



Appeal Decisions

Site visit made on 1 September 2025

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 10 October 2025

Appeal A Ref: APP/P2114/C/23/3326131

Appeal B Ref: APP/P2114/C/23/3326132

**The Old Milking Shed, Sheep Lane Farm, Blythe Shute, Chale, Isle of Wight
PO38 2HJ**

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- Appeal A is made by Mr Fred Colson and Appeal B is made by Mrs Lesley Colson against an enforcement notice issued by Isle of Wight Council.
- The notice was issued on 7 June 2023.
- The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to a dwelling house by the use of the former agricultural building for residential purposes.
- The requirements of the notice are to:
 - 5(i) Cease the use of the Land as a dwellinghouse.
 - 5(ii) Remove all residential paraphernalia from the Land.
- The periods for compliance with the requirements are:
 - 5(i) 8 months after the notice takes effect
 - 5(ii) 9 months after the notice takes effect
- Appeal A was made on the grounds set out in section 174(2)(a) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act. Appeal B proceeds on the ground set out in section 174(2)(g) of the Act.

Summary Decisions: Appeal A and Appeal B are dismissed; the enforcement notice is upheld and in Appeal A planning permission is refused.

Appeal A on ground (a)

Main issues

1. The main issues are:
 - whether the dwelling is justified having regard to the development plan spatial strategy for housing, in terms of its location and the need for housing;
 - whether it provides a satisfactory standard of internal and external living conditions for existing or future occupants; and
 - its effect on the Southampton and Solent Waters Special Protection Area, with respect to nitrates.

Reasons

Spatial strategy

2. The adopted development plan is the Island Plan (IP)¹. The spatial strategy set out in IP Policy SP1 intends to meet the Island's housing needs within or immediately

¹ The Island Plan, the Isle of Wight Council Core Strategy (including Minerals & Waste) and Development. Management Policies Development Plan Document, March 2012

adjacent to defined settlements. Elsewhere, in the wider rural area, housing development must meet an identified local need.

3. In terms of location, the dwelling is most proximate to Chale but this village is not a defined settlement in IP Policy SP1. It is also visually and spatially detached from Chale by distance and intervening countryside. It is therefore not in or immediately adjacent to this settlement, not even on its edge, but in the wider rural area.
4. Chale has few facilities or services to meet day to day living needs, including no shop. These are anyway about half a mile from the dwelling. Albeit a snapshot, I saw that Blythe Shute is a reasonably busy and fast main A-road. This part is on an s-bend and a hill with no street lighting or footways and limited soft verges as it passes one end of a rough track leading to the dwelling. Occupants of the dwelling would need to walk in the carriageway and there are no cycle lanes to encourage cycling.
5. A bus stop in a lay-by near the track gives access to buses to Ventnor but these are not very frequent Monday to Saturday, especially evenings and sporadic on Sunday. Nor is there a shelter to encourage use. A bus stop in the other direction to Newport town with similar bus times is further up the main road and out of sight, also without a shelter and a walk of more than 300m mainly along the carriageway and the rest over a narrow soft grass verge next to it. There is no central crossing refuge and approaching downhill traffic appears suddenly around the corner with little warning.
6. Consequently, these circumstances are not conducive to pedestrian travel by people living in the dwelling. Nor for cycling, which would anyway be inherently of limited utility, likely mainly for recreation or exercise. Nor would access to a bus be safe or very convenient to use. As a result, occupants of the dwelling are likely to be mainly reliant on a car to meet most living needs such as for commuting, main weekly food shopping or leisure.
7. In terms of need, it is common ground that there is a need for market housing generally on the Island, including 1-bedroom in size, as well as affordable housing as defined for planning purposes (not just low cost as such). The Council also seeks to make use of suitable 'brownfield' previously developed land. However, both objectives are primarily achieved elsewhere, not in the wider rural area, including in-line with IP Policy SP1.
8. I accept that the dwelling might be cheap to rent privately and has been occupied free of charge in the past. It was valued by those who have lived in it, including the current tenant. However, it is not clear if the appellant's rent comparisons with other 1-bedroom accommodation elsewhere on the Island are on a like for like basis in other respects – such as size (space), standard of internal or external living environment, location or surroundings. Furthermore, even if there was a lack of available small properties to buy or rent at Chale, the details provided are only a limited snapshot of the housing market at the time.
9. In addition, there is little evidence that the dwelling is within a definition of an affordable housing unit for planning purposes. Nor of a planning obligation to control occupancy and ensure it is for 'affordable rent' (below market rent) and a restriction that is not suitable to be secured by a planning condition. Fundamentally, though, there is little evidence of a recognised objective identified need for any type of housing to be on the land.

10. It is common ground that the land was last in lawful use in connection with agriculture. In the absence of a development plan definition before me, it is not previously developed land as defined in the National Planning Policy Framework (NPPF). I also appreciate that it makes use of an existing building, but I have not been directed to any development plan policy for re-use of buildings in the wider rural area, such as the exception at NPPF paragraph 84(c). However, the reasons for issuing the notice include living conditions which (as explained below) undermine re-use of the building as a dwelling. There is also little evidence that this residential use has enhanced the immediate setting of the dwelling, rather than just change or difference compared to when it was a milking shed as part of a farm. No other recognised identified need or exception for a dwelling on the land has been advanced.
11. I therefore find that the dwelling is not justified having regard to the development plan spatial strategy for housing, in terms of its location and the need for housing. Consequently, it undermines these objectives of the development plan and the unacceptable harm caused, as set out in the reasons for issuing the notice, means conflict with IP Policy SP1.

Living conditions

12. This single-storey building appears to have been altered to establish the dwelling, including with some windows, a glazed porch and services. However, the structure and fabric is of basic construction and utilitarian design. While some old, broken or worn interior fixtures and fittings could be refreshed or replaced, there is little evidence to counter that much of the inside of the building appears to require significant remedial or repair works, such as to rectify damp or decayed walls, ceilings or floors. It is not clear if these defects can be rectified.
13. But even if they can, I have been referred to the Nationally Described Space Standard (NDSS). While I have not been informed that the Council has adopted the NDSS in a development plan policy, it is useful guidance. Using the Council's figures, which are not contested, the dwelling exceeds the NDSS minimum gross internal area (GIA) for a 1-bedroom, 1 person property but it is not clear if the bedroom meets the requisite GIA or width dimension. However, as I saw, the bedroom accommodates the double bed that was in situ. The dwelling could therefore be occupied by 2 people with no increase in bedroom GIA or width so provide significantly less than the NDSS requisite minimum 50m² GIA. A planning condition to restrict occupancy to 1 person would be unduly onerous for the Council to monitor, so unreasonable and unenforceable.
14. A bathroom without a window is not unusual or uncommon. However, there is little outlook or internal natural sun or daylight from just one window in the main combined living and kitchen space or a smaller window in the bedroom. Even though south facing and a reasonably bright day, these rooms were gloomy inside and as a result oppressive with activity likely to be over reliant on artificial lighting for much of the day and year. While the rooms are useable in shape, each is limited in size with a 'room through room' layout. This means some circulation or storage space (with stored items in the open) and built-in or free standing furniture significantly erodes the useable main internal living areas, which is cramped as a result – especially the bedroom because it is partly a throughfare between the other rooms.

15. The outside living space is in front of the dwelling. Though with a largely unrestricted southerly aspect, this small area is narrow and shallow behind a low post and rail boundary fence, tight up against the dwelling at the back and the porch on one side. There is little space for normal domestic use and activity, such as relaxing, entertaining or hanging washing to dry and without these activities overlapping which restricts useability. There is also little privacy from people or vehicles passing by along the track, albeit a cul-de-sac.
16. The dwelling is mostly surrounded by a tight knit group of buildings which appeared to be mainly agricultural or commercial in nature. Even if not all currently in active use there is no apparent reason why they could not be or use the track. Nor that occasional use could intensify. Either way, there is little evidence that such activity when it did happen would not generate noise and other disturbance, such as from machinery, dust or fumes. This could include at evenings or weekends when people generally expect quite enjoyment of their property and improved living conditions, including the chance to open windows or be outside.
17. I therefore find that the dwelling does not provide a satisfactory standard of internal and external living conditions for the existing occupant or future occupant(s). Consequently, it is contrary to IP Policy DM2 which, amongst other things, seeks high quality and inclusive design to provide a functional built environment.

Southampton and Solent Waters Special Protection Area (the SPA)

18. The dwelling is within the zone of influence of the SPA. This European site is designated to protect important habitat for bird species. A significant individual or in-combination adverse effect on the European site would be likely to occur as a consequence of the dwelling due to nitrates if foul wastewater entered the Solent exacerbating eutrophication. With advice from Natural England the Council adopted a Position Statement (PS) which amongst other things sets out two options for mitigation². I appreciate that the dwelling has existed for some time, but it is common ground that Option 1 is not met because the dwelling is not connected to a public sewer and waste water treatment works that drains to the English Channel, as opposed to the Solent.
19. I accept that taking some farmland owned by the appellant out of livestock use and planting trees on it could deliver 'nitrate credits' and a nitrate neutral outcome. However, there is little evidence of a requisite nitrogen budget calculation for the dwelling or to corroborate an acre per dwelling ratio that is said was accepted by the Council elsewhere or why those circumstances might be directly comparable to this case. Nor have I been informed about any planning obligation to secure credits using land owned by a third party and, on the face of it, the PS does not advocate a planning condition, even if such land is owned by the same applicant or appellant. There is also little to suggest that a sealed cess pit would otherwise be the only (least preferred) waste management option. Either way, the flowchart in the PS sets out that a nitrogen budget calculation and details of proposed mitigation need to be evident and inform Appropriate Assessment³. As such, there is little to suggest that Option 2 is met.
20. As the competent authority in this appeal I am not, therefore, satisfied that the appellant has demonstrated the dwelling does not significantly harm the nature

² Isle of Wight Position Statement: Nitrogen neutral housing development January 2023

³ Conservation of Habitats and Species Regulations 2017, as amended

conservation interests of the SPA or adversely affect its integrity due to nitrates. Consequently, it does not comply with IP Policies SP5 and DM12. These include that development should take account of the environmental capacity of an area to protect and avoid demonstrable harm to the Island's natural environment, including designated biodiversity sites.

Other Matters

21. The Council did not issue the notice for a reason related to adverse impact on the Isle of Wight National Landscape⁴. I have considered the objections by the AONB Partnership, some of which support the Council's reasons for issuing the notice. The dwelling is otherwise an existing former rural building next to others and near some residential properties elsewhere along the track. Despite its current use and external appearance, its visual and spatial presence is largely innocuous, without significant innate harm in either respect. As such, it conserves the landscape and scenic beauty of this part of the National Landscape and of this designated area overall. The Council did not include any reason relating to impact on the character or appearance of the area generally, the living conditions of the occupants of any other dwelling or in respect of means of vehicular access and car parking. I have no reason to find otherwise. The absence of harm in these respects is a neutral factor in my decision.
22. The NPPF sets out that affordable housing (AH) should not be sought in minor residential development, such as in this case. The Council has, though, demonstrated a significant under-delivery of AH on the Island as justification for a need to increase provision, including by development of small sites having taken account of viability. It has also explained how this would be achieved and the basis for a level of financial contribution toward provision of AH off-site, including that this should be secured by a planning obligation. I consider that these local circumstances outweigh this provision of the NPPF.
23. The appellant submitted a unilateral undertaking (UU) to make the requisite financial contribution toward provision of AH off-site. The Council has explained how this would be achieved and the basis for the level of contribution, in-line with IP Policy DM4. I am, therefore, satisfied that the UU is necessary, directly related to the development and fair and reasonable in scale and kind so it accords with the provisions of Regulation 122 and the NPPF tests for planning obligations. The Council confirmed in writing that it considers the UU overcomes the relevant reason for issuing the enforcement notice.
24. The Council provided its latest published assessment of housing land supply over a four year period⁵. However, this pre-dates the (current) NPPF, which requires assessment over a five year period. There is little other objective evidence to sustain the appellant's claim that the Council cannot currently demonstrate a five year supply of deliverable housing land, though the Council has not substantiated that it can. The latest 2023 Housing Delivery Test⁶ confirms the Council delivered more than 75% of the requisite number of homes over the relevant three year period (76%, not 66% as the Council had suggested).

⁴ Formerly an Area of Outstanding Natural Beauty (AONB)

⁵ Housing Land Supply Annual Position Statement on 1 April 2024

⁶ Published December 2024

25. I appreciate the appellant's personal circumstances that have been outlined and how relevant planning history led to the dwelling. I also accept that the current and previous tenants have enjoyed living in it, including to suit their particular circumstances or lifestyles. However, planning operates in the wider public interest, rather than for private benefit or to meet any individual's specific needs or preferences. Whilst these outcomes may coincide, they do not in this case.

Planning Balance

26. Notwithstanding that the 5 year housing land supply evidence is inconclusive, application of policies in the NPPF that protect an area or asset of particular importance (the SPA) provide a clear reason for refusing planning permission⁷. Accordingly, the presumption in favour of sustainable development ('tilted balance') does not apply in this case.
27. The dwelling helps to meet the development plan housing requirement and by means of the UU would help to deliver affordable housing. These outcomes are consistent with objectives of the NPPF to significantly boost the supply of homes to meet people's accommodation needs, including for affordable housing. Though important, the contribution made by a single dwelling is small so these benefits have limited weight.
28. Set against this, the dwelling is not suitably located or justified by an identified need or exception and falls significantly short of normal expectations for residential occupation and use. In addition, I cannot be certain the SPA is not adversely affected. These outcomes undermine the IP.
29. The dwelling is also at odds with objectives of the NPPF for a pattern of development that limits the need to travel, provides a genuine travel choice (accepting variation between urban and rural areas) and that rural housing should maintain or enhance rural communities, unless justified or isolated in the countryside for an exceptional reason. It also conflicts with aims to provide a high standard of amenity for occupants and to conserve habitats and biodiversity.
30. The adverse impacts would cause unacceptable harm to these matters of acknowledged planning interest, so these considerations carry substantial weight.
31. The benefits of the dwelling do not, therefore, outweigh the harm.

Conclusion

32. The dwelling conflicts with the development plan. Other material considerations do not indicate that ground (a) should be determined other than in accordance with the development plan taken as a whole. Consequently, for the reasons given above the dwelling is unacceptable and Appeal A on ground (a) fails.

Appeals A and B on ground (g)

33. I appreciate that the dwelling is where the current tenant lives and that the planning status of this accommodation is not of his doing or responsibility. Whether or not he was aware of an expectation of success on ground (a), he would have to look for alternative living arrangements in earnest, after the outcome of the appeals.

⁷ NPPF paragraphs 11(d)(i) and 195

34. However, there is little evidence that this would coincide with a main, or any, recognised busy tourist season when short-term rental accommodation might be in high demand. I have not, anyway, been informed that he occupies the dwelling on such a basis as opposed to the longer term. There is little else to suggest that it would be unusually difficult or require an inordinate amount of time for him to find somewhere else to live. I am not, therefore, persuaded that he would be made homeless, as the appellant claims. In addition, the extent of internal and external domestic paraphernalia is commensurate with the small size of the dwelling and, it seems at present, single occupation. It is thus more likely than not that the tenant would remove some or all of his personal possessions.
35. In these circumstances, I consider that 12 months sought by the appellant would be a disproportionate extension of time to cease the use of the Land as a dwellinghouse and remove all residential paraphernalia. The appellant did not otherwise argue that the one month interval given between these two requirements was not practicable.
36. Consequently, the 8 and 9 month periods in the notice to take the steps required by it do not fall short of what should be reasonably allowed and each ground (g) therefore fails.

Formal Decision

37. Appeal A and Appeal B are dismissed and the enforcement notice is upheld. In Appeal A planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan

INSPECTOR