



Appeal Decision

Site visit made on 14 January 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2019

Appeal Ref: APP/P2114/W/18/3193602

Land to the rear of Noke Common and Hogan Road, Newport, Isle of Wight

- 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 Mr A Button against the decision of Isle of Wight Council.
 - The application Ref P/00463/17, dated 10 April 2017, was refused by notice dated 8 September 2017.
 - The development proposed is up to 10 dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 10 dwellings at Land to the rear of Noke Common and Hogan Road, Newport, Isle of Wight in accordance with the terms of the application, Ref P/00463/17, dated 10 April 2017, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The above site address is taken from the application form. However, for the avoidance of doubt the appeal relates to land to the rear of 17 Noke Common and adjacent 10 Hogan Road.
3. The application was submitted in outline with access for consideration and all other matters reserved for future approval. I have determined the appeal on that basis, treating the site layout plan and site sections as illustrative.
4. Two unilateral undertakings were submitted during the appeal process. I shall return to these later in my decision.

Main Issue

5. The main issue in this case is whether the proposal would constitute an appropriate form of development in this location, having regard to the Council's aspirations for a comprehensive development of the site and surrounding land.

Reasons

6. The appeal site comprises a 0.45ha parcel of undeveloped land on the northern edge of Newport, immediately adjacent to the defined settlement boundary. Policy CS1 of the Island Plan: Isle of Wight Core Strategy (including Minerals and Waste) and Development Management Policies DPD (2012) (Core Strategy) is permissive of development in this location, subject to the proposal clearly demonstrating how it will enhance the character and context of the local area.

7. The Council does not object to the principle of developing the site for residential use and it does not allege there to be any conflict with the provisions of Core Strategy Policy CS1. The site relates closely to existing dwellings in Hogan Road and Noke Common and its proximity to existing urban form, including the prison establishments to the south, diminishes any contribution it might otherwise make to the landscape setting of Newport. I therefore consider that a reserved matters scheme would be capable of enhancing the character and context of the local area, thus meeting the policy requirement.
8. One of the principal concerns of the local planning authority is that the proposal would prevent the delivery of a more comprehensive housing scheme using land to the south and west of the appeal site. This land is in the same ownership as the appeal site and the appellant has indicated his desire to bring it forward for development. The adjoining land parcel is not allocated for development and I am not aware of any planning application having been submitted. In the absence of a process of public consultation the Council is prejudging the acceptability of a larger scheme on this land.
9. Notwithstanding this, the submitted masterplan clearly demonstrates how the proposal could fit in with a scheme for the appellant's wider landholding. There is no reason why a high quality and inclusive design could not be achieved to accord with Core Strategy Policy DM2. As it is, the appeal scheme could stand alone or form the first phase in a much larger development.
10. The Council has raised the concern that 'piecemeal' development may prejudice the delivery of on-site affordable housing. The appeal scheme would be providing a financial contribution towards affordable housing, in line with Core Strategy Policy DM4 and the Affordable Housing Contributions Supplementary Planning Document (2017) (Affordable Housing SPD). Whilst I appreciate that successive schemes of up to 14 dwellings each could theoretically result in a development without any affordable housing provision, that is unlikely to be the outcome in this case. The Highway Authority has already indicated that any future scheme would require an upgrade to the junction of Hogan Road with Horsebridge Hill. The probability is that this would be a significant infrastructure upgrade, the cost of which could only be borne by larger scale development which would need to provide on-site affordable housing and open space in accordance with the relevant Core Strategy policies.
11. My attention has been drawn to an appeal decision in relation to land off Camp Road in Freshwater¹. Although there are some parallels with the current appeal, that case did not present the same infrastructure constraints. Furthermore, the scheme was considered in the context of a different housing land supply position, with the Inspector finding that there was no critical deficiency in supply. I shall return to the matter of housing land supply later in my decision, but this factor alone justifies taking a different approach to the current appeal.
12. Turning now to highway matters, the existing junction of Hogan Road with Horsebridge Hill would have enough capacity for the number of dwellings being proposed, albeit some extension to double yellow lines would be necessary to secure adequate visibility. The Council is concerned regarding the consequent loss of on-street parking. However, it seems to me that adjustment to parking

¹ APP/P2114/A/13/2210097

controls is necessary in any event to address the genuine highway safety concerns raised by residents. There would clearly be some loss of parking bays, with up to 9 being affected, but the appeal scheme would provide additional parking to offset this. Although the new spaces would require residents to park further from their homes, it is not an excessive walking distance and the benefits of improved visibility splays would outweigh the added inconvenience.

13. Therefore, notwithstanding the Council's aspirations for a comprehensive development, I conclude that the proposal would constitute an appropriate form of development in this location which would neither conflict with development plan policy nor cause any other harm to planning interests, including the future potential for housing development on neighbouring land.

Other Matters

14. Two unilateral undertakings have been submitted, one dated 9 June 2017 and a supplemental deed dated 14 November 2017. Together, these would secure financial contributions towards affordable housing and mitigation for the impact of the development on the Solent Special Protection Areas. The contributions would align with the methodology for calculation set out within the Affordable Housing SPD and Solent Recreation Mitigation Strategy (2017) respectively. Based on the evidence presented, I consider that the planning obligations are necessary; directly related to the development; and fairly and reasonably related in scale and kind to the development. They would therefore comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.
15. The vehicle movements generated by a development of 10 dwellings would not be significant in the context of existing traffic levels on Hogan Road. Subject to the proposed visibility improvements being secured at the junction with Horsebridge Hill, the appeal scheme would not have an unacceptable effect on the safe and efficient operation of the local highway network.
16. I have taken account of local concerns regarding the justification for the development and the loss of greenfield land. However, there is a proven need for housing on the Island. The Core Strategy indicates a need for 520 dwellings per year and completions have been consistently below this figure. Policy CS1 makes provision for the use of greenfield sites adjacent to settlement boundaries and on this basis the proposal is compliant with the Council's own policies.
17. Surveys show that the site provides suitable habitat for nesting birds, dormice and bats, all of which have been identified as locally present. However, the retention of trees and boundary hedgerows would prevent material harm to protected species and the biodiversity value of the site could be enhanced by new planting along the southern and western boundaries.
18. Correspondence with Southern Water indicates that there is currently adequate capacity within the local sewerage network to accommodate the foul flows generated by the scheme. The application form indicates that surface water would be drained to soakaways and there is no substantive evidence to demonstrate that this is not possible. A condition can be used to require the submission of a drainage scheme for the Council's approval prior to development commencing.

19. Although it has been suggested that planning permission has been refused previously on this site, no details are provided. Furthermore, the case officer report confirms that there is no recent relevant history for the site. I have therefore dealt with the proposal on its merits against current development plan policy.

Planning Balance

20. The Council concedes within its latest Five Year Land Supply Update (2018) that it is unable to demonstrate a five year supply of deliverable housing sites. The authority's assessment arrives at a figure of approximately 4.15 years. The parties have not provided any further calculations using the standard method set out in the Planning Practice Guidance (PPG). Nevertheless, the burden of proof is upon the Council and this has not been discharged. The balance of evidence indicates that the requisite land supply does not exist.
21. Paragraph 11 of the National Planning Policy Framework (the Framework) is therefore engaged. This states that in circumstances where a five year supply of deliverable housing sites cannot be demonstrated, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As the proposal would not affect any of the protected areas or assets referred to under Footnote 6, it is the second limb of the policy which needs to be applied.
22. The proposal does not conflict with the development plan or cause demonstrable harm to planning interests. Even if I were to accept the Council's argument that a comprehensive development of the appellant's wider landholding is preferable, highway infrastructure constraints mean that this is unlikely to be deliverable in the short term. The appeal scheme would make a small but valuable contribution to the supply of new homes, set against the context of a significant shortfall across the Island. Given that the scheme could be brought forward immediately, and the option would remain open to develop neighbouring land, I do not consider that there would be any harm sufficient to significantly and demonstrably outweigh the benefits of the scheme in terms of housing delivery and economic spinoffs during construction.

Conditions

23. The Council has provided a list of suggested conditions which are based on those set out in the officer report. The appellant has confirmed that these would be appropriate in the event of the appeal being allowed. I have considered each condition against the tests set out in paragraph 55 of the Framework and the PPG.
24. In addition to the standard conditions for outline planning permissions, I have attached a condition to require submission of an Arboreal Method Statement, in the interests of the character and appearance of the area. To prevent harm to protected species and secure biodiversity enhancement a condition is also necessary to ensure that the development adheres to the recommendations of the submitted ecological reports. A pre-commencement condition is needed to secure further details of foul and surface water drainage.

25. To ensure a safe highway access, conditions are required to ensure that the development does not commence until a Traffic Regulation Order (TRO) has been secured in relation to an extension of parking restrictions on Horsebridge Hill. The conditions would prevent occupation of the new dwellings until the works to implement the TRO and provide the visibility splays have been carried out, and they would ensure the retention of the splays thereafter.
26. The conditions would also ensure that the works do not commence until the replacement parking spaces have been completed and made available for public use, with details of future management and maintenance having been secured. To ensure satisfactory parking within the site, a further condition is necessary to secure 2 parking spaces per dwelling.
27. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The Council's suggested condition to remove permitted development rights does not meet this test and therefore I have not imposed it. Additionally, I have not attached a materials condition as this can be applied at the reserved matters stage if necessary.

Conclusion

28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

Richborough Estates

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "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 approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence until an Arboreal Method Statement, which details how the development would be carried out to avoid or minimise impact to existing trees, including details of tree works required to facilitate the development, and details of tree protection, including fencing to be erected for the duration of the construction period, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence until details of the means of disposal of foul water and surface water from the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the approved drainage works shall be completed before any of the dwellings are occupied.
- 6) No development shall commence until a Traffic Regulation Order (TRO) relating to an extension of parking restrictions within Horsebridge Hill to allow for the visibility splays shown on drawing 18374/NOKE/5 rev PR01 has been secured. The dwellings hereby permitted shall not be occupied until all works to implement the TRO and to provide these visibility splays have been carried out and completed in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter, the resultant visibility splays shall be maintained and retained and nothing that may cause an obstruction to visibility shall be installed, erected, planted or permitted to remain within those splays.
- 7) The works to implement the Traffic Regulation Order (TRO) and to provide the sightlines shown on drawing 18374/NOKE/5 rev PR01 shall not begin until the access road shown on drawing 16:2043:5F and the parking spaces to be provided within the site to compensate for the loss of existing on-street public spaces within Horsebridge Hill as a result of the TRO, as well as the means of vehicular and pedestrian access to those spaces, have been provided in accordance with details that have been first submitted to and approved in writing by the local planning authority. Thereafter, the access road, parking spaces and the agreed means of access to the parking spaces shall be made available for public use.

Continued overleaf...

- 8) Before the access road and public car parking spaces are brought into use, details of how this road, those parking spaces and the means of access to those spaces will be managed and maintained in perpetuity shall be submitted to and approved in writing by the local planning authority. These areas of the site shall be managed and maintained thereafter in accordance with the agreed details.
- 9) No dwelling shall be occupied until space has been laid out within the site, and drained and surfaced in accordance with details that have been first submitted to and approved in writing by the local planning authority, for 2 cars to be parked per dwelling (total 20 spaces). Thereafter, these spaces shall only be used for the parking of vehicles belonging to the occupiers of the dwellings and their visitors and shall not be used for any other purpose.
- 10) The development shall be carried out in accordance with the recommendations set out in the submitted Preliminary Ecological Appraisal and Bat and Dormouse Surveys report, dated 16 June 2016 and February 2017 respectively. No works relating to the landscaping of the site or construction of the dwellings (other than foundations) shall begin, until details of ecological enhancements and any external lighting to be incorporated into the development, to include the provision of bat boxes within the dwellings, a timetable for the provision of those enhancements and details of how those enhancements would be managed and maintained thereafter, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the agreed ecological enhancements shall be provided in accordance with the agreed timetable.

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