

Appeal Decision

Site visit made on 14 March 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/P2114/W/23/3329743

Land rear of 95-101 St Johns Road, Newport PO30 1YH

(Access proposed via Laburnam Close)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to determine an application for planning permission within the prescribed period.
 - The appeal is made by Mr Mark King against the Isle of Wight Council.
 - The application, Ref. 22/01258/FUL, is dated 17 July 2022.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed and planning permission refused.

Preliminary Matters and Main Issues

2. The appeal is against the Council's failure to determine the planning application within the statutorily prescribed period. However, the Council's appeal statement has set out deemed refusal reasons that would have been used if the application had proceeded to determination. These refusal reasons raise issues relating to highway matters (vehicular access and parking); the effect on protected trees; existing and future residents' living conditions and whether the proposed dwelling would be in keeping with the character and appearance of the area. However, I consider that it is the highway aspect that is the determinative factor and therefore the main issue in the appeal.

Reasons

3. The Design and Access Statement that formed part of the application and the Council's Statement of Case for this appeal explain that the appeal site formed part of the permission ref. P/01460/14 dated 9 February 2015 for two detached bungalows. These have since been built and occupied on adjacent land to the west and the appeal site has been paved to provide three visitor parking spaces and a turning/manoeuvring area for refuse/service/emergency vehicles.
 4. In its evidence to this appeal the Council says that because the two bungalows permitted to the west have off-road parking provision within their curtilages, the loss of the three spaces on the appeal site would be acceptable. I agree with the Council's appraisal in this regard and additionally note that the proposed plans show two off-road parking spaces for the proposed dwelling.
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5. However, in my assessment it is clear that the above-mentioned turning/manoeuvring area was an essential element of the 2015 permission and that an additional dwelling would further increase the need for the facility, albeit the existing two dwellings would be particularly lacking given their more recessed siting and the difference in ground levels.
6. It may well be that because the site is unused for considerable lengths of time there is a perception it is an area that could and should be used for a more productive purpose. However, I consider that this would be a superficial argument that does not have regard to the full implications and consequences of land use change, on this occasion the highway safety and convenience implications for both existing and proposed development.
7. Indeed, nothing I have seen or read in this appeal suggests that a permission resulting in the loss of this turning/manoeuvring area whilst at the same time adding to its need through the building of an additional dwelling would be 'proper planning' or consistent with the need for all development to maintain highway safety. And in this particular case there is the aggravating factor of Laburnam Close comprising a long cul-de-sac with a sharp bend and a carriageway of clearly inadequate width for its full length to the junction with Shide Road.
8. Accordingly on the main issue I find that the appeal proposal would be contrary to the interests of highway safety and in harmful conflict with Policy DM2 of the Island Plan Core Strategy 2012 (which requires development to be to be safe and functional) and with paragraph 114b) of the National Planning Policy Framework 2023 ('the Framework').

Other Matters and Planning Balance

9. The Council has indicated that the application would also have been refused because of its poor design quality; cramped and contrived layout; overbearing impact on adjacent dwellings; poor living conditions for future occupiers and effect on protected trees. Objections to the proposal from nearby residents are along similar lines.
10. However, whilst there is at least some merit in all of these objections, in a situation whereby its very nature infill development can rarely achieve the same standards as its surroundings, I consider some of the matters raised to be more finely balanced than the Council suggest. This is especially so when the mitigating effect of conditions can be a valuable resource in making development that would otherwise be unacceptable a more feasible proposition – as advised in the Government's online Planning Practice Guidance.
11. In the event, for the reasons explained I consider the highway issue in this particular appeal to be an 'in principle' matter that would outweigh any potentially favourable conclusions that might arise from a detailed analysis of the other deemed reasons for refusal. This is because an integral and essential element of permission ref. P/01460/14 for the two dwellings would have been removed whereas the buildings themselves would effectively remain in perpetuity.
12. As regards the matter of housing supply, the main parties are in agreement that paragraph 11d) and footnote 8 of the Framework apply, given that the delivery

of housing falls well short of 'the evidenced Island-wide need for housing development'. However, whilst acknowledging that the site is in a sustainable location, I consider that the adverse effect on highway safety would demonstrably outweigh the benefit of one additional dwelling when assessed against the Framework policies taken as a whole and the policies in the Island Plan Core Strategy that have the same objectives.

13. The appellant has entered into planning obligations by way of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 as regards financial contributions in respect of Affordable Housing and Habitat Mitigation. I have taken this into account in my determination of the appeal but again it does not offset my conclusion on the main issue.

Conclusion

14. For the reasons explained and having had regard to all other matters raised the appeal is dismissed.

Martin Andrews

INSPECTOR