



Appeal Decision

Site visit made on 5 August 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2024

Appeal Ref: APP/P2114/W/23/3335979

159 High Street, Wootton, Isle of Wight PO33 4LZ

- 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 Mrs L Moyce against the decision of Isle of Wight Council.
 - The application Ref is 23/00279/OUT.
 - The development proposed is the construction of detached bungalow with parking. New parking for the existing house. Widening of access drive.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of detached bungalow with parking. New parking for the existing house. Widening of access drive, at 159 High Street, Wootton, Isle of Wight PO33 4LZ in accordance with the terms of the application, Ref 23/00279/OUT, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The original application was made in outline with all matters reserved apart from access, layout and scale. I have determined the appeal on this basis and have treated any plans showing details of reserved matters of appearance and landscaping as illustrative.
3. During the course of the appeal the appellant submitted a signed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 dated 11 May 2023 (the first UU). This first UU secures mitigation for the effect of future occupiers on the Solent and Southampton Water Special Protection Area (SPA) and secures a financial contribution towards affordable housing. However, in the intervening period since the application was determined, the expected mitigation contributions had increased. A second UU dated 3 April 2024 was submitted to address the shortfall in the mitigation contributions towards the Solent Recreation Mitigation Strategy (SRMS). I shall return to this matter below.

Main Issues

4. The main issues are the effect of the proposed development on the:
 - character and appearance of the area;
 - living conditions of the occupants of 161 High Street, with particular regard to outlook and sunlight; and
 - integrity of the Solent and Southampton Water SPA in relation to recreational disturbance and nutrient neutrality.

Reasons

Character and appearance

5. The appeal site comprises a semi-detached dwelling that is situated in a long and narrow plot. The site is adjacent to a public right of way (PRoW) N215 which is unmade and provides access to the rear of the property.
6. The surrounding area is characterised mainly by ribbon development along the High Street. However, Harwood Close branches off High Street to a small cul-de-sac that adjoins the rear garden of the appeal site. As such, back-land development is part of the urban fabric in this area, and it is perceived in views from the High Street. The plot sizes and shapes surrounding the site are varied and include long and narrow plots as well as wide and shallow plots, particularly those located behind the frontage development. Similarly, the building footprints in the vicinity are varied. As such, close to the appeal site, there is no particular unifying rhythm of development.
7. The proposal would introduce a bungalow in the rear garden of 159 High Street (No 159). However, the bungalow would adjoin the existing dwellings at Harwood Close, so from the PRoW and surrounding gardens, the bungalow would be seen in the context of the existing back-land development. Consequently, the subdivision of the site would not detract from the pattern of development in the vicinity.
8. The proposal would be glimpsed from the High Street, through the gap between No 159 and 157 High Street. However, it would have limited visual exposure due to its set back and, additionally, glimpsed views towards Harwood Close from the High Street already exist. As such, the proposal would not appear at odds with the character of the locality.
9. Although the proposal would subdivide No 159's rear garden, this is deep, so the bungalow would have an ample separation to the host dwelling. Similarly, there would be gaps to both side boundaries, together with a frontage for parking and outdoor space to the rear, so the plot would not be dominated by the proposed building. The proposed plot would be modest in size, but given the plot variety near the site, the proposal would not harm the character of the area.
10. I conclude that the proposal would not harm the character and appearance of the area. Consequently, it would accord with Policy DM2 of the Island Plan, Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document March 2012 (the CS), where it supports proposals that provide an attractive and functional built environment with a sense of place. Although not referenced in the Council's reason for refusal, the proposal would accord with CS Policy SP1, which requires development to clearly demonstrate how it will enhance the character and context of the local area.

Living conditions

11. While the proposal would have a small section of shared boundary with 161 High Street (No 161), the proposed bungalow itself would not be next to this section of the boundary. Further, the bungalow would sit at a considerable distance from the dwelling at No 161. The plans show that the bungalow would be of a modest scale and height. For these reasons, the proposal would not

appear unduly overbearing in terms of the outlook from within No 161 and from its garden.

12. While not referenced in the reason for refusal, the Officer Report raises concerns with the proposal's impact on the sunlight levels received by No 161's garden. Given its large size, and as the proposed bungalow would be set away from the common boundary with No 161, most of this garden area would continue to receive adequate sunlight.
13. In conclusion, the proposal would not have a harmful effect on the living conditions of the occupants of No 161, with particular regard to outlook and sunlight. Therefore, the proposal would accord with CS Policy DM2, which supports proposals for high quality design.

European Sites

14. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that permission may only be granted for a development where the competent authority has ascertained that it will not adversely affect the integrity of the European Sites. The Council has identified that the development has the potential to affect the Solent and Southampton Water SPA.
15. The qualifying features of this European Site most likely to be affected by the proposal include over-wintering birds. Recreational disturbance can cause important habitat to be unavailable for use by birds. This can result in the habitat being effectively lost, either permanently or for a defined period, such that negative effects are caused to resting and feeding habitats.
16. In addition, the Solent has recognised problems from nitrate enrichment. High levels of nitrogen from human activity and agricultural sources in the catchment have caused excessive growth of green algae which is having a detrimental impact upon protected habitats and bird species.
17. The proposal would result in a net increase of one dwelling. Therefore, there would be a likely increase in the recreational use of the coast, which has the potential to cause detrimental impacts on the overwintering bird populations. In addition, there would be a likely increase in nitrates from foul wastewater with potential for the foul wastewater to enter the protected site. As a result, when considered either alone or in combination with other plans and projects, this development would have a likely significant effect on the SPA by reason of both recreational disturbance and nutrient neutrality, in the absence of avoidance and mitigation measures.
18. With regard to recreational disturbance, the Isle of Wight Council is a member of the Solent Recreation Mitigation Partnership (SRMP). The SRMP has produced the SRMS which provides a strategic solution to ensure the requirements of the Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. The SRMS has been endorsed by Natural England (NE). The approach includes a series of management measures which actively encourage all coastal visitors to enjoy their visits in a responsible manner. This requires new residential dwellings to provide a financial contribution towards these mitigation measures.
19. NE as the Statutory Nature Conservation Body has been consulted on this proposal and provided a site-specific response. It requires a financial payment

in accordance with the SRMS to mitigate the recreational effects of the proposed development on the integrity of the SPA. They regard this approach to be ecologically sound. The Council has also confirmed that the payment amount as set out in the relevant provision of the appellant's first and second UUs is required by the SRMS, and it is acceptable.

20. In terms of recreational impacts upon the SPA, I am content that the first and second UUs when taken together commit to payment of £671 for a 2-bedroom dwelling and would therefore secure suitable mitigation to protect the integrity of the SPA. As such, they are necessary, directly related to the development and fair and reasonable in scale and kind. The UUs therefore accord with the provisions of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (the CIL Regulations), and the tests within the Framework.
21. Regarding the nutrient neutrality and the drainage of foul water, the Council has adopted the Isle of Wight Position Statement: Nitrogen neutral housing development January 2023 (PS) following input from NE. Amongst other things, the PS sets out that provided that foul wastewater from residential development on the island enters the English Channel, not the Solent, then there would be no likely adverse effect on the SPA, and no mitigation required. In this case, the proposal is for foul water to be drained to Sandown Wastewater Treatment Works, which discharges into the English Channel. NE has been consulted on this and raised no objection to this approach and considers it adequately mitigates any adverse effects upon the SPA.
22. This approach would be the subject of a condition requiring exact details of the foul water drainage to be agreed and implemented prior to the commencement of development. This would ensure there would be no likely significant effects upon the SPA from foul water entering the Solent.
23. In conclusion, taking account of the mitigation measures and the condition on foul water drainage proposed, the scheme would not adversely affect the integrity of the Solent and Southampton Water SPA in relation to recreational disturbance and nutrient neutrality. Consequently, the proposal would comply with CS 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.

Other Matters

24. Policy DM4 of the CS indicates that in order to deliver the necessary affordable homes over the plan period small sites, such as the appeal site, are required to provide a financial contribution towards affordable housing. The Affordable Housing Contributions Supplementary Planning Document (2017) (SPD) sets out the approach for calculating the required financial contribution which is based upon the value of the property at first sale/occupation.
25. The first UU submitted by the appellant would provide a contribution calculated on the basis of the approach set out in the SPD and the Council has confirmed that it meets the requirements of CS Policy DM4.
26. Given this policy context, I am satisfied that the planning obligation for affordable housing is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Therefore, it would

accord with the provisions of Regulation 122 of the CIL Regulations, and the tests within the Framework.

27. The scheme comprises one single dwelling, so it is unlikely that it would generate a significant amount of traffic movements that would be detrimental to the users of the PRow or to the wider road network. Given that the site is within an accessible location, the levels of parking would be considered acceptable. If inconsiderate parking practices were to arise, they would be subject to normal policing and controls within the highway. Concerns have been raised with regard to the movement of emergency vehicles. However, I have not been provided with compelling evidence that the proposal would be harmful in this regard, and I note the local highway authority did not object to the proposal, subject to conditions.

Conditions

28. I have considered the Council's suggested conditions in light of the advice contained within the Framework and the National Planning Practice Guidance. I have undertaken some minor editing, in the interests of precision and clarity.
29. In the interests of certainty, the relevant conditions concerning the timescales for the submission of the reserved matters, the commencement of development, the definition of the reserved matters, and the approved plans are necessary.
30. In the interests of highway safety, conditions are necessary to secure the provision of appropriate visibility splays and the site access. To ensure that adequate parking provision is available on site, a condition securing the parking spaces to be provided and available for off street parking at all times is necessary. In the interests of the users of the PRow and to prevent mud and dust from getting on the highway, a condition is necessary requiring the submission of a Construction Method Statement.
31. I have imposed a drainage condition, which is necessary to ensure satisfactory foul and surface water drainage arrangements, and to prevent harmful impacts on the SPA and nearby watercourses.
32. The conditions regarding visibility splays, construction method statement and drainage are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.
33. Reference is made by Southern Water to a condition regarding a possible sewer that could cross the appeal site. There is no certainty as to whether such a sewer crosses the appeal site, so I am not persuaded that such a condition would be reasonable or necessary in this case.
34. The Public Rights of Way Service suggests a number of conditions. However, I have not imposed the conditions relating to route alterations, permission to use the PRow for vehicle access, information to visitors and contractors, services and temporary closures as, in this case, they would not meet the test of necessity and would not be relevant to planning.

Conclusion

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

P Terceiro

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance and landscaping ("the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun on or before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans: site location plan, B/220/666/06 Revision B, B/223/694/01; B/223/694/02; B/223/694/03; and B/223/694/04.
- 5) No development shall take place until details of the sight lines to be provided at the intersection between the vehicular accesses to the proposed parking spaces and footpath N215 have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until those sight lines have been provided in accordance with the approved details. Nothing that may cause an obstruction to visibility shall at any time be placed or be permitted to remain within the visibility splay shown in the approved sight lines.
- 6) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in respect of:
 - a) Steps to prevent material being deposited on the highway as a result of any operations on the site in connection with the approved development. Such steps may include the installation and use of wheel cleaning facilities for vehicles connected to the construction of the development. Any deposit of material from the site on the highway shall be removed as soon as practicable by the site operator. The agreed facilities shall be installed prior to the commencement of development and shall be retained in accordance with the approved details during the construction phase of the development.
 - b) The parking, loading, unloading, circulation and turning off all construction vehicles to include for operative vehicles throughout the build process.
 - c) Steps to ensure that the public right of way remains available, safe and convenient for public use at all times.
 - d) Details and timescale for making good any damage caused to the surfacing of the right of way by construction traffic / machinery.

- 7) 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 drainage shall be connected to the public sewer and shall be served by the Southern Water Wastewater Treatment Works at Sandown. Development shall be carried out in accordance with the approved scheme, which shall be completed prior to the occupation of the dwelling hereby permitted and be retained thereafter.
- 8) The development hereby permitted shall not be occupied until the means of access have been constructed in accordance with the approved plan ref B/223/694/01. The access shall be retained thereafter.
- 9) The dwelling hereby permitted shall not be occupied until space has been laid out within the site and in accordance with drawing number B/223/694/01 for a total of 3 vehicles to be parked (1 for the new dwelling and 2 for the host property). Thereafter those spaces shall be retained for the parking of vehicles only.