



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: 17th January 2024

Appeal Ref: APP/P2114/W/23/3317863

53 Gills Cliff Road, Ventnor, Isle of Wight PO38 1AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Champion against the decision of Isle of Wight Council.
 - The application Ref 22/02033/OUT, dated 9 November 2022, was refused by notice dated 9 January 2023.
 - The development proposed is construction of three storey building forming 6 flats with associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters reserved except for scale.
3. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. On the same day the government published the 2022 Housing Delivery Test Results (HDT). The main parties have been given the opportunity to make extra representations on these matters and any comments received have been considered in my determination of the appeal.

Main Issues

4. The main issues are:
 - a) The effect of the proposal on the character and appearance of the area,
 - b) Whether it would be reasonable to safeguard any ecological interest at the site by imposing a condition to require the submission of an ecological survey if the appeal is allowed, and
 - c) The lack of a contribution towards the provision of affordable housing with regard to the requirements of the development plan.

Reasons

Character and appearance

5. The area of the appeal site is characterised predominantly by detached houses in a variety of styles. Most are individually built, and are designed to make the most of the sea views. They stand on sloping ground that falls steeply to the south to the extent that buildings to the north side of the road are elevated

well above road level, and those to the south are set well below. The area has a spacious character and appearance, with most dwellings set in generously sized mature gardens. Despite the generous plot sizes to the north of the road in the area of the appeal site, most dwellings are fairly modestly sized and of a conventional two storey scale. Some occupy large footprints, but these are made up in part by subsidiary extensions such as the side conservatory of the dwelling to the west. No. 55 to the east has a particularly narrow primary elevation facing the road.

6. The proposal is for a building that would have a much more substantial scale than the existing dwellings to either side, as a result of its broad front elevation and deep footprint. It would appear over scaled in this context, particularly as it would occupy almost the entire width of the plot which would be quite unlike the dwellings to either side, and would leave little space for any meaningful planting that could mitigate the impact arising from its excessive scale.
7. A dwelling further to the west known as Pine Point is of the same width as the proposed building. However, it is of an entirely different scale as a sprawling low rise building.
8. In an easterly direction No. 57 is an early 20th century house that has a relatively broad scale to its front façade. It is however essentially only three bays wide, and its scale further minimised by the use of a low-pitched roof and the differing depths to its three primary parts which serve to break up its massing. This would be quite unlike the scale of the proposed building which would be flat fronted and with a bulky singular roof that would be of a much more significant scale than these surrounding buildings.
9. Further to the east a new building - No. 67 - has a substantial footprint. However, its front elevation is relatively compact and considerably narrower than the proposed building.
10. Permission already exists at the site for a single dwelling and an alternative permission for a pair of matching detached dwellings. Whilst the two dwellings would be close together, their detached forms would give them a scale that would enable them to readily assimilate with the scale of the dwellings to either side. This would be quite different to the scale of the proposed building, which would have a singular mass that would be roughly twice the width of the neighbouring dwellings.
11. The appellant suggests that the central glazed section could be set back to break up the massing. It is however unclear whether any reduction or breaking up of the mass of the roof could also occur; as without this, setting back the narrow central circulation part of the building only would have little impact on its overall scale.
12. The proposal also includes the excavation of an extensive area for parking to provide each flat with a parking space. Parking and garaging at neighbouring dwellings is generally modest, with small garages and pull in areas close to the road. I appreciate that many of these would not be up to modern highways standards, however they are a clear characteristic of the area and entirely relevant to an assessment of the scale of the proposed building.
13. The excavation would extend back from the road beyond the depth of the adjacent garages. The resultant hole in the hillside would be of a significant

scale, and far more than the modest areas nearby. The extent of excavation and the retaining wall would add to the harmful impact of the building's scale as it would effectively add an additional storey below its main façade.

14. I note that a similar arrangement was approved for the scheme for two dwellings. However, this required less parking, so the excavation would not extend so far back into the hillside, allowing the main elevation of the dwellings to be set back considerably beyond the position of the retaining wall. In contrast the proposed drawings indicate that the building would stand on top of and in line with the retaining wall, which would give a flat three storey scale to its front façade. The appellant suggests that plants could be grown up over the walls. It is difficult to see however where climbing plants could be planted as the proposed parking area extends right up to the front of the building and there is no obvious alternative way that the parking could be arranged.
15. The appellant is concerned about whether the Council ventured beyond the assessment of scale to other matters that would be considered at the reserved matters stage. Whilst the design of the building could be modified by improving the appearance of its front façade, the Planning Practice Guidance clarifies that 'scale' means the height, width and length of each building proposed within the development in relation to its surroundings¹. My consideration of the appeal has been solely on this basis; subsequent amendments that could be made to improve the building's façade would not alter the height or width of the proposed building and would not therefore alter my findings. A smaller building might be possible, however the proposal before me is for a building of the scale shown on the submitted plans, so this is not a matter relevant to this appeal.
16. The proposal would make more effective use of the land by introducing six dwellings onto a site that was previously occupied by one. Chapter 11 of the Framework establishes broad support for decisions that promote an effective use of land; however, in its opening paragraph it clarifies that the environment should be safeguarded and improved by such proposals, and I have found that this would not be the case.
17. In summary, the proposal is of a scale that would cause considerable harm to the character and appearance of the area. It would not accord with Policies DM2 or DM12 of the Island Plan Isle of White Core Strategy 2012 (CS), which together seek to ensure that development complements the character of the surrounding area.

Ecology

18. The site has an overgrown and wild appearance. It backs onto a large area of undeveloped land that includes blocks of woodland and is covered by the Rew Down SSSI and Local Nature Reserve. The proposed building would occupy a large portion of the site. Conservation and enhancement measures may be necessary to mitigate its impact, and it may be necessary for these to be considered at an early stage of the design process to ensure they are effective. Circular 06/2005² states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.

¹ Planning Practice Guidance Paragraph: 006 Reference ID: 14-006-20140306

² Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and Impact within the Planning System.

19. There is no information before me to allow me to consider these matters as an ecological appraisal of the site has not been carried out. I do not therefore have an understanding of the ecological or biodiversity interests at the site, its baseline condition, what impact the proposed building might have or whether it would be possible for an appropriate level of mitigation to be secured. The appellant is of the view that this could be left to a condition. This would not however appear to be reasonable on the basis of the factors considered above.
20. In summary, imposing a condition to require the submission of an ecological appraisal of the site would not be sufficient to ensure that the Island's natural environment would be conserved or enhanced in accordance with Policies SP5 and DM12 of the CS.

Affordable housing

21. Policy DM4 of the CS establishes that a financial contribution towards affordable housing is necessary for small housing schemes. The Island Plan Affordable Housing Contributions Supplementary Planning Document 2017 (SPD) clarifies that a planning obligation or agreement will be required in order to secure the affordable housing contribution. No such obligation or agreement has been submitted.
22. In summary, the lack of a contribution towards affordable housing would not accord with Policy DM4 of the CS.

Other Matters and Planning Balance

23. The proposal would deliver 6 dwellings. In the context of the need for new housing in the area and the recent results of the HDT which are discussed in more detail below, the delivery of 6 new dwellings should attract considerable weight. Future occupiers would make use of existing services and facilities thereby aiding their viability and providing some economic benefits. There would also be additional economic benefits during the construction phase. Together these matters also weigh in favour of the proposal.
24. The appellant states that the proposal has been put forward in place of previous schemes for less dwellings as it has been difficult to make a scheme viable due to the tricky topography of the site. However, there is nothing before me to show that the viability of the site has been properly scrutinised, and no details are provided to show how it has been marketed and what level of interest was generated. I therefore give these matters little weight.
25. I have found that the proposal would cause considerable harm to the character and appearance of the area as a result of its excessive scale in the context of modest dwellings to either side. Additionally, there is nothing before me to demonstrate an appropriate understanding of the site's ecological interests and how the proposal would respond to these; and the lack of a contribution towards affordable housing is a significant failure of the proposal and therefore a disbenefit that attracts significant weight.
26. In weighing these matters together, I am not satisfied that the material considerations identified are sufficient to make a decision that is not in accordance with the development plan.
27. The recent HDT results for the Council's area is 66%. Footnote 8 to paragraph 11 d) of the Framework establishes that where the HDT indicates that the

delivery of housing was below 75% of the housing requirement over the previous three years permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

28. With reference to Paragraph 60 of the Framework, the proposal would boost the supply of homes and would improve the mix of housing in the local area. The construction phase would also support the economic objective set out at paragraph 8 as would the benefit arising from the future occupiers of the flats; and increasing the density of development would accord in part with the Framework's environmental objective where it refers to making effective use of land.
29. However, Paragraph 135 of the Framework establishes that decisions should ensure that developments will add to the overall quality of the area, are visually attractive, and are sympathetic to local character including the surrounding built environment. I have found that the proposal would cause considerable harm to the character and appearance of the area.
30. At paragraph 180 the Framework states that decisions should contribute to and enhance the natural local environment by protecting and enhancing sites of biodiversity value, and minimising impacts on and providing net gains for biodiversity. Paragraph 186 states that opportunities to improve biodiversity in and around developments should be integrated as part of their design. The information before me is not sufficient to demonstrate that the proposal would contribute to or enhance the natural environment, and carrying out an ecological appraisal at a later stage once the scale of the building has been agreed would not ensure that opportunities to improve biodiversity are integrated as part of the proposal's design.
31. Paragraph 34 of the Framework clarifies that plans should set out the contributions expected from development, which should include setting out the levels and types of affordable housing provision required. There is no mechanism within the submission to ensure that contributions to affordable housing would be secured.
32. Therefore, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development.

Conclusion

33. The proposal would conflict with the development plan and there are no other considerations that outweigh that conflict. Therefore, the appeal should be dismissed.

A Tucker

INSPECTOR