



Appeal Decision

Site visit made on 16 October 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/P2114/W/23/3313995

The Stables, Whitehouse Road, Newport PO30 4LJ

- 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 David Smith against the decision of Isle of Wight Council.
 - The application Ref 22/01549/FUL, dated 23 August 2022, was refused by notice dated 2 November 2022.
 - The development proposed is demolish existing stables and erect detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal the appellant submitted an executed unilateral undertaking (UU) dated 1 March 2023. It relates to the provision of affordable housing and to some mitigation for European sites. The Council considers the UU has addressed its reason for refusal 3 and 4 respectively which it does not pursue in the appeal.
3. The application made to the Council was for planning permission, not outline planning permission or permission in principle. Accordingly, though the appellant states that the design of the bungalow is 'flexible', the detailed proposal is as shown in the submitted plans.

Main Issues

4. The main issues in this case are:
 - whether the appeal site would be a suitable location for the proposal with reference to the development plan spatial strategy;
 - the effect of the proposal on the character and appearance of the area; and
 - its effect on the European sites, having regard to recreational use and nitrates.

Reasons

Location and spatial strategy

5. The development plan is the Island Plan (IP)¹. The spatial strategy set out in IP Policy SP1 intends to meet the Island's housing needs within or immediately adjacent to defined settlement boundaries, including because these are the

¹ The Island Plan, the Isle of Wight Council Core Strategy (including Minerals & Waste) and Development Management Policies Development Plan Document, March 2012

most sustainable and accessible locations. Elsewhere, in the wider rural area, housing development must be justified by a specific identified local need or requirement, make a demonstrable contribution to maintaining local facilities and maintain or enhance the wider viability of local communities.

6. The site is not within or immediately adjacent to a defined settlement boundary and over 2km from such a location, so in the wider rural area. While there is a need for market housing generally on the Island, there is no evidence of a specific identified local need for it to be on the site or near it. No other identified local need or requirement recognised by the IP has been suggested. Facilities in Gunville could meet some daily living needs of occupants of the dwelling but are over 2.5km from the site. It would require an inordinate walk, initially along a short section of Whitehouse Road (a rural lane) to a crossroad junction and then the A3054 (a main road) for a considerable distance.
7. Near the site both roads have no pavements or street lighting. There are few verges not tight against roadside hedgerows, uneven or overgrown. Occupants would mainly have to walk on the carriageways and cross Whitehouse Road. As well as HGVs in both roads, the A3054 is also used by buses. Both sections of these roads are straight but subject to a 60mph speed limit and albeit a snapshot they were well trafficked, especially the A3054 which does not give way at the crossroads. Even if occupants crossed Whitehouse Road opposite the site, vehicles on this road are not likely to have slowed appreciably before the junction. Vehicles could also turn into it relatively quickly off the A3054 from both directions with little warning.
8. A bus stop on the north side of the A3054 is east of the crossroads and on the south side is west of the crossroads. The timetables displayed show frequent services including to Yarmouth, Gunville and Newport so could be used to also meet some weekly household needs. However, this would require the same walk along Whitehouse Road (and crossing it in one direction) then a short section of the A3054 in either direction. The west bound stop requires crossing the A3054 in close proximity to the crossroads, with no central refuge and a crest in the road to the west partly masks approaching traffic. The bus stops are next to the roadside edge with limited useable refuge space, no shelter, seating or lighting.
9. As a result, the roads to facilities or bus stops are not conducive to pedestrian use, including by children, parents with buggies, infirm persons or wheelchair users; particularly in darkness or during inclement weather and especially the inhospitable A3054. The crossroads would be a complex, dangerous junction for occupants of the dwelling to negotiate. Nor are there any dedicated cycle lanes. The additional travel demand due to the proposal would therefore cause unacceptable increased risk of vehicular and pedestrian or cyclist conflict, accident or injury and the occupants of the dwelling would be mainly reliant on a car to meet most living needs. By any mode of travel there is no evidence that local facilities are not already viable, nor that one household would make a material contribution to maintaining them or maintain or enhance the wider viability of a local community in a meaningful way.
10. Taking account of the above, I find that the appeal site would not be a suitable location for the proposal with reference to the development plan spatial strategy. Consequently, the proposal would undermine and harm objectives of the development plan in these regards. It therefore conflicts with IP Policy SP1.

Character and appearance

11. The appeal site is a modest sized piece of grassland containing a small L-shaped stable building, some hardstanding and a storage container. It is bounded on one side by a tall hedgerow along Whitehouse Road and otherwise faces fields or paddocks on the three internal sides, separated by low post and wire fences. The stable and nearby dwellings or rural buildings, some quite large, are scattered or sporadic in siting amongst mainly large, open fields in this part of the countryside. As such, this area has a distinctly remote, rural feel where the landscape, not built form, generally prevails. The site therefore makes a positive contribution to local character and appearance.
12. The bungalow would have a similar eave height to the stables and some matching external materials. Suitable details could be secured by a planning condition and there is no apparent reason why the proposal would not be high quality in these respects.
13. However, despite a superficial impression of a rural building converted to residential use, it would be a new building with overtly residential features such as two shallow projecting bays with roof gables and floor to ceiling height glazing in three elevations. The quite different square shaped footprint would more than double the floor area of the stables. Though single-storey it would be much taller to ridge level than the very low pitched stable roof and almost twice as high (about 5m to ridge in the plans, not 3.5m in the design and access statement). The much deeper roof profile, taller from eaves to ridge than from ground to eaves, and large gabled ends would give the bungalow an unduly top-heavy appearance. The site would contain a significantly greater scale, massing and bulk of built form and in a more open position further from the roadside hedgerow, as would be the re-aligned access drive. Albeit gravel, there would be a notable increase in hardstanding for parking and turning.
14. Replanting hedgerow across the vehicular access to be stopped up would largely cancel out the gap created by the new access. However, most of the roadside hedgerow would be cut back from the lane edge and reduced in density or depth of planting, or a new hedge planted. This would achieve required visibility splays but at the expense of an inordinate loss or substantial reduction of a significant length of mature hedgerow and new planting would take a long time to achieve a similar presence. Either way, the inset angled alignment would appear artificial and uncharacteristic in the lane.
15. Use of the site for a dwelling and as a garden would introduce domestic built form, activity and paraphernalia, including internal and external lighting, and unduly emphasise sub-division from its open setting. There is no evidence that such use is presently authorised on the site. The stable has little visual or spatial presence so its removal would not be a comparable like for like change or even close, nor appreciably off-set the adverse impacts of the bungalow. Further landscaping would not screen all the upper part of it and anyway cannot be relied on in the long term. While the storage container is an alien feature it is relatively small and the design and appearance of the stable is in-keeping for such use in conjunction with the surrounding land, so not intrinsically out of place in the countryside.
16. While opportunity for public scrutiny is limited, the roof of the bungalow would be hard not to notice in public views through or over the reduced hedgerow from opposite in Whitehouse Road and in each direction, including from passing

vehicles. To the north the height of roadside hedgerow on the appeal site side of this road is not in the appellant's ownership or control so could be lowered. The bungalow and parked cars could be observed through the gap at the access. The proposal would, therefore, be out of kilter with important features of the stable building and existing use of the site. This nub of residential built form and use would protrude into the field, encroach further into the open countryside, reduce spaciousness and an urbanising effect would unduly diminish the rural feel of this stretch of the road. This intrinsic change at the site would not go unnoticed and jar in the streetscene.

17. Considering all the above, I find that the proposal would cause unacceptable demonstrable harm to the character and appearance of the area. As such, it conflicts with IP Policies DM2 and DM12. These policies include that development should conserve or enhance the environment and landscape, complement the character and context of the surrounding area with regard to adjacent buildings and views and maintain a sense of place.

European sites

18. The site is within a zone of influence of the coast and water environments of the Solent International Sites². These European sites are designated to protect important habitat for bird species. A significant individual or in-combination adverse effect on the European sites would be likely to occur from residential development due to disturbance from increased visitor recreational use or nitrates if foul wastewater entered the Solent exacerbating eutrophication. With advice from Natural England the Council adopted a recreation strategy³ and a position statement⁴.
19. The recreation strategy requires a financial contribution towards strategic access management and monitoring measures to control such activity in the European sites, including suitable alternative natural greenspace for residents to use. The Council has explained the recreation strategy, the basis on which the mitigation is sought, how this would be achieved and has undertaken an Appropriate Assessment⁵. It concludes that with this mitigation the proposal would not significantly harm the nature conservation interests of the European sites so not adversely affect their integrity with respect to recreational use. I am therefore also satisfied that in this respect the UU would be necessary, directly related to the development and fair and reasonable in scale and kind. As such, this part of the UU accords with the provisions of Regulation 122⁶ and the Framework tests for planning obligations.
20. The position statement includes that if foul wastewater from residential development on the Island enters the English Channel, not the Solent, there would be no likely adverse effect on the European sites so no need for mitigation. The Council would ordinarily seek to ensure this by its suggested negatively worded Grampian planning condition. The appellant states that the proposal would connect to a main sewer served by the Southern Water Sandown wastewater treatment works (WTW). It is not in dispute that this WTW outfalls to the English Channel.

² Solent Maritime Special Area of Conservation, Solent and Southampton Water Special Protection Area (SPA) and Ramsar, Portsmouth Harbour SPA and Ramsar and Chichester and Langstone Harbours SPA and Ramsar.

³ Solent Recreation Mitigation Strategy December 2017

⁴ Isle of Wight Position Statement: Nitrogen neutral housing development January 2023

⁵ Conservation of Habitats and Species Regulations 2017 (as amended)

⁶ Community Infrastructure Levy Regulations 2010

21. The Council's plan only shows a sewer along the A3054, so not next to the site. But the type of sewer is not marked so I cannot be certain that this plan shows all sewers. The appellant's Southern Water plan and legend additionally shows foul or combined (foul and surface water) sewers along either side of Whitehouse Road past the site. However, the appellant's Southern Water email simply confirms 'the nearest public sewer discharges to the Sandown WTW'. It does not identify this sewer or say that the site can be connected to it, or to any other sewer.
22. There is no evidence that the appellant has ownership, control or any other necessary consent for all requisite intervening land inside or outside the red line defining the site to secure a connection. Nor that this is technically possible or that a suitable sewer has sufficient capacity to serve the proposal. There are no details of the appellant's alternative for a private package wastewater treatment plant or sealed cesspit on the site. This issue is fundamental to the acceptability of the proposal so it cannot be left to the Council's condition after a grant of planning permission.
23. In these circumstances, as the competent authority in this appeal and after Appropriate Assessment, I am not satisfied it has been demonstrated that the proposal would not significantly harm the nature conservation interests of the European sites so adversely affect their integrity with respect to nitrates. Consequently, it is contrary to IP Policies SP5 and DM12. These policies include that development should take account of the environmental capacity of an area to protect and avoid demonstrable harm to the Island's natural environment, including designated biodiversity sites.

Other Matters

Affordable housing (AH)

24. The National Planning Policy Framework (Framework) sets out that AH should not be provided for minor residential development. However, the Council has demonstrated that the lack of delivery of AH is a significant issue on the Island and has justified a need to increase AH via IP Policy DM4, including by development of small sites having taken account of viability⁷. I consider that these local circumstances outweigh these provisions of the Framework in this appeal.
25. The UU provides for a financial contribution made to the Council to help it increase the supply of AH on other sites. The Council has explained the level of contribution sought and how this aim would be achieved. I am therefore satisfied that in this respect the UU would be necessary, directly related to the development and fair and reasonable in scale and kind. As such, this part of the UU accords with the provisions of Regulation 122 and the Framework tests for planning obligations. As a result, the proposal complies with IP Policy DM4.

Personal circumstances

26. I sympathise with the appellant's reasons for making the application. But he already lives elsewhere on the Island. There is no evidence that building the proposed dwelling is the only way for him to live with his family, work from home or create a healthy lifestyle, including by growing produce on land next to the site, including for sale. These preferences would endure for the duration

⁷ Affordable Housing Contributions Supplementary Planning Document March 2017

of his occupation of the dwelling, whereas the adverse impacts of the proposal would be permanent and must be reconciled in the wider public, not private, interest.

Planning Balance

27. The Council accepts that it failed the most recent Housing Delivery Test. By virtue of footnote 8, Framework paragraph 11(d) is therefore engaged and the starting point is that planning permission should be granted.
28. In this appeal the application of policies in the Framework that protect an area or asset of particular importance (the European sites) provide a clear reason for refusing permission with regard to nitrates. Accordingly, the presumption in favour of sustainable development does not apply in this case.
29. This family sized bungalow on this small previously-developed⁸ windfall site would make effective use of it for housing and it could be built relatively quickly. In a limited way it would contribute to meeting the Council's housing requirement, help deliver affordable housing elsewhere on the Island and sustain employment during construction. It would provide ecology enhancement on the site and incorporate energy efficiency measures. These outcomes would align with objectives of the Framework to significantly boost the supply of homes, meet people's living needs (including for affordable housing), support the economy, achieve net gains for biodiversity and manage climate change. These would be modest social, economic and environmental benefits from a single dwelling so, in my view, each have moderate weight in support of the proposal.
30. However, while the bungalow would not be remote due to proximity to nearby buildings, it would not be in or next to any settlement⁹. There is no evidence that this isolated single dwelling would support or grow any rural settlement in an appreciable way to meet community needs or enhance or maintain the vitality of rural communities, including by use of local facilities. The proposal would not promote walking, cycling or public transport in a meaningful way or result in a pattern of development that supported these aims or ensured the safety of pedestrian occupants of the bungalow. While transport opportunity varies between urban and rural areas, the bungalow would not be in a location that is or could be made sustainable by limiting the need to travel or offer a genuine choice of useable travel modes. The proposal would not meet circumstances or exceptions in the Framework for housing in the countryside.
31. It would undermine IP objectives in these respects. The IP was prepared and adopted against a different national planning policy context but the Framework is not materially different in these regards. The policies relevant to housing delivery and most important to determining this appeal remain broadly consistent with these rural housing and sustainable transport objectives of the Framework. Consequently, given the HDT position reduced weight applies to the conflict with these development plan policies but nonetheless in my view still have moderate weight against the proposal.

⁸ Framework Annex 2: Glossary

⁹ *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610 and *City and Country Bramshill Ltd v SSHLG and others* [2021] EWCA Civ 320

32. Once developed as proposed the contribution of the site to the character and appearance of the area would be lost. The proposal would not reflect existing built form or use at the site, not integrate with the countryside or maintain a rural sense of place. Inadequate nitrate mitigation would result in harm to the European sites. This would undermine IP aims in these respects. These are also broadly consistent with objectives of the Framework to conserve the natural environment, recognise the intrinsic character and beauty of the countryside, ensure new homes on appropriate land in rural areas achieve well-designed places and to protect and enhance biodiversity.
33. Even if the shortfall in housing delivery is acute, I consider that the support given in the Framework to delivering housing is not at the expense of ensuring that residential development is appropriately located and suitable in relation to its surroundings to avoid undue proliferation of housing in the countryside and unjustified unacceptable harm to it. In my view, these individually important and cumulatively compelling adverse social, environmental and economic impacts have substantial weight against the proposal.
34. The benefits if the proposal would not, therefore, outweigh the harm.

Conclusion

35. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan¹⁰. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

¹⁰ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12