



Appeal Decision

Site visit made on 31 August 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/P2114/W/23/3317098

Sandlin, Newport Road, Lake, Isle of Wight PO36 9PJ

- 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 Mrs Margaret Lawrence against the decision of the Isle of Wight Council.
 - The application Ref is 22/00982/FUL.
 - The development is described as proposed detached dwelling including access, driveway and garage.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed detached dwelling including access, driveway and garage at Sandlin, Newport Road, Lake, Isle of Wight PO36 9PJ in accordance with the terms of the application, Ref 22/00982/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration in this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. I have consulted with the main parties and have taken into account comments raised.
3. The Council state that the lack of delivery of affordable housing is a significant issue for the Isle of Wight and has produced an SPD¹ which seeks to deliver affordable housing either directly on site or via a financial contribution secured through a legal agreement. The fifth reason for refusal relates to the lack of a planning obligation to secure such a contribution. However, as part of this appeal a Unilateral Undertaking (UU) has been submitted which the Council has confirmed addresses this issue. I shall return to this matter later.
4. The proposal would result in a net increase of one dwelling within the Solent Special Protection Buffer Zone. The Council's sixth reason for refusal relates to the absence of a planning obligation securing mitigation for the potential increased recreational disturbance as a result of this development. However, as part of this appeal, the UU referred to above also includes an obligation towards payment of £834.00 which the Council has confirmed addresses this matter. I will also return to this matter below.

¹ Isle of Wight Council – Island Plan Affordable Housing Contributions Supplementary Planning Document, Adopted March 2017.

Main Issues

5. The main issues are: -

- whether the proposed dwelling would be in a sustainable location having regard to the proximity of services and facilities;
- the effect of the dwelling on highway and pedestrian safety;
- whether the proposal would make adequate provision for affordable housing; and
- the effect of the proposal on the Solent Special Protection Area Buffer Zone.

Reasons

Location

6. The appeal site comprises part of the garden to Sandlin, a detached dwelling, and its access from Scotchells Brook Lane which adjoins Newport Road (A3056). From the information submitted, the site falls just outside The Bay Key Regeneration Area (KRA) and Policy SP1 of the Isle of Wight Core Strategy² restricts development to sites within or immediately adjacent to the KRA.
7. Whilst the site is outside the main settlement boundary (which includes Sandown, Lake and Shanklin) it is accessible to services and facilities in the settlement area. From the site, it is a short walk (approximately 500 metres) to a large supermarket and less than a kilometre away from a primary school. There is a bus stop about 130 metres away on the A3056 from which the facilities in the nearby settlement can be accessed. I therefore find this location to be an accessible one by modes of transport other than the car.
8. The proposed dwelling would share the long access drive with Sandlin to Scotchells Brook Lane and the Council consider that this contributes to the inaccessibility of the site's location. However, this is a straight and flat driveway that is not difficult to walk or cycle. From the driveway, there is a footpath along a small section of Scotchells Brook Lane that links to the footpath on Newport Road from which pedestrians can easily access the bus stop and the footpath links to the supermarket and beyond.
9. I appreciate that a section of the footway is narrow but for the most part it is wide enough for pedestrians to use comfortably. Also, it would be necessary to cross Newport Road to access the bus stop on the opposite side of the appeal site in order to travel westwards. However, the supermarket and access to most of the available services and facilities are to the east.
10. The Council refer to an appeal decision on land to the rear of Ventnor Road, further west along Newport Road³ and consider that it shares similar characteristics to the appeal site relevant to this issue. However, unlike the Ventnor Road site, occupiers of the proposed dwelling would not need to cross a road to reach the bus stop to travel eastwards, and most of the services and

² Isle of Wight Council – Island Plan Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document, March 2012.

³ Appeal Ref: APP/P2114/W/21/3272543.

facilities as stated above, as it is on the same side of Scotchells Brook Lane as the driveway to the proposed dwelling and Sandlin and pedestrians or cyclists would continue on the same side of the road to reach the supermarket. Various other points are raised but from the information submitted, I do not consider the two sites comparable in terms of accessibility.

11. The dwelling would add an additional dwelling forming a small cluster of properties including Sandlin and another neighbouring property, Leaffield Cottage. The site is also located close to a grouping of buildings, described as a depot on the submitted plans. I do not therefore consider that the proposal would lead to an isolated home in the countryside which paragraph 84 of the Framework seeks to avoid.
12. Consequently, whilst the appeal site is not within the settlement, I find that it is a sustainable location having regard to the proximity of services and facilities. Furthermore, the proposal would not conflict with Policy DM2 which reflects one of the key objectives of the Core Strategy in achieving sustainable development by addressing the location and context of new development. I also find that, in view of the above considerations and due to its proximity to the settlement boundary, it would not conflict with the overriding sustainability objectives of Policy SP1 or the Framework.

Highway & Pedestrian Safety

13. The concerns raised in the reasons for refusal relate to the access onto Scotchells Brook Lane and the access with Scotchells Brook Lane and Newport Road. Scotchells Brook Lane currently serves Sandlin, Leaffield Cottage and a group of depot buildings referred to above. Further northwards the lane also provides access to Cheverton Copse Holiday Park and the Isle of Wight Airport. It therefore already carries a substantial amount of traffic.
14. The proposed dwelling would use the same access as Sandlin and although this driveway is only wide enough for one vehicle, it is very straight and drivers and pedestrians in either direction would be able to see a vehicle approaching. There is a small informal passing area part way along the drive which comprises a farm gate that would allow a vehicle to pull to one side. Notwithstanding the availability of this, there would be space at Sandlin and within the curtilage of the new dwelling to allow vehicles to wait if another were approaching from the junction with Scotchells Brook Lane.
15. I note that Island Roads have consistently expressed concerns about any increase in traffic on Scotchells Brook Lane and the junction with Newport Road and the Council has included copies of documents submitted to development at The Aviator site⁴. However, given the amount of traffic that could be utilising the junction of Scotchells Brook Lane and Newport Road from the Airport and the Camp Site, on the basis of the evidence submitted, I am satisfied that the amount of traffic associated with one additional dwelling is unlikely to cause harm to highway or pedestrian safety.
16. The proposal would not therefore conflict with Policies DM2 or DM17 of the Core Strategy which, amongst other things, seek to ensure development is accessible and safe for pedestrians, cycling and other modes of transport and would not be of a scale to compromise the capacity of the road network. Core

⁴ Planning Applications Ref: 19/00443/FUL & 20/00989/RVC.

Strategy DM13 is referred to in connection with pedestrian connectivity from the proposed site and the highway network but I do not consider that this policy is relevant as it aims to deliver a network of accessible, high quality, high value green spaces across the Island.

Affordable Housing

17. Whilst Core Strategy Policy DM4 sets a threshold for the provision for affordable housing above that for the development subject to this appeal, the Council has reviewed its requirements for affordable housing on the basis of its under provision of housing and an identified specific need for affordable housing. The SPD sets out its requirements for properties exceeding a value of £100,000.00. Although the necessary Legal Agreement was not prepared or signed before the planning application was determined, the appellant has submitted a UU which the Council has considered to be acceptable.
18. Given the requirements of the SPD and the stated need for affordable housing, I am satisfied that the UU, in this regard, complies with Section 122 of the CIL Regulations and with paragraph 57 of the Framework which requires planning obligations to be necessary, directly related to the development; and fairly and reasonably related in scale and kind to the development. The proposal would consequently make adequate provision for affordable housing. As a result, it complies with Policy DM4 of the Core Strategy.

Solent Special Protection Area Buffer Zone

19. The Solent is internationally important for its wildlife hosting over 90,000 waders and wildfowl each winter. These birds come as far away as Siberia to feed and roost before returning to their summer habitats to breed. Three designated Special Protection Areas (SPAs) are in place to protect these over-wintering birds (Solent and Southampton Water, Portsmouth Harbour and Chichester & Langstone Harbours).
20. Legislation requires mitigation for any impact which a proposed development, in combination with other plans or project, is likely to have on a SPA. This means that development proposals cannot be consented or proceed unless there are no impacts on the integrity of protected sites. If significant effects are predicted to occur, suitable measures for mitigation are required to reduce impacts to acceptable levels.
21. It is therefore necessary for me, as the competent authority, to undertake an appropriate assessment (AA) in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations). In doing so I can consider whether or not mitigation could reduce any adverse effects on the designated sites.
22. Recreational disturbance associated with new planned housing growth will impact on the Solent and Southampton Water SPA. Increased recreational activity at the coast has the potential to cause disturbance to overwintering birds and impact on protected features. Recreational disturbance can cause important habitats to be unavailable for use by birds through the loss of the habitat, either permanently or for a defined period, such that negative effects are caused. Birds can be disturbed by human recreational activities and use valuable resources in finding suitable areas in which to rest and feed undisturbed.

23. The Solent Recreation Mitigation Strategy (SRMS)⁵ relates to mitigation from increased recreational disturbance associated with additional residential development within the buffer zones of the three SPAs referred to above. The Isle of Wight Council is a member of the Solent Recreational Mitigation Partnership (SRMP) and is signed up for the Solent Bird Aware Strategy. The SRMS sets out the need for mitigation noting that the Solent coast, particularly the mudflats, shingle and saltmarshes, provide essential winter feeding and roosting grounds for birds that spend their winter along this coastline. Human disturbance of the birds can have severe impacts and ultimately result in increased bird mortality or a reduction in the amount of energy which the individual bird has at the end of the winter period to fly back to its breeding grounds. The consequences of this would lead to a reduction in the bird population.
24. The SRMP provides a strategic solution to ensure the requirements of the Habitat Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This has been endorsed by Natural England and includes a series of management measures which actively encourage all coastal visitors to enjoy their visits in a responsible manner. These include employing a team of rangers to advise people how to avoid bird disturbance; developing communications, marketing and education initiatives; encouraging responsible dog walking; codes of conduct; site specific projects; providing new/enhanced greenspaces as an alternative to visiting the coast; and managing and co-ordinating all of the above.
25. The Council has devised a scale of financial contributions in accordance with the Bird Aware Strategy as appropriate mitigation. For the proposed development a financial contribution of £834.00 is sought. The appellant has agreed to this and submitted an executed UU which the Council are satisfied would mitigate any adverse effects on the integrity of the designated site likely to arise from this development.
26. I am satisfied, in this regard, that the UU complies with Section 122 of the CIL Regulations and with paragraph 57 of the Framework which requires planning obligations to be necessary, directly related to the development; and fairly and reasonably related in scale and kind to the development.
27. Having had regard to the scale of the development and the financial contribution agreed between the parties towards mitigation, I am content that the proposed development would not have an adverse effect on the integrity of the SPA and its relevant features. Moreover, there would be no conflict with Core Strategy Policies DM2 or DM12 which seek to protect the existing environment and, amongst other things, ensure new development avoids both direct and indirect adverse effects upon the integrity of designated sites and, if necessary, provides appropriate mitigation measures.

Other Matters

28. At the time of preparing the appeal documents, there was no dispute between the parties that the Council could not demonstrate a five year supply of housing land. A revised Framework has been published, to which both parties were invited to comment, however, no update on housing land supply has been

⁵ Solent Recreation Mitigation Strategy, December 2017 (SRMS).

presented to me. On the basis of the information before me, the Council's shortfall in housing land supply is a material consideration but as I have found that the scheme to be acceptable as set out above, there is no need for me to explore this matter further.

Conditions

29. In addition to the standard time condition (1) and a condition requiring the development to be carried out in accordance with the approved plans (2), the Council has suggested conditions which I have considered in the light of the Framework and Planning Practice Guidance.
30. A condition requiring the submission and approval of facing materials is necessary in order to achieve a satisfactory appearance (3). A condition requiring an Arboreal Method Statement to be submitted and agreed is necessary in order to ensure that trees, which have been identified in the documents submitted with this appeal, are protected during the construction of the approved development. As the trees need to be protected in the early stages of the development starting, it is necessary that this is a pre-commencement condition. (4). It is necessary that the development is suitably drained in order to protect groundwater and watercourses from pollution and to prevent harmful effects on the Solent and Southampton Water SPA. Given the importance of the SPA, it is also necessary that this is a pre-commencement condition (5). I also consider that it is necessary to impose a condition requiring space to park and manoeuvre vehicles within the site given the long drive which would be shared with the existing property, Sandlin (6). However, I do not consider that it is necessary for the condition to include spaces for the existing property Sandlin as I am satisfied that enough space would be retained to provide the necessary spaces. I have amended the wording in some of the conditions in the interests of clarity and precision.

Conclusion

31. For the reasons given above the appeal should be allowed.

J D Clark

INSPECTOR

Conditions

- 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:
 - Drawing Nos:
 - 027-20.1 Revision 1.18 – Site Plan (1:200);
 - 027-20.1 Revision 1.18 – Site Plan (1:500);
 - 027-20.2 Revision 1.18 – Plans;
 - 027-20.3 Revision 1.18 – Plans (1:50);
 - 027-20.4 Revision 1.18 – Elevations;
 - 027-20.5 Revision 1.18 – Site Sections;
 - 027-20.6 Revision 1.18 – Site Plan 1:100;
 - 027-20.8 Revision 1.18 – Proposed Block and Location Plans; and
 - 027-20.9 Revision 1.18 – Location Plan 1:2500
- 3) No development above foundation level shall take place to construct the dwelling hereby permitted until details of the materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until an Arboreal Method Statement has been submitted to and agreed in writing by the Local Planning Authority detailing how the potential impact to the trees will be minimised during construction works, including details of protective tree fencing to be installed for the duration of construction works. The agreed method statement shall be adhered to throughout the development of the site.
- 5) 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 water shall be directed to a sealed tank (cess pit) and any waste emptied from the tank shall be taken to and treated at the Southern Waste Water Treatment Works at Sandown. Development shall be carried out in accordance with the approved scheme, which shall be completed prior to the first occupation of the dwelling hereby permitted and be retained thereafter.
- 6) The dwelling hereby permitted shall not be occupied until space has been laid out within the site and in accordance with details to be submitted to and approved in writing by the Local Planning Authority for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking and manoeuvring of vehicles.