



Appeal Decision

Site visit made on 12 December 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Appeal Ref: APP/P2114/W/23/3320044

Land Registry title IW18259, south of 11-14 Trevanions Way, Totland PO39 0LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jason Williams against Isle of Wight Council.
 - The application Ref 22/02196/FUL, is dated 4 December 2022.
 - The development proposed is tourism unit replacing existing detached garage.
-

Decision

1. The appeal is dismissed and planning permission for tourism unit replacing existing detached garage is refused.

Preliminary Matters

2. An updated version of the National Planning Policy Framework was published on 19 December 2023. Its content is largely unchanged in relation to the main issues of this appeal, so I have not sought the views of the main parties on this matter.

Background and Main Issues

3. The appeal results from the Council's failure to determine the application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the assessment and conclusions submitted by the Council during the appeal process, which explains that it would have refused the proposal for three reasons. These have informed the main issues of the appeal, which are:
 - a) The effect of the proposal on the character and appearance of the area including existing trees, and
 - b) Whether the proposal would deliver high quality tourism as required by development plan policy.

Reasons

Character and appearance

4. The appeal site is a small area to the rear of a row of two pairs of semi-detached dwellings. The dwellings stand to the edge of a small area of residential development and back onto agricultural land, which rises up steeply from the position of the existing garage.

5. Several mature trees stand along the bank at the southern edge of the site. These include a large Oak (T1) that stands behind and close to the existing garage. This is classified as a Category A tree in the submitted Tree Report¹, which the report clarifies as trees of high quality. The two Oaks and the Sycamore stand well above the height of the existing dwellings and are highly prominent to view from the higher land along Court Road, where their open grown forms can be appreciated in the context of the undeveloped agricultural land beyond. They are thus of considerable amenity value and contribute to the rural character and appearance of the area.
6. The proposal includes the retention of the Oaks and the Sycamore. The submissions set out methods that would allow the building to be constructed without damaging the root systems of the retained trees, and this is a matter accepted by the main parties. Therefore, it would appear to be technically possible to construct the proposed building and retain these trees.
7. However, the proposed building would be erected at the bottom of a steep north-facing bank that is topped by T1. The canopy of T1 would extend over the building and, owing to its elevated growing position relative to the ground level of the building, would overwhelm the proposed building in terms of outlook and daylight.
8. I accept that the canopy of T1 is at a high level, and that it would be possible to look out from the proposed bedroom window beneath the canopy. However, it is highly likely that future owners or managers of the building would find the various impacts of T1 – which include significant shading, debris, and anxiety as a result of its proximity – to be so significant that a case would be made for its felling in the future.
9. The appellant is of the view that the Council could address this by serving a Tree Preservation Order. This would mean that future work to fell or prune the tree would need to be subject to the Council's approval. However, such applications would need to be determined by weighing up the amenity value of the tree against the justification put forward for the works. Based on the scenario that would be created if the building is erected, I find that the case for carrying out considerable work to the tree which could include felling would be compelling, and a matter that a future decision maker may find difficult to resist. The loss of T1, or pruning work that would harm its natural form, would have a harmful impact on the character and appearance of the area.
10. In terms of the other matters raised, the proposed building would stand close to the neighbouring outbuilding and would be similarly scaled. It would not be prominent to view from the road owing to the intervening houses, which are of a much more significant scale. The steep bank to the south and retained trees would mean that it would also have little visual impact on views from the south across the open agricultural land.
11. However, the proposal would have a harmful impact on the character and appearance of the area as a result of the incompatible future relationship between T1 and the proposed building, which would most likely result in a situation where T1 would need to be felled. It would thus be contrary to Policy DM2 of the Island Plan Core Strategy 2012 (CS), which seeks to ensure that

¹ Tree Report Arboricultural Impact Assessment, dated 30.11.22, Ref WIT-22-33-009-aia

development proposals have regard to existing constraints such as trees which significantly contribute to the character of the area.

Tourism

12. Policy SP4 of the CS establishes that the Council will support sustainable growth in high quality tourism. The building would stand in a secondary area at the rear of a row of dwellings that serves as a small service yard to provide parking and rear access. The area is bound to the north by a mix of fencing panels that define the southern end of the existing rear gardens. A concrete area alongside this provides a surface for the parking of cars. Given the need to retain access to the rear of neighbouring dwellings it is difficult to see how the appearance of the area could be improved. Most of the openings of the proposed building would face out over this area, which would not provide an attractive outlook for the future users of the building.
13. T1 stands to the south of the proposed building, and the Sycamore to the west. As a result, the building and its small garden area would be overwhelmed by the canopies of these trees and subject to a significant level of shade when the trees are in leaf; a situation which would be little improved during the winter months because of its position at the bottom of a steep north facing bank.
14. The building includes a pair of doors that would open out to the south. The plans - which are rather basic given the constraint posed by the existing topography - suggest that a narrow level area would be formed to the south of the building. However, the appellant advises that the bank would not be excavated. Based on what I observed at my visit, it is likely that these doors would open directly onto the bank, and it would be difficult for them to function properly without some excavation. It is suggested that this matter could be addressed by changing the opening. However, amended plans are not before me so I can give little weight to this suggested variation.
15. The appellant refers to his experience of providing holiday accommodation that receives good reviews. The existing accommodation is however elsewhere and does nothing to convince me that the proposal can provide high quality tourist accommodation at the appeal site in the light of the inadequacies I have identified.
16. In summary, the site is not well suited to accommodation of this type, and the proposed building has failed to respond positively to the site constraints. The proposed holiday accommodation would not therefore be high quality, and would not accord with Policy SP4 of the CS.

Other Matters

17. Waste water from the proposed building has the potential to enter The Solent². Through the process of eutrophication, increased levels of nitrogen and phosphorus in the water environment of The Solent can harm its important habitats, which in turn can displace bird species, some of which are of international importance. A proposal for an increase in overnight accommodation should seek to achieve nutrient neutrality to avoid a significant effect on the integrity of the protected sites. However, as I am dismissing the

²The Solent covers the Solent Maritime Special Area of Conservation (SAC), Solent and Southampton Water Special Protection Area (SPA) and Ramsar Site, Portsmouth Harbour SPA and Ramsar Site, and the Solent and Dorset Coast SPA.

appeal, this impact would not occur in any event, and these matters do not therefore need to be considered further.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed, and the planning application refused.

A Tucker

INSPECTOR