



Appeal Decision

Site visit made on 12 September 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/P2114/W/24/3344006

58 Church Road, Shanklin, Isle of Wight PO37 6QY

- 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 A Springman against the decision of Isle of Wight Council.
 - The application Ref is 22/00749/OUT.
 - The development is a proposed new dwelling with access, parking and gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was for outline planning permission with only access and layout to be considered, matters relating to landscaping, appearance and scale are reserved for consideration at a later stage. The appeal submission includes indicative elevations, which are for illustrative purposes only. I have determined the appeal on this basis.
3. Following the Council's notice of decision, the National Planning Policy Framework (the Framework) was revised on 19 December 2023. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context, and both main parties have had the opportunity to make comments on the revised Framework within their statements and final comments.
4. On the 30 July 2024 the Deputy Prime Minister and Secretary of State for Housing, Communities, and Local Government issued a Written Ministerial Statement "Building the homes we need" regarding changes to the planning system, and consultation was started on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system". The main parties have had the opportunity to make submissions regarding both documents in the context of the appeal proposal, and these have been considered in my determination of the appeal.
5. The appellant has provided a Unilateral Undertaking dated 2 May 2023 (UU), which would make a financial contribution towards affordable housing. The Council has confirmed the UU is fit for purpose and would deliver the affordable housing contribution it requires. I shall return to the UU later in my decision.
6. The appellant has also submitted with their appeal a Landscape Visual Assessment (LVA) within Appendix 2 of their statement in response to reason for refusal no.1, and an updated ecological report dated 17 April 2024, prepared by e3S Consulting (ER) in response to reason for refusal no.2. The

Council and other interested parties have had the opportunity to comment on these during the appeal process. I am therefore content that there would be no unfairness to any party by accepting this information. The appeal has been determined on this basis.

7. In November 2023, the National Landscapes Association reported that all designated Areas of Outstanding Natural Beauty (AONBs) had become National Landscapes, but 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.

Main issues

8. The main issues with this appeal are:

- The effect of the proposed development on the character and appearance of the area, with particular regard to the Isle of Wight AONB; and,
- The effect of the proposed development on protected species.

Reasons

Character and appearance

9. The AONB is a nationally designated landscape, and the designation amongst other things seeks to protect the special scenic qualities of the landscape. The statutory duty contained in Section 85(1) of the Countryside and Rights of Way Act 2000 (CROW Act), requires regard to be had to conserving and enhancing the natural beauty of the AONB. This duty is also reflected in paragraph 182 of the Framework that states great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB. The appeal site is said to be within the Chalk Downs Landscape Character area of the Isle of Wight AONB.
10. The appeal site is located outside of the existing built form of Shanklin at the end of Church Road, but within its 30mph speed restricted area. Adjoining the site is a detached dwelling, which is at the end of a line of properties on that side of Church Road, these properties mostly have walls on their front boundaries, or they have open parking spaces. On the opposite side of the road, is a small complex of farm buildings set behind trees alongside Church Road, and the housing on that side of the road does not extend as far out as it does on the appeal site's side. The ground levels rise on all sides when leaving Shanklin along Church Road, some more steeply than others. There is a wooded area on the opposite side of the appeal site, which is separated by a public footpath that runs from Church Road alongside the appeal site's boundary towards Cowleaze Hill, from which there are some views from higher land of the appeal site and its surroundings.
11. There are established trees, and hedging alongside the appeal site's front boundary, these alongside the planting on the opposite side of the road, and the wooded area beyond the appeal site, provide a distinctive verdant character when travelling into or out of Shanklin along Church Road. In addition, this strong landscaped feature at the edge of the settlement acts as a transition between houses and the countryside and positively contributes to the character and appearance of this area. Moreover, this results in the appeal site

- being seen separately from the existing built form, and part of the surrounding countryside.
12. The ground levels rise considerably from Church Road into the appeal site, which is mainly grassed and has planting on most of its boundaries. Nevertheless, there are still some views into the appeal site from the pavement immediately in front of the appeal site and from the public footpath that runs alongside one of its sides.
 13. Whether or not 2 no. trees would need to be felled on the front boundary to facilitate access into the site, there would be a significant change in the appearance of the front boundary as a result of the proposal, not least by the likely engineering works to address the levels change and the formation of the new access. This would harmfully alter the landscaped frontage of the appeal site, opening greater public views into it, including its parking, and turning area and of the siting of the proposed dwelling itself. Furthermore, there would also be views of the proposal from the public footpath, which would harmfully change from the current appearance of the undeveloped grassed field to that of a dwelling and its associated works.
 14. Although the appearance and scale of the proposal would be assessed as reserved matters, the layout plans show the footprint of the proposed dwelling, which is said to measure some 10 metres by 17 metres, and the information provided shows its footprint would be larger than No. 58 and some other properties nearby. It would also be sited further forward than No's 56 and 58, and its plot width would be notably larger than most of the other properties nearby. Based on the information before me, and considering both the layout plan, sections and the indicative plans, there would be significant visual intrusion into this area from the introduction of a dwelling as proposed. This would be exacerbated by its raised and dominant position, and the re-grading works, collectively they would harm the landscaped character of the appeal site and the natural rise of the ground, urbanising this undeveloped land in a manner that would not relate well to the distinctive character of the area. For these reasons, I am not persuaded by the argument that the proposal would acceptably round-off the settlement.
 15. It is noted the Council has not provided details of any specific viewpoints within the AONB, and I have carefully considered the appellant's LVA, I concur with the appellant that the proposal would not have harmful effects on the AONB from long distance views due to it having higher land to most of its sides. However, from my own site observations there would be harmful effects upon the AONB from close-up views on Church Road and from the nearby public footpath, and some mid-distance views from the higher land on the adjoining public footpath. From such views the location of the proposed dwelling would be noticeable and distinct from other properties along Church Road and significantly alter the appearance of the site, which would be harmful to views and vistas from this part of the Chalk Downs Landscape Character of the AONB.
 16. The appellant has advised that additional landscaping can be provided, and I don't doubt this. However, landscaping information is not before me for consideration as part of this application. Furthermore, in the circumstances I am not convinced that additional planting would off-set the identified harm associated with the proposed dwelling and the consequential effects upon the character and appearance of the area. Moreover, completely screening the

appeal site from the public footpath could itself be harmful to the AONB, as it could result in tall planting on either side of it and restrict views across the appeal site and beyond.

17. For the above reasons, I therefore conclude that the proposal would be harmful to the character and appearance of the area, neither would it conserve or enhance the scenic and natural beauty of the AONB. As such, the appeal scheme would be contrary to Policies DM2 and DM12 of the Isle of Wight Core Strategy (2012) (the IP), which amongst other things, support high quality design which compliments the character of the area, and conserves and enhances the AONB. For similar reasons the proposal would also be inconsistent with paragraphs 135 and 180 of the Framework, that requires development is sympathetic to local character and landscape setting, and requires great weight is given to conserving and enhancing the landscape and scenic beauty of the AONB.
18. In addition, the proposal is also inconsistent with both Policy P39 and the objectives of the Isle of Wight Area of Outstanding Natural Beauty Management Plan 2019-2024, that seek to ensure new development conserves and enhances the Isle of Wight AONB landscape, including strengthening the area's distinctiveness.
19. The Council referred to the proposal conflicting with IP Policy SP5 in respect of this main issue. That policy is focussed on the effects of development upon the historic and natural environment, particularly sites of designated ecological interest. I did not find that policy to be determinative in this case.

Protected species

20. The appellant's updated Preliminary Ecological Appraisal, dated January 2023, prepared by e3S Consulting, (PEA), identified the appeal site as predominantly containing tussocky grassland with an area of rush wetland. Due to the time of year, it was not possible to undertake a survey of breeding birds, and a further survey in this respect was recommended. The PEA did, however, recommend measures to prevent vegetation clearance between March-August to protect any such breeding birds.
21. In response to the Council's comments, the appellant submitted the ER with their appeal, which included a survey for breeding birds. The ER identified the appeal site was used by great tit, a wren, and chiffchaff. No evidence of ground nesting birds was identified, and the appeal site was said not to provide suitable habitat for them. The ER goes on to say that these identified bird species are associated with woodland, scrub, and hedgerow habitats; thus, suitable habitat will remain both on and immediately nearby for them to breed. The Council has not provided any comments in response to the latest information, consequently and as this information was only provided with the appeal, I cannot be certain that the survey has been satisfactorily undertaken or that its conclusions and recommendations are appropriate in this case.
22. I note the suggested mitigation measures for other protected species, which could be using the appeal site within the ER, which appears to be consistent with the comments raised by the Council's Ecologist. Had I been minded to allow the appeal, these aspects along with the other recommendations and mitigations within the PEA, could have been the subject of a suitably worded planning condition.

23. I therefore conclude on the basis of the information before me, that the proposed development could be harmful to protected species, and as a result the proposal would conflict with the relevant parts of Policies DM12 and SP5 of the IP, that collectively seek to protect the Island's habitats and biodiversity and avoid development that has adverse effect to its natural environment. In addition, the proposal is also contrary to paragraphs 180 and 186(a) of the Framework, which states that development should contribute to and enhance the natural and local environment, and planning permission should be refused where significant harm to biodiversity cannot be avoided or appropriately mitigation.

Other Matters

Affordable Housing

24. The UU would make a financial contribution towards affordable housing provision on the Isle of Wight, calculated at 3% of the market value of the completed dwelling and paid prior to its occupation. IP Policy DM4 and the Isle of Wight's Affordable Housing Contributions Supplementary Planning Document, adopted March 2017 (AHSPD) requires a financial contribution towards affordable housing provision, from new single dwellings such as this proposal.
25. Paragraph 65 of the Framework, the Planning Practice Guidance (PPG) and the Written Ministerial Statement of November 2014 (WMS), all say affordable housing contributions should not be sought for residential developments of the scale set out in the appeal proposal. However, noting the Court of Appeal judgement on this matter referred to in the AHSPD, the information relating to the chronic affordable housing need on the Isle of Wight, and the difficulty meeting it through its supply of market housing, the particular demographics on the Island, and the affordability of market housing, these arguments in favour of the proposal attract very significant weight.
26. Given the above I am persuaded that there is a demonstrable affordability issue on the Isle of Wight and that contributions from small sites such as this form a key element in the overall delivery strategy of affordable homes. The provision of the contribution as set out above would comply with IP Policy DM4 and the relevant parts of the AHSPD, which would outweigh the WMS, and the guidance within both the Framework and PPG in this case. The obligation within the UU in this regard is reasonable and necessary, related in scale and kind to it, and it meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regs.), and paragraph 57 of the Framework. As such the contribution towards affordable housing could weigh in favour of the proposal and represent a public benefit.

Other considerations

27. Whilst much of the Island lies within the catchment of several European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017, the appeal site itself lies within an area that discharges into the English Channel via the Sandown Wastewater Treatment Works (SWTW). Evidence before me indicates that the nearest main sewer pipe to the sites connects to the SWTW, and, had I been allowing the appeal a suitably worded condition requiring a drainage scheme to ensure foul water can be directed away from the aforementioned European Designated Sites could

have been imposed. This is a neutral factor that does not weigh in favour or against the proposal.

28. It is noted that there is no apparent disagreement between the main parties that the location of the appeal site would in principle be suitable for housing, particularly in terms of its accessibility. The appellant has also argued that the proposal would make an effective use of land. These points weigh in favour of the proposal.
29. It is acknowledged that the appellant says the appeal site is not suitable for modern farming; that no harm has been identified regarding the effect of the proposal on the living conditions of neighbouring occupiers; that there would be no harm to highway safety; that there are no TPO's on the appeal site; and that a biodiversity net gain and enhanced landscaping could be provided. These are, however, neutral matters that neither in favour nor against the proposal, most of which, would also likely be requirements of any well-designed development.
30. Reference has been made to the pre-application advice received in regard to this proposal, and the Council's requests for additional information and its conflicting views on the proposed development. Whilst I can understand the appellant's frustration, these are matters between the respective parties. I have assessed the appeal scheme on its planning merits.
31. I have also had regard to objections from interested parties, which have raised a number of issues in addition to the main issues, including flood risks, and surface water drainage (particularly the ground conditions, possible springs and drainage routes). I note that the Council did not identify any unacceptable harm arising from the drainage impacts of the proposal that could not be addressed through planning conditions. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. Nor have I been provided with any evidence that the publicity for the planning application has not been undertaken properly by the Council. Possible existing issues relating to water pressure for occupiers in the local area go beyond the matters relevant to the determination of this planning appeal.
32. The Council has advised that it is unable to demonstrate a five-year supply of deliverable housing sites. However, the presumption in favour of sustainable development embodied in paragraph 11d) ii of the Framework does not apply in this instance, because the application of policies in this Framework that protect the AONB provide a clear reason for refusing the development, (in accordance with paragraph 11 d) i, and footnote 7 of the Framework).

Conclusion

33. In my decision above I have found the proposal would be harmful to the AONB and there would be conflict with IP Policies, and this would represent conflict with the development plan as a whole. In addition, there would also be conflict with the Framework. I attach significant weight to this.
34. The benefits of the proposal would be to make an effective use of land and contribute to the Isle of Wight's overall housing supply. There would also be a contribution towards the provision of affordable housing on the island from a site that would be accessible and located near to services and facilities. There

would also be economic benefits associated with its construction. Additionally future occupiers would likely help support the vitality of the local community facilities and services. These benefits are, however, tempered given that the proposal relates to one dwelling, as a result, even considering them collectively, they only attract limited weight.

35. The proposal conflicts with the development plan taken as a whole and national policy set out in the Framework to protect the AONB. There are no other considerations that outweigh that conflict and for this reason the appeal is dismissed.

A Hunter

INSPECTOR