the presence of the proposed new dwelling, would likely be minimal. The proposed new dwelling would be situated sufficiently far away from the grounds of Elenors that no harmful overlooking would occur. I therefore consider that the proposed development would not be harmful to the living conditions of the occupiers of Elenors with particular regard to outlook, noise, and privacy.
23. The A3054 is a busy road. Several independent driveways in close proximity to each other access the A3054 along Elenors Grove, and the site is near to a set of traffic lights. Even so, visibility from the site's accessway onto the A3054 is good in both directions, and the proposal would likely result in a minimal uplift in traffic generated. The Framework provides at paragraph 111 that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, which considering the circumstances, is not the case with respect to the appeal proposal.

### *Affordable housing*

24. It is common ground between the main parties that financial contributions are required with respect to the proposed development, in relation to affordable housing. A unilateral undertaking (deed dated 4 March 2022) has been submitted which contains measures which relate to this purpose.
25. Part 2. of Policy DM4 of the Core Strategy, provides that, amongst other things, development proposals will be expected to provide financial contributions towards affordable housing for developments of 1-9 units in rural areas. The Affordable Housing Contributions Supplementary Planning Document (adopted 2017) (SPD) sets out the detailed requirements for sites where financial contributions will be sought.
26. The SPD requires financial contributions for certain proposed developments which are not major developments, in contrast with the guidance found in the Planning Practice Guidance (PPG), which advises that planning obligations for

affordable housing should only be sought for residential developments that are major developments<sup>3</sup>. This is echoed in paragraph 64 of the Framework, albeit with the caveat that in designated rural areas the threshold can be set at 5 dwellings or fewer, although this does not apply to the appeal site.

27. The SPD was adopted following public consultation, and provides a comprehensive suite of evidence demonstrating that the lack of delivery of affordable housing has become a significant issue for the Island. Additionally, aside from appeal decision Ref APP/P2114/W/21/3266727, previous Inspectors have on several occasions<sup>4</sup> considered that affordable housing contributions were considered necessary.
28. Moreover, the Council have explained that the financial contribution required is based on the value of the proposed dwelling, and would be used to deliver affordable housing off-site on the Island, which, as stated above, is evidently required. On this basis, whilst the Framework and the PPG are material considerations, given the evidence before me they do not, in this instance, outweigh the requirements of the development plan.
29. I therefore consider that these measures in this unilateral undertaking are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development and that they would comply with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), so far as is relevant to this unilateral undertaking, and the tests for planning obligations set out in the Framework. I have taken account of these measures in the overall planning balance, which is undertaken below.

#### *Habitats mitigation*

30. The main parties are in agreement that financial contributions are required with respect to the proposed development, in relation to the Solent Recreation Mitigation Strategy. Unilateral undertakings (deeds dated 4 March 2022 and 20 December 2022) have been submitted for this purpose. I have no substantive evidence to indicate that these contributions are not required, nor any reason to find that the Council's approach in this regard is at odds with national planning policy.
31. I therefore consider that the relevant measures in these unilateral undertakings are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development and that they would comply with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), so far as is relevant to these unilateral undertakings, and the tests for planning obligations set out in the Framework. I have taken account of these measures in the overall planning balance, which is undertaken below.

#### *Foul drainage*

32. The Position Statement states that Natural England have raised the issue of a likely significant effect on internationally designated sites due to the increase in wastewater from new developments. In this regard, the Council have

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<sup>3</sup> Paragraph 23b-023-20190901

<sup>4</sup> APP/P2114/W/21/3285607, APP/P2114/W/22/3292006, APP/P2114/W/21/3287940, APP/P2114/W/21/3285500, APP/P2114/W/21/3287362, APP/P2114/W/21/3278577

suggested a planning condition, based on that provided in Appendix B of the Position Statement, which would ensure that foul drainage shall be connected to the public sewer and shall be served by the Southern Water Wastewater Treatment Works (WWTW) at Sandown.

33. Southern Water have confirmed<sup>5</sup> that wastewater from the appeal site goes to the Sandown WWTW. Considering this, and in particular that the suggested condition is based on that suggested in the Position Statement, which has been endorsed by Natural England, I consider that the imposition of the suggested planning condition would satisfactorily address this issue.
34. A unilateral undertaking (deed dated 30 June 2022) has been submitted relating to the wastewater output of the proposed development with respect to potential impacts on internationally designated sites. For the reasons given above, a planning condition is sufficient to cover this matter. I therefore find that the relevant measures in this unilateral undertaking are not necessary in terms of the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the tests for planning obligations set out in the Framework.
35. As it would not be lawful to take this unilateral undertaking into account as a reason for granting planning permission, it has not influenced my decision on this appeal.

*Other considerations*

36. The proposal would contribute to the Government's objective of significantly boosting the supply of homes, and would add to the housing stock in the local area, via the erection of a new dwelling. This is a particularly important matter, considering that the Council cannot demonstrate a 5-year supply of deliverable housing sites.
37. Additionally, I note the intention for the proposed new dwelling to be a self-build project, which the Framework lends support for, although as no specific mechanism is before me to secure this, this matter can only be given limited weight in support of the proposal. The proposal would however contribute to the mix of housing types locally.
38. The proposed new dwelling would be situated in an accessible location, with the centre of Wootton being within walking distance of the site, and nearby bus stops providing access to regular bus services to settlements further afield. In this regard, the proposal would clearly promote sustainable transport, which is an important factor in the proposal's favour.
39. I note the intention to release The Barn to the market, although as no specific mechanism is before me to achieve this, this matter can only be given limited weight in support of the proposal. I am however mindful of the relevance of paragraph 69 of the Framework which provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
40. The proposal would make an efficient use of land, although the benefits in this regard are tempered by the conclusion reached on the main issue in the light of paragraph 124 e) of the Framework which provides that, amongst other things,

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<sup>5</sup> Letter of 7 September 2021 from Southern Water to the appellants

planning decisions should support development that makes efficient use of land, taking into account the importance of securing well-designed and attractive places.

41. The proposal would provide work for construction professionals, and the future occupiers of the proposed new dwelling would likely contribute to both the economic and the community life of the area.
42. The proposal would utilise energy-efficient construction methods, and long-term energy-saving features would be incorporated into the build, including an Air Source Heat Pump, amongst others. The additional hedgerow proposed on site would likely provide a limited contribution to biodiversity in the local area.

### **Planning Balance**

43. The above-mentioned benefits of the proposal in economic, social, and environmental terms (including the contributions towards affordable housing and habitats mitigation provided via the unilateral undertakings referred to) would be constrained by the minimal quantum of development proposed, of one dwelling only.
44. Nevertheless, given that the latest Housing Delivery Test results indicate that under-delivery of housing on the Island has been persistent in recent years, the provision of one new dwelling is of modest value in this context. I am also mindful that whilst limited harm to the character and appearance of the area has been identified, paragraph 130 c) of the Framework stresses that planning decisions should not prevent or discourage appropriate innovation or change (such as increased densities), with the proposal relating to a small amount of additional housing in an accessible location. As the benefits of the proposal provide modest support for it, collectively these benefits have been given moderate weight.
45. I note that the Inspector in appeal decision Ref APP/P2114/W/21/3266727 found that the proposal's conflict with the requirements of Policies DM2 and DM12 of the Core Strategy in respect of the character / landscape of the area attracted significant weight, due to those policies being broadly consistent with the Framework (taking account of paragraph 219 of the Framework). I concur that these aspects of Policies DM2 and DM12 are consistent with the Framework, but it is necessary to assess the degree to which the particular proposal before me conflicts with the relevant requirements of those policies, in order to accurately assign weight to the conflicts identified.
46. In this regard, the proposal would result in harm to the character and appearance of the area, in the terms I have described on the main issue above. For the reasons given in the main issue, the adverse impacts of the proposal in these respects would however be limited. In particular, the limited quantum of development proposed on a largely secluded previously-developed site would not significantly alter the sense of place in the locality (referred to at part 1. of Policy DM2), and the proposal's adverse impact on the landscape of the Island (mentioned in the first paragraph of Policy DM12) would be negligible.
47. The degree of the proposal's conflict with Policies DM2 and DM12 would accordingly be minimal. Consequently, limited weight has been given to the proposal's conflict with the development plan when considered as a whole.

48. As the Council is presently unable to demonstrate the supply of housing sites as required by the Framework, the most important policies are deemed to be out-of-date, including the relevant parts of Policy SP2 of the Core Strategy which relate to housing figures. Hence, the provisions of paragraph 11 d) ii. of the Framework apply in that planning permission should be granted for the proposal unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
49. Balancing the limited weight of the adverse impacts of the proposal against the moderate weight I afford to the benefits I have found, it is clear that the adverse impacts identified would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. In these circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, which is a factor which weighs heavily in the proposal's favour.
50. Overall, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), as a matter of planning judgement I find that the other considerations (which include the Framework's presumption in favour of sustainable development which the proposal benefits from), indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

### **Conditions**

51. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the PPG.
52. Conditions are necessary, in the interests of clarity and enforceability, setting out the timescale for the commencement of development (condition 1) and the approved plans (condition 2), respectively.
53. Conditions are necessary requiring details of a soft landscaping scheme (condition 3) and boundary treatment (condition 4) to be submitted to and approved by the Local Planning Authority, to safeguard the character and appearance of the area.
54. A condition is necessary requiring an Arboreal Method Statement to be submitted to and approved by the Local Planning Authority (condition 5) to ensure that trees on site are adequately protected during the construction phase of the development.
55. A condition is necessary requiring a strategy and timetable for carrying out and completion of ecological mitigation works to be submitted to and approved by the Local Planning Authority (condition 6), to protect and retain any valuable ecological features on site.
56. As discussed at paragraphs 32 and 33 above, a condition has been suggested by the Council, based on wording agreed with Natural England, for a scheme for the drainage and disposal of surface and foul water from the development to be submitted to and approved in writing by the Local Planning Authority, with foul drainage to be connected to the public sewer and served by the Southern Water Wastewater Treatment Works at Sandown. This condition

(condition 7) is necessary to prevent harmful impacts on internationally designated sites, including the Solent and Southampton Water SPA.

57. I have not imposed a condition requiring the control of the external materials since sufficient detail thereof is shown on the approved plans which are covered by a separate condition.

**Conclusion**

58. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

*Alexander O'Doherty*

INSPECTOR

## Conditions Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (for Planning Inspectorate) (Drawing No. 2019/EG/202), East Elevation (Drawing No. 710\_PL\_402\_EE), First Floor (Drawing No. 710\_PL\_204\_1F), Ground Floor (Drawing No. 710\_PL\_201\_GF), North Elevation (Drawing No. 710\_PL\_403\_NE), South Elevation (Drawing No. 710\_PL\_404\_SE), West Elevation (Drawing No. 710\_PL\_401\_WE), Indicative Landscaping (Drawing No. 2019/EG/108) (Rev. A), Location Plan & Highways Details (Drawing No. 2019/EG/110) (Rev. B), Site Plan / Site Layout (Drawing No. 2019/EG/102) (Rev. B), Context Plan – annotated (Drawing No. 2019/EG/109), Sections (Drawing No. 2019/EG/104), 3D Views (Drawing No. 2019/EG/103), Sectional Views – View B-B and C-C (Drawing No. 2019/EG/106), Tree Survey & Constraints Plan (Drawing No. AS/CH/0620 TSCP), Extract from Site Location Plan (showing revised red line boundary) (Drawing No. 2019/EG/201).
- 3) No development shall take place until full details of a soft landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority. These details shall include a schedule of plants, noting species, plant sizes and proposed numbers/densities, planting methodology and an implementation programme. Planting shall be carried out in accordance with the approved details and shall be regularly maintained thereafter. Any trees or plants that die, are removed, or become seriously damaged or diseased within 5 years of planting are to be replaced in the following planting season (with specimens of a similar size or species) unless the Local Planning Authority gives written consent to any variation for a period of 5 years from the date the approved scheme was completed.
- 4) The development shall not be occupied until details have been submitted to and approved in writing by the Local Planning Authority of the positions, design, materials and type of boundary treatment to be erected and those works have been carried out as approved. The boundary treatment implemented as approved shall be retained thereafter.
- 5) No development shall take place until an Arboreal Method Statement has been submitted to and approved in writing by the Local Planning Authority detailing how the potential impact to trees on site will be minimised during construction works, including details of protective tree fencing to be installed for the duration of the construction works. The approved Arboreal Method Statement shall be adhered to throughout the construction period for the development.
- 6) Development, including site clearance, shall not begin until a strategy and timetable for carrying out and completion of mitigation works (incorporating the measures within the submitted Ecological Report: Preliminary Ecological Appraisal (dated 25 June 2020)), to include timing of clearance works, precautionary construction methodologies, installation of habitat features onsite and planting, has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved strategy and timetable.

- 7) 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 occupation of the dwelling hereby permitted and be retained thereafter.

**End of Conditions Schedule**