



Appeal Decision

Site visit made on 23 April 2024

by **S Harley BSc(Hons) M.Phil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Appeal Ref: APP/P2114/W/23/3322885

Land rear of Old Coastguard Cottages, Coast Guard Lane, Freshwater, Isle of Wight, PO40 9QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Sitch against the decision of the Isle of Wight Council.
 - The application Ref is 22/01855/OUT.
 - The development proposed is described on the planning application form as a niche, high-quality tourism development of four wooden cabins.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application is submitted in outline only. All matters are reserved for future consideration except for access. I have therefore treated the plan showing a layout and cabin details as indicative of only one way in which the site could be developed although it is necessary and appropriate for me to consider the likely effect of these when assessing whether the principle of the proposal is acceptable.
3. An updated version of the National Planning Policy Framework (the Framework) was published in December 2023. I have taken related comments into account.
4. In November 2023, the National Landscapes Association reported that all designated Areas of Outstanding Natural Beauty (AONBs) had become National Landscapes. However, the Framework continues to refer to them as AONBs. In this decision I have used the term AONB, consistent with the evidence and the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.
5. The Old Coastguard Cottages have also been known as Ocean View Cottages. The proposed access would be via an unmade track to the rear of these, and other, properties and is identified as "Ocean View House Access Road" on the submitted location plan. In this Decision I will refer to it as the access track.

Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the area including the effect on the Isle of Wight AONB and the Freshwater Bay Conservation Area (the CA); whether safe and convenient access would be provided for all; and the effect of the proposal on the living conditions of occupiers of nearby properties.

Reasons

7. Freshwater is the main commercial hub of West Wight. Freshwater Bay is some distance from the main built up areas of Freshwater and is described in the Freshwater Neighbourhood Plan 2018 (the NP) as having the iconic Freshwater beach, with existing hotels, guest houses, shops, cafes and places of interest. The appeal site is in the Freshwater Bay area and in the West Wight Smaller Regeneration Area. Policies SP1, SP3 and SP4 of the Island Plan Core Strategy and Development Management Development Plan Document 2012 (the Core Strategy); Policies FNP 1 and FNP 5 of the NP and Policy P56 of the AONB Management Plan together support development in the Regeneration Area in principle, and tourism related development including accommodation in Freshwater Bay in particular, provided other planning policies and material considerations are satisfied.

Character and appearance

8. The appeal site is rough grassland surrounded by hedges and fences with a field gate leading from the access track. It is roughly rectangular with the longer sides sandwiched between the far end of the access track and the gardens of properties on Bay Road and Coastguard Lane. However, with adjacent open land to the south-west and the field to the north-east, the site forms part of a finger of undeveloped land that contributes to the semi-rural setting of the more built up area.
9. The erection of four wooden cabins and associated hard standing/access would introduce built development where there is none. With the proposed hard standing, access, lighting and the paraphernalia associated with tourism accommodation use, the cabins would have a suburbanising effect that would harm the semi-rural setting of the more built up area of Freshwater Bay.
10. However, the appeal site is not a protected Local Green Space in the NP. At reserve matters stage the size of the cabins, the on-site layout including the extent of access and hardstanding, lighting and materials could be controlled. There would also be ample room to incorporate appropriate landscaping and to enhance wildlife. The cabins would not interrupt an identified Most Valued View or be prominent in views from the public realm, being predominantly sandwiched between dwellings. Therefore the harm to the character and appearance of the area would be relatively small.
11. Alterations would be needed to the junction of the access track and Gate Lane to safely allow the additional movements associated with the proposed use. These include a widened, hard surfaced access mouth, the removal of verges, engineering works to re-shape the bank, construction of a retaining wall, and the cutting back of trees and hedgerows. These works together would have a suburbanising effect on the street scene where this side of the road is currently verdant and has the appearance of a rural lane. However, the stretch affected would be relatively small and the harm, in the context of the junctions and car park across Gate Lane, would be relatively small.
12. In medieval times Freshwater Parish had a settlement pattern of polyfocal hamlets clustered around greens. Subsequent residential development took place through the ages and in Victorian times an artistic community grew up around Farringdon, the home of Alfred Lord Tennyson, and Dimbola Lodge, the

former residence of Julia Margaret Cameron. Freshwater Bay became a picturesque watering hole and substantial villas were built.

13. The CA comprises three very distinctive character areas, separated by residential development and the Afton Marsh Nature Reserve, with almost no contiguous boundaries. The significance of the CA as a Heritage Asset lies in its historical tourist and residential development set in the context of a beautiful landscape and I am required to pay special attention to preserving or enhancing the character or appearance of the CA.
14. The access track runs inside part of the edge of Character Area 1: The Gate of the CA although the developable site is not within the CA. The Gate Character Area is a beautiful landscape setting for this popular destination for walkers and tourists. It is characterised by its Victorian buildings and its strong coastal and military historical links. By 1862 the Royal Albion Hotel and a small row of villas and a coastguard station had been built. Today the beach remains as one of the attractions for visitors.
15. Coastguard Cottages are an attractive row of terraced houses from the mid-19th century which add value to the historical and architectural character of the CA. However, the access track is to the rear of these, is lined with a mix of garages, out buildings, fences, hedges and parking areas as well as back gardens, and is already used for vehicle and pedestrian access. The additional vehicles and pedestrians using the access track and the siting of appropriately designed cabins in a landscaped area would have a neutral effect on the significance of the CA, a designated heritage asset, as a whole which amounts to conserving it.
16. The site is within the Isle of Wight AONB, which has the highest level of protection when it comes to landscape and scenic beauty as set out in the Framework. The extensive AONB has a complex and diverse landscape. The geology; habitats; historic and current land use and settlement pattern; boundary features; peace, tranquillity and 'dark skies'; traditions, customs and cultures; all add to its special qualities and 'sense of place'.
17. Tourism is an important part of the economy supporting the AONB. The additional cabins would introduce activity in a currently quiet area. However, light spill could be controlled at reserve matters stage to reduce harm to the night skies and the activity of visitors would be in the context of that of the use of adjoining gardens. Accordingly the harm to the landscape and scenic beauty AONB would be relatively small.
18. Taking the above into account I conclude the proposal would cause harm to the character and appearance of the area and the AONB. Accordingly there would be conflict with those parts of Policies SP1, SP4, SP5, DM2 and DM12 of the Core Strategy, Policies P15, P39 and P56 of the AONB Management Plan; Policies FNP 6 of the NP and those principles of the Framework that seek to ensure developments enhance and protect the character and context of the local area and the landscape and scenic beauty of the AONB. However, for the reasons set out above I conclude the harm would be relatively small.

Access

19. The existing access track is gravel with grass verges and there is no turning area. The mouth of the access is on the inside of a slight bend. At the junction

with Gate Lane it is difficult for two vehicles to pass because of the bank and fence of Lisarda to one side of the access track and the mature vegetation over the boundary wall to White Lodge, the bin storage area and parked vehicles to the other. These restrict visibility in both directions and those wishing to turn onto the access track would have to wait for other vehicles to exit before entering.

20. In from the junction mouth the access track widens for a short stretch and parking for existing properties takes place. Further along it narrows significantly so two vehicles cannot pass and for about half there is a grassed central strip with wheel tracks to either side.
21. The access track is not wide enough to satisfactorily allow access for fire appliances or refuse vehicles or the preferred width of 5 metres to safely accommodate private vehicles and pedestrians. Visibility splays at the junction with Gate Lane should be 2.4 metres by 48 metres in each direction. The appellant does not own the land that would be required to widen the access and provide the necessary visibility splays in either direction.
22. There is a condition attached to an historical planning permission that required the reservation of a strip of land 8 feet wide along the frontage of Lisarda for the future widening of Gate Lane. Such a widening has not taken place and planning permission has been granted for the removal of that condition so it cannot be relied on in respect of any improvement to the access track.
23. There is a bus stop in front of Lisarda which is well used in the summer months. The owners of Lisarda have previously dedicated a small parcel of land to the Council to improve space for the bus stop. That has not been progressed but would not appear to have required the removal of the boundary fence or the loss of private garden and would be too small to allow the creation of the visibility splay required for the proposed development.
24. Strong representations on behalf of the owner of Lisarda emphasise that land forming part of the garden, the fence and the bank will not be made available for the proposed development even to the extent of submitting a planning application to remove the historical condition referred to above. In this context I conclude there is no reasonable prospect at all of the required visibility splay towards Lisarda being delivered within an appropriate time. Therefore, notwithstanding the view of the Island Roads that a Grampian style condition might be imposed to secure visibility splays, or whether the appellant would prefer to have a planning permission with which to negotiate with landowners, in accordance with Government guidance it would not be appropriate to impose such a condition¹.
25. There is no indication that the owner of the boundary wall to the east would be prepared to allow a reduction in its height and so a condition requiring this would not be reasonable. In any event there is a gravel space beyond the wall and vehicles parked there further obstruct visibility.
26. Moreover, whilst the appellant asserts the right to traverse the access track evidence from third Parties challenges both this and any right to carry out improvement works. Whilst normally a private matter between landowners, this adds to concerns about the deliverability of appropriate access in this case.

¹ [Use of planning conditions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/use-of-planning-conditions) Paragraph: 009 Reference ID: 21a-009-20140306

27. I conclude that it has not been demonstrated that safe and convenient access would be provided for all. There would therefore be conflict with Policy DM2 of the Core Strategy and the Framework in this respect.

Living Conditions

28. The properties on Bay Road are elevated above the appeal site and occupiers of them currently enjoy an open outlook to the east. However, there is no entitlement to a particular view over neighbouring land. An appropriate low key design and positioning of the proposed cabins and lighting together with landscaping and screening could be secured at reserve matters stage so as to ensure no unacceptable over shadowing of existing properties on Bay Road or Coastguard Lane.

29. There would be an increase in activity around the proposed cabins and along the access track. The locality is valued for its tranquilly by nearby occupiers and the proposed all year would use would be likely to disturb existing residents and therefore would not amount to good design. In this respect there would be conflict with Policy DM2 of the Core Strategy and those principles of the Framework that seek a high standard of amenity for existing and future occupiers. This would be in the context of other surrounding residential activities and therefore the harm would be relatively small in planning policy terms.

Other Matters

30. The proximity of the Afton Marsh Local Nature Reserve, evidence provided by third Parties and tracks through the long grass on the appeal site indicate it is likely that protected species may be affected by the proposed development. Natural England advises that if there's no evidence of protected species, you can continue with your development or planning application².

31. Decision makers are advised that planning conditions that ask for surveys should not usually be used. This is because the full impact of the proposal on protected species should be assessed before planning permission is granted although in exceptional cases, a planning condition for additional surveys may be attached to make sure that the mitigation is still appropriate³. No such evidence has been provided in relation to the proposal but in view of my conclusions on the main issues it would not be reasonable or necessary for me to seek further information in the context of this appeal.

32. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows for certain temporary uses of land without planning permission for various periods subject to certain restrictions. The appellant considers this allows for the use for caravans, campervan, motorhomes and camping for up to 60 days. Even if there were a more than theoretical possibility that such a development might take place it would not be for the whole year. Accordingly I give this possibility very limited weight in the context of this appeal.

33. The appeal site is within the buffer zone of influence for impact on the Solent and Southampton Water Special Protection Area (SPA). The proposal would result in a net gain of visitors and, in the absence of mitigation, together with

² [Construction near protected areas and wildlife - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/construction-near-protected-areas-and-wildlife)

³ [Protected species and development: advice for local planning authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/protected-species-and-development-advice-for-local-planning-authorities)

other plans and projects, would be likely to increase visitor pressure on the SPA and lead to further disturbance to its habitats and the birds it supports.

34. The Council has an agreed mitigation strategy in place and a signed undertaking under s106 of the Town and Country Planning Act 1990 (as amended) makes provision for the payment of a Habitat Mitigation Contribution. However, in view of my conclusions on the main issues it is not necessary for me to undertake an Appropriate Assessment under the Regulations or to consider these matters further.
35. The appellant has offered to fund safety improvements to the bus stop and has asked that a proposal to do this be added to the Highways Safety and Improvement Register. Whilst this might be a benefit there is no certainty as to when such a scheme might be implemented or whether it would be satisfactory in terms of visibility from the access track so I give it little weight in this appeal.

Planning Balance and Conclusion

36. The principle of the accommodation for year-around tourism is supported as set out above. However, the proposal would not provide safe and convenient access for all and I give this great weight. There would also be a harm to the character and appearance of the local area and the landscape and scenic beauty of the AONB albeit to relatively small degree. There would be conflict with the development plan in these respects and these matters together outweigh the support for accommodation for tourism.
37. In failing to comply with the Policies set out above the proposal cannot be said to comply with the development plan taken as a whole. I find insufficient material considerations to outweigh the conflict with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR