



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: 3rd October 2024

Appeal Ref: APP/P2114/W/23/3327284

Land adjoining Westridge Garage, Great Preston Road, Ryde PO33 1AY

- 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 the Executors of E.D Brading (deceased) C/O Roach Pittis Solicitors against the decision of the Isle of Wight Council.
 - The application Ref is 23/00427/FUL.
 - The development is described as "proposed 6 number dwellings on land adjacent Westridge Garage, Great Preston Road, Ryde."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within their appeal documentation the appellants have provided a copy of the grant of probate for E.D Brading (deceased), and following this clarification, the appeal proceeds in the name of the Executors of that estate.
3. Following the Council's notice of decision, the National Planning Policy Framework (the Framework) was revised on 19 December 2023. The main parties have had the opportunity to make comments on the revised Framework and these have been taken into account in my decision.
4. The Deputy Prime Minister and Secretary of State for Housing, Communities, and Local Government issued a Written Ministerial Statement "Building the homes we need" dated 30 July 2024 regarding changes to the planning system, and on the same day consultation was started on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system". The main parties have also had the opportunity to make submissions regarding both documents in the context of the appeal proposal, and these have been taken into account in my determination of the appeal.
5. The appellant has submitted an Ecological Report - Dormouse Survey (presence/absence), dated 22 September 2023, prepared by Woodside Tree Consultancy (ER) in response to reason for refusal no.2. The Council and other interested parties have had the opportunity to comment on this 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.

Main issues

6. 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 its design, density, layout, external appearance and impact on trees;
- The effect of the proposed development on protected species, with particular regard to dormice;
- Whether a contribution towards affordable housing provision is reasonable and necessary to make the development acceptable; and,
- The effect of the proposal on the Solent and Southampton Water Special Protection Area (SPA).

Reasons

Character and appearance

7. The appeal site faces onto Great Preston Road and comprises a small field of unmanaged grassland/vegetation, which also contains trees and shrubs. To one side of the appeal site is Westridge Garage, which is located on the corner of Brading Road and Great Preston Road, and on the other side is a cemetery. There is established housing on the opposite side of Great Preston Road, and these properties mainly have similar setbacks from the pavement edge and most have walls on their front boundaries and parking to their front and/or sides.
8. I saw on my site inspection that there is established planting, including trees, across the site's frontage abutting the narrow verge onto Great Preston Road, and on the appeal site's boundary to the cemetery. Notably, I saw that trees T3 and T4, both Ash Trees, which are located on opposite ends of the appeal site's frontage, make a positive contribution to the area, and that tree T4, positively contributes to the landscaped setting of the adjoining cemetery.
9. The proposed residential properties include a single storey and 5 no. two storey properties, including both semi-detached and detached dwellings. Furthermore, the broad design approach, including the projecting gables, is reflective of the design and scale of properties on the opposite side of the road, and would be entirely appropriate for the appeal site and its surroundings.
10. Although the proposed dwellings would not have rear gardens as large as those properties opposite, they would nevertheless be of a satisfactory size and would not be harmful to the character and appearance of the area. Furthermore, with the proposed dwellings mostly having small gaps between them, their parking spaces would be located to the rear side and outside of their main curtilage areas, unlike most properties nearby. It is acknowledged that the proposed dwellings would be closer to the pavement edge than other properties along Great Preston Road, however, their limited setback would still provide more relief than the tall planting at the edge of the highway verge at present. In addition, there would still be some space between their front elevations and their front boundary walls, to allow some low-level soft planting, which would help them integrate them into the streetscene.
11. Each of the proposed dwellings would have a small front garden, a private rear garden and parking area. Although the proposal would have a denser layout than those established properties on the opposite side of the road, it would make an efficient use of land and provide a suitable form of development that

- would reflect the local vernacular. As such I do not find its layout would be cramped.
12. In terms of the proposed materials, brick under a slate roof with anthracite grey coloured window frames and doors, would relate well to the character and appearance of the area. The precise details of the external surfaces could be the subject of a condition, had I been minded to allow the appeal.
 13. I note that the Arboricultural Report BS 5837:2012 Tree Survey and Arboricultural Impact Assessment (TSAIA) dated 2 February 2021, prepared by Woodside Tree Consultancy is based on a site survey undertaken on 13th October 2020, which is nearly four years ago. The survey of the trees that accompanies the TSAIA's appears to have been used to show the position of the existing trees in relation to the proposed scheme, including their crown spreads and associated shading arc's. I share the Council's concern that the site survey of these trees is probably not accurate due to their likely growth within the intervening years.
 14. Notwithstanding the above and the appellants intention to retain them, based on the submitted information, tree T4 is very close to part of the front elevation of proposed unit 5. With tree T4 said to have 10-20 years of additional growth potential, it is very likely that its crown spread could extend further towards unit 5 and overhang that property, and cause unacceptable shading to it, if not now, but in subsequent years. Similarly, tree T3, which is said to have another 20-40 years of future growth potential, could cause similar shading and overhanging in relation to proposed unit 1. Based on the proposed layout plan, the proposal would likely give rise to pressure for trees T3 and T4 to be felled or significantly lopped by future occupiers of the proposed dwellings. As a result, given the positive contribution they make, there would be harm to the character and appearance of the area from the proposed development.
 15. I therefore conclude that whilst the design, layout, external appearance and density of the proposed development would relate well to the character and appearance of the area, for the reasons outlined above the proposal would likely lead to pressure to fell or prune trees that could harm the character and appearance of the area. In this respect the proposal conflicts with the relevant parts of Policy, DM2 of the Island Plan, Isle of Wight Core Strategy (including waste and minerals) and Development Management, Development Plan Document, dated March 2012 (IP) that amongst other things seeks to ensure new development is high quality that positively conserves and enhances the special character of the Island's historic and built environment. In addition, the proposal would also conflict with paragraph 135 of the National Planning Policy Framework (the Framework) insofar as it requires new development to add to the overall character of an area and be sympathetic to local character.

Protected species

16. The appellant's Preliminary Ecological Appraisal dated 28 October 2020, prepared by Woodside Trees Consulting (PEA) identified the appeal site as providing suitable habitat for dormice. The appellant's ER (submitted with their appeal) states that a dormouse survey was undertaken between April – September 2023 across the entirety of the appeal site. The ER further states that although the appeal site does not contain optimum dormouse habitat the results from the survey established the presence of 5 no, adult dormice on the

appeal site and identified connecting habitat, albeit there was no indication that these dormice were breeding.

17. The ER identifies that the removal of hedges and vegetation would likely adversely affect the dormice, and that a European Protected Species Licence would be required from Natural England. The ER makes a series of recommendations regarding a method statement to submit with the Licence, protection for the dormice, an environmental construction management plan and enhancements to support dormouse habitat, as well as future monitoring to check how such measures have affected dormice.
18. Whilst the ER appears to have been undertaken thoroughly and its recommendations appear to be robust, as it was submitted after the Council had made its decision, I do not have the Council's comments in response to it. I therefore cannot be certain that the survey has been satisfactorily undertaken or that its conclusions and recommendations are appropriate, nor that there would be any unacceptable harm to dormice arising from the proposed development.
19. In other respects, recommendations and suggested mitigation measures are contained in the PEA, and in the Reptile Survey dated 17 October 2022, prepared by Woodside Trees Consulting (RS) in regard to biodiversity and protected species. Although the Council has not raised specific concern at the recommendations or suggested mitigation, it has raised concern regarding how long ago the PEA and RS were undertaken and has questioned whether their recommendations and conclusions are still accurate and relevant. Indeed, the RS refers to a 12-month time limit for reliance on such surveys. In view of the time since the RS and PEA were undertaken, and my own site observations, I also cannot be certain that they now reflect the conditions at the appeal site or that their recommendations and conclusions are entirely relevant regarding protected species.
20. 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 a demonstrable adverse effect to the 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 mitigated.

Affordable Housing

21. IP Policy DM4 requires a financial contribution towards affordable housing provision, from new residential development such as this proposal. This requirement is also replicated within the Isle of Wight's Affordable Housing Contributions Supplementary Planning Document, adopted March 2017 (AHSPD). Although, I note paragraph 65 of the Framework, the Planning Practice Guidance (PPG), and the Written Ministerial Statement of November 2014 (WMS), all set out that the provision of affordable housing should not be sought for residential developments of the scale set out in the appeal proposal.

22. In view of the Court of Appeal's judgement on this matter referred to in the AHSPD, I have had regard to the Council's rationale for seeking such contributions. In particular, the AHSPD sets out that the Island has a chronic affordable housing need said to represent 58% of its overall housing requirement per annum, which is significantly higher than the 35% affordable housing contributions sought from such development. The AHSPD also states the Isle of Wight's particular affordable housing needs stem from the projected large increase in its residents over 55 years of age and the high amount of its younger adults in rented accommodation. It is also noted that the Isle's ratio of median house price to lower quartile earnings is significantly higher than the national average, making market ownership harder and further exacerbating the affordable housing need. These arguments attract very significant weight.
23. Given the above I am persuaded that there is a demonstrable affordability issue on the Isle of Wight and that contributions from smaller housing sites, such as the appeal site, form a key element in the overall delivery strategy of affordable homes. I therefore conclude that without a contribution to affordable housing provision the proposed development would be contrary to the requirements of both IP Policy DM4 and the relevant parts of the AHSPD, which in this case outweigh the WMS, and the guidance within both the Framework and PPG.

Effect on the Solent and Southampton Water Special Protection Area (SPA)

24. The site is located within the specified 5.6km zone of influence of the coast and water environments of the SPA, a European site designated to protect important habitat for bird species.
25. This SPA has an important recreational use, and it is likely that occupants of the proposed development would visit it for recreational purposes causing disturbance to this area. In this regard, and considering the evidence before me, the proposal, when combined with other developments in the area, would likely have significant effects upon the qualifying features of the SPA.
26. The Council in consultation with Natural England (NE) has adopted the Solent Recreation Mitigation Strategy December 2017 (SRMS). The SRMS requires a financial contribution towards strategic access management and monitoring measures to control recreational activity in the SPA, including suitable alternative natural greenspace for residents to use. The appellant has not provided a planning obligation to deliver the required contribution to mitigate the likely significant effects upon the SPA.
27. I therefore conclude in the absence of suitable mitigation the proposal would have adverse effects on the SPA and conflict with IP Policies DM2 and DM12, which amongst other things, require development to protect and conserve the environment and avoid adverse effects on the integrity of designated biodiversity sites. In addition, there would also be conflict with paragraph 186 of the Framework that states when harm to habitat sites cannot be avoided, such harm is appropriately mitigated or compensated for, and if not, planning permission should be refused.

Other Matters

28. There is no dispute between the main parties that the Council 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 SPA, provide a clear reason for refusing the development, in accordance with paragraph 11 d) i, and footnote 7 of the Framework.

29. 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 is said to be within an area that discharges into the English Channel via the Sandown Wastewater Treatment Works (SWTW). The revised drainage plan indicates that the proposal is to drain foul water into the mains sewer which then enters the SWTW, an arrangement which the Council has not disputed. 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.
30. I have been referred to the planning history for the appeal site and other sites nearby, which I have had regard to, insofar as they are relevant to the appeal scheme before me.
31. The appellants have stated that changes have been made to the proposal to address earlier concerns and that they have engaged with the Council through a pre-application process, and the proposal is reflective of the advice received. Be that as it may, this does not alter my findings as set out above.
32. The appellants have questioned how much housing could be delivered from the Council's register of brown field sites. However, this is a broader strategic housing supply issue for the Island, and based on the evidence before me, it is not a relevant consideration in regard to the planning merits of this appeal scheme.
33. It is acknowledged that there is no dispute between the main parties regarding the appeal site being suitable for housing; that it is in a well-connected area and said to be within the Ryde Key Regeneration Area; and that it would deliver an acceptable mix of housing. These arguments weigh in favour of the proposal.
34. I note the appellant's reference to a housing white paper relating to tackling housing challenges. In addition, the appellant has referred to various paragraphs of the Framework, including making an effective and efficient use of land; boosting the supply of housing; that small and medium sized sites can make an important contribution to meeting the housing requirement and that they can be delivered quickly; providing housing for first time buyers and entry level housing; ensuring an adequate supply of housing particularly in sustainable locations which offer a choice of transport modes; and promote good design. Most of these points weigh in favour of the proposal. Although, it is pertinent to point out that compliance with certain parts of the Framework does not mean that a proposal would comply with the Framework as a whole.
35. I have also had regard to objections from interested parties, in addition to the issues referred to above, these include highway and pedestrian safety; the effect on visitors to the nearby cemetery; flood risk and whether the Sequential Test (ST) should be applied; the effect on the countryside and loss of the green

space; whether the development requires an Environmental Impact Assessment (EIA); contamination risks; and land ownership.

36. I note that the Council did not identify any unacceptable harm regarding visitors to the cemetery; the wider countryside or the principle of the loss of the greenspace; highway or pedestrian safety; contamination; flood risks and drainage, that could not be addressed through planning conditions. In addition, the issue of the ownership of the verge was addressed to the Council's satisfaction during the consideration of the planning application. It is also noted that the Council stated the proposal does not comprise EIA development, and that it is located within Flood Zone 1, consequently, there would be no requirement based on the information before me for the ST to be applied in this case. 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.

Conclusion

37. In my decision above I have found that the proposal would be harmful to the SPA, protected species, the character and appearance of the area, and the proposal would not provide the required affordable housing contribution. As such, there would be conflict with IP Policies DM2, DM4, DM12, and SP5, and in this case I regard the proposal to conflict with the development plan as a whole. I attach significant weight to this conflict. In addition, the proposal conflicts with the Framework.
38. The benefits of the proposal include making an effective and efficient use of land, boosting housing supply and contributing to the Isle of Wight's overall housing supply, on a site within the Ryde Key Regeneration Area. The development would also relate to a small-medium sized housing site that could be delivered quickly and provide an appropriate mix of housing. The proposal could also provide new homes for families or individuals to own, in a well-connected area, which is accessible, and 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 six dwellings, as a result, even considering the benefits collectively, at most I attach moderate weight to them.
39. I therefore conclude, the proposal conflicts with the development plan taken as a whole, and there are no other considerations, including the Framework, that outweigh that conflict. For the reasons outlined above, the appeal should be dismissed.

A Hunter

INSPECTOR