



Appeal Decision

Site visit made on 11 December 2025

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2026

Appeal Ref: APP/P2114/W/25/3372201

Land east of Birch Close and north of Solent Gardens, Freshwater, PO40 9SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Journey Estates Ltd against the decision of Isle of Wight Council.
 - The application Ref 24/00166/DIS sought approval of details pursuant to condition No. 25 of a planning permission Ref 21/00357/FUL, granted on 21 February 2022.
 - The application was refused by notice dated 3 March 2025.
 - The development proposed is a residential development comprising 44 dwellings with access from Birch Close; access roads, parking and landscaping.
 - The details for which approval is sought are: 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. The details shall confirm the Wastewater Treatment Works (WWTW) that will treat the drainage from the development. Development shall be carried out in accordance with the approved scheme, which shall be completed prior to the occupation of the houses hereby permitted and retained thereafter.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the details submitted in respect of drainage meet the requirements of Condition 25.

Reasons

3. The appellant has provided various documents which seek to demonstrate that the proposed development would be safe in relation to surface water flooding.
4. As part of the application process, comments were received from JBA Consulting, acting on behalf of the Lead Local Flood Authority (LLFA). The LLFA objected to the application to discharge the condition for a plethora of reasons. Part of the disagreement between the two main parties appears to relate to the status of the Isle of Wight Sustainable Drainage Supplementary Planning Document (SDSPD) which was adopted by the Council in May 2024. While the original planning permission for the proposed development was approved prior to the adoption of the SDSPD, the application to discharge condition no. 25, which is the subject of this appeal, was submitted in February 2025. As such, the SDSPD was adopted guidance at the time of the application and therefore represents a legitimate and important material consideration. It is perfectly reasonable for the Council to have taken account of the SDSPD when making their decision.

5. Nevertheless, in these circumstances, a proportionate approach is required. For instance, it would not be reasonable to require changes to the proposed development layout which had previously been approved. However, other matters, which would not require such major amendments, should have been incorporated into the appellant's drainage strategy. As an example, it is clear from the evidence before me that the evidence is based on an assumed climate change allowance of 40%, whereas the SDSPD sets out that the allowance should be 45%. A letter from Mayer Brown Limited, dated 20 August 2025, states that this amendment would be relatively easy to implement.
6. The same letter from Mayer Brown also identifies that other deficiencies identified by the LLFA could be remedied without affecting the details that have already been approved. These include changes to the Hydrobrake head value, and the use of perforated pipes in the subbase, connected to the new surface water system.
7. These deficiencies seem to me to be quite fundamental in terms of the overall reliability and robustness of the appellant's drainage strategy. As a result, and irrespective of other problems raised by the LLFA, I find that these matters alone mean that the submitted evidence is not sufficient enough for me to discharge the condition.
8. Clearly, it would have been helpful if the Council could have worked more proactively with the appellant on such matters. However, I must make my decision based on the evidence before me. It is not the role of this appeal process to fix fundamental issues with submitted evidence. To do so would take an unreasonable amount of time, including the need to re-consult the LLFA.
9. Therefore, on that basis, condition 25 cannot be discharged.

Conclusion

10. For the reasons given, the appeal is dismissed.

C Butcher

INSPECTOR