



Appeal Decision

Site visit made on 13 May 2015

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2015

Appeal Ref: APP/P2114/W/14/3001191

Land at Place Road, Cowes, 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 Penwood Developments Ltd against the decision of Isle of Wight Council.
 - The application Ref P/01307/13, dated 9 October 2013, was refused by notice dated 29 July 2014.
 - The development proposed is for 86 dwellings with formation of vehicular access and associated works off Place Road.
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Decision

1. The appeal is allowed and planning permission is granted for 86 dwellings with formation of vehicular access and associated works off Place Road at land at Place Road, Cowes, Isle of Wight in accordance with the terms of the application, Ref P/01307/13, dated 9 October 2013, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal application was submitted in outline with details of access, layout and scale to be determined at this stage. Material submitted in relation to appearance, landscaping and other matters is illustrative only. This includes the tree constraints plans, outline drainage strategy, house types and elevations. The application was originally for 99 dwellings but this figure was reduced during the application process to 86. I shall determine the scheme on this basis.
3. Furthermore, the appellant submitted 3 revised plans as part of the appeal. These adjust the position of the northernmost units so that they would be further away from the site boundary. The Council has no objection to me considering these drawings instead of those that formed part of the application. Given this and the nature of the changes, no interests would be prejudiced in adopting that course of action and so this is how I shall proceed.
4. The appellant submitted a unilateral undertaking including a financial contribution to mitigate the impact of the development on the Solent Protection Area and in respect of affordable housing. I shall consider this in due course.

Main Issue

5. The main issue is the effect of the proposal on the green gap between Cowes and Gurnard and whether it would lead to the inappropriate coalescence of settlements having regard to relevant development plan policies.

Reasons

6. The appeal site is former farmland and is of an irregular shape. It covers 7.08ha on the western side of Place Road. The land is undulating and a stream runs through the centre of the site forming a small 'valley'. There are strong lines of vegetation along much of the western boundary.
7. Vehicular access would be gained via a new junction along Place Road. Development would occur along the road frontage and in depth. However, undeveloped areas for planting would be left at the southern 'tip' in Place Road and in the south-western corner. A 'green park' would also be laid out to form a linear feature alongside the watercourse. There would be a mix of house types including 23 bungalows. Thirty of the houses would be affordable.
8. Policy SP1 of the Island Plan (the Core Strategy) of 2012 provides that, in principle, the Council will support development on appropriate land within or immediately adjoining the defined settlement boundaries of the Key Regeneration Areas. One of these is the Medina Valley which includes Cowes. Furthermore, the eastern boundary of the appeal site adjoins the settlement boundary. There is no need to demonstrate that deliverable, previously-developed land is not available and that an identified local need will be met since these qualifications only apply to land adjacent to Rural Service Centres. Therefore the proposal would accord with the broad locational requirements of the spatial strategy which allows for development to take place outside settlements in certain circumstances.
9. However, the policy approach contains 3 main caveats. The first of these is that the land should be "appropriate". The Council's argument is that this is not the case because the development would impinge on the visual separation between Cowes and the nearby village of Gurnard.
10. Policy DM13 on Green Infrastructure establishes that development proposals will be expected to ensure that the areas which separate the key settlements, including Cowes/Newport are appropriately protected to prevent settlement coalescence. These areas will be further defined within the Area Action Plans. Policy AAP1 indicates that defining areas for this purpose is one of the issues that are the key considerations for the Medina Valley Area Action Plan. Criterion 10 refers specifically to both Cowes and Gurnard. However, no such Plan has been adopted or submitted for examination.
11. An informal discussion document entitled the *Medina Valley Plan* was produced in May 2014. Questions 25 and 26 sought views on the land identified as proposed green gaps and on other areas in need of protection. However, it is significant that the land at Place Road was not included. The document was a preliminary one and 7 respondents suggested that the appeal site should be included but the initial stance of the Council suggests that it is not a clear and obvious contender. Further analysis and assessment will no doubt take place prior to and during any examination but, for the time being, the site is not formally protected in this way. Neither is a 'green gap' mentioned in existing development plan policies.
12. Nevertheless it is reasonable to consider the role of the appeal site in the context of whether the land is appropriate for development. At a simple level development would extend further to the west and so bring the edge of the built-up area of Cowes closer to Gurnard. But this criticism is likely to apply to

- many schemes for new housing on the edge of settlements. Instead the relationship between the two and the actual impact that the proposal would have should be given closer consideration.
13. There is built development on the eastern side of Place Road. The western side is generally less developed although there is a line of dwellings along the frontage to the north of the appeal site. The gardens of these properties back onto part of the site. As Tuttons Hill descends there are dwellings on the southern side. Nevertheless there is a distinct visual break between the development on this side of Cowes and the eastern periphery of the village of Gurnard. The main visible feature of this is All Saints Church and the other buildings immediately around it.
 14. The appeal site is about 80m back from Tuttons Hill. As a consequence the existing roadside gap between the end of the houses in Tuttons Hill and the start of development at Gurnard would remain. This is an important part of the relationship between the neighbouring settlements. From the low point along Tuttons Hill some of the new housing would be apparent but it would form an insignificant part of the overall scene. From higher up, near to the church, the distant buildings on the opposite valley slope below the Place Road houses would be more obvious. However, a sizeable undeveloped area would remain in the foreground and so maintain the separation between the two places.
 15. Indeed, a significant swathe of countryside would be kept between Cowes and Gurnard such that they would still be appreciated as having their own identity. For example, the view from towards the top of Tuttons Hill looking eastwards towards Gurnard would still encompass the church perched on top of the rise and this vista would be unaffected by the proposed development. None of the proposed dwellings would be closer to the church than the existing housing along Tuttons Hill. The western side of the proposal would encroach into the land between the two but the impact of this would be negligible because of its location, the topography and existing and proposed tree cover.
 16. From Place Road the edge of Gurnard and the church spire can be seen in the distance. The Council's contention is that the proposal would dominate and that views of the church would merge into the background. However, the proposed houses along the road frontage would, in my estimation, remove much of the longer views to the north-west although glimpses around the site entrance may remain. The provision of planted areas within the scheme would, however, ensure that a sense of proximity to the countryside endured.
 17. There is no objection to this part of the development in principle as it represents a logical southerly continuation of housing in a linear fashion. In the light of this, the proposed depth of development would have little or no actual impact on the understanding of the separation of Gurnard from Cowes. Furthermore, the existing view across fields toward the spire has not previously been identified in planning policy terms as worthy of protection. Consequently the change that would occur does not mean that the development fails the test that land should be appropriate.
 18. In making this assessment I have borne in mind that foliage disappears in winter and that new planting would take time to establish. The Council also claims that the impact in some viewpoint images has been underplayed but I have relied on what I saw. There is also disagreement about whether the appellant's Landscape and Visual Impact Assessment (LVIA) has under-

- classified the sensitivity, magnitude and significance of some effects. Such differences of opinion are not unknown but the purpose of the LVIA was to assess landscape and visual effects. Whilst a constituent part of any analysis this is not the same as whether there would be inappropriate coalescence.
19. Due to its position the proposed development would not result in Cowes and Gurnard becoming contiguous. Indeed, even if the site is part of the Jordan Valley there would still be a meaningful separation between them such that they would still be individual entities. The relationship between the closest areas of built development to one another would be altered but not to the extent that the proposal should not proceed. Overall it would not lead to adjoining settlements coalescing or the gap between them reducing to such an extent that their distinctiveness would be seriously eroded.
 20. The second limitation in Policy SP1 is that all development on non-previously developed land should demonstrate how it will enhance the character and context of the local area. However, whether or not enhancement would take place should be viewed against the aim of the policy which is generally encouraging of development on the periphery of certain towns. To resist development for failing to enhance simply because it would be on 'greenfield' land would be self-defeating.
 21. Against this background the Council accepts that the scheme has been designed to complement and continue the existing built form whilst retaining existing landscaping. There is also no objection to the density of the units. Moreover, the proposal allows for additional planting including an 8m landscaped buffer zone and also the laying out of significant areas of open space. Consequently this part of the relevant development plan policy would also be met.
 22. Finally, paragraph 5.26 indicates that part of the test of whether a site is appropriate land for development is for it to be considered deliverable. The further IWC tests, in turn, indicate that to be deliverable a site must, amongst other things, meet the requirements of the Island Plan. From the assessment undertaken above the proposal would accord with the provisions of Policy SP1 in relation to the character and context of the local area. Although not cited in the refusal notice it would also adhere to Policies SP5, DM2 and AAP1 regarding natural environments, design quality and prevention of settlement coalescence.
 23. To sum up, the backdrop provided by the Island Plan is supportive of new development in locations adjoining Key Regeneration Areas. This is the starting point but there are qualifications. In this case the proposal would not significantly detract from the green gap between Cowes and Gurnard and would not lead to the inappropriate coalescence of settlements. As such, it would take place on "appropriate land" and would fully comply with Policy SP1.

Other Matters

24. The proposal attracted considerable local opposition. Many comment that the number of objections made is the highest for any planning application on the Isle of Wight. I have taken account of all the representations. However, the National Planning Policy Framework explains that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. This has been my approach. Furthermore, there is nothing in the Framework which indicates that the volume of

- consultation responses that are either for or against a particular proposal should be given specific weight.
25. Some take the view that a public hearing should have been held. Section 319A of the 1990 Act provides that the Secretary of State must determine the procedure by which the proceedings should be considered. I have been appointed to act on his behalf. Having regard to the views of the parties, particularly those of the Council, and the advice in the Planning Inspectorate's Procedural Guide I am satisfied that written representations are appropriate to decide the appeal. Moreover, I am entirely content that the various planning issues raised can be properly considered and determined by this method.
 26. Many people complain about the lack of consultation with the community. The appellant company has a different version of events and contends that there was an attempt to engage with the Parish Council and the Neighbourhood Plan Steering Group prior to submission. Whatever did or did not take place there is no actual requirement for pre-application consultation to occur even though it might be considered good practice. The Localism Act of 2011 inserted sections into the 1990 Act requiring prospective developers to consult local communities before submitting planning applications for certain developments. However, the proposed housing scheme does not fall into this category as defined by article 3 of the Development Management Procedure Order 2015.
 27. The Steering Group advise that the Neighbourhood Plan is being written into a final draft document. I understand that this process has been on-going for about 3 years and do not underestimate either the cost or the effort involved in this work which has included a number of consultative activities. These have emphasised the desire of residents not to be joined to neighbouring Cowes.
 28. Paragraph 216 of the Framework advises that decision-takers may give weight to relevant policies in emerging plans according to, amongst other things, the stage of preparation. The more advanced the preparation, the greater the weight that may be given. One of the core planning principles of the Framework is that planning should empower local people to shape their surroundings. However, there is no neighbourhood plan in place setting out a positive vision of the future. Indeed, the emerging Neighbourhood Plan is some way from adoption and I have been referred to no specific policies. Consequently the fact that it may oppose the proposal can only be given limited weight in the decision-making process.
 29. The Gurnard Housing Needs Assessment of 2013 concluded that there was a shortfall of 19 homes required to deal with the mismatch between the demand and supply of properties from local people. Some of these could be provided at Worsley Road but the assessment is only in respect of a 5 year period. Policy SP2 of the Island Plan outlines the need to provide 8,320 dwellings to 2027 at an average of 520 per year. Taking this longer view and having regard to Policy DM3 regarding the mix of housing, the Council's position is that the proposal would meet an identified need and demand.
 30. Notwithstanding other appeal decisions concerned with a 5 year housing land supply across the Isle of Wight as a whole, the appellant's main contention is that the proposal should come forward now to help the Cowes sub-market which includes Gurnard. As I find that the proposed development accords with relevant development plan policies there is no requirement to demonstrate an overriding need for additional units and this argument is not decisive.

- Nevertheless the proposal would contribute towards the supply of housing to serve both the identified Key Regeneration Area and the entire Island.
31. Taking account of the relationship between proposed and existing properties including levels and paragraph 123 of the Framework, the living conditions of residents would not be unacceptably changed with regard to outlook, overlooking, noise and lighting. One of the expectations of Policy DM2 is that development should be accessible and safe. The appellant's Transport Assessment is based on the original proposal for 99 dwellings and concludes that the development would be well located in transport terms and would not have an unacceptable impact on the highway network. There is some criticism of this finding and certain specific aspects of the scheme including parking but the Council raises no objection. I have no reason to reach a different view. Disruption during the construction period is not a compelling reason to withhold permission since it would prevent many developments from coming forward.
 32. The Ecological Survey identifies a number of features of value within the site which are to be retained. No habitats of protected species would be affected by the proposed development and areas would be kept for foraging by badgers. Measures could also be taken to enhance biodiversity and there is no objection on this ground. The appellant's Flood Risk Assessment and Outline Drainage Strategy indicates that the site is at low risk of flooding and water attenuation measures will be incorporated. The Environment Agency and Southern Water have no objections subject to conditions.
 33. Some comments are made about the adequacy of local infrastructure and employment. Notwithstanding the anecdotal difficulties mentioned these matters were presumably taken on board when setting the housing target for the Isle of Wight and when formulating policies regarding the provision of facilities. Neither of these matters have given rise to an objection on the part of the Council and there is insufficient evidence to depart from this approach.
 34. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1900 sets out a general duty to have special regard to the desirability of preserving listed buildings or their settings. This is a matter that should be given considerable importance and weight. However the two listed buildings in the vicinity at the Roundhouse and 218 Baring Road would not be adversely affected due to the existence of surrounding development and the distance between them and the proposal.
 35. The appeal site is within about 2km of habitats which form part of the Solent and Southampton Water Special Protection Area (SPA). Notwithstanding the proposed and existing open space on the site and nearby the proposal would increase the resident population within the defined buffer zone. As a result and in accordance with the Council's Supplementary Planning Document, mitigation is required to avoid a significant effect on this European site. The unilateral undertaking provides for a financial contribution for this purpose.
 36. Furthermore, Policy DM4 of the Island Plan sets out the Council's expectations for locally affordable housing. The covenants within the obligation and the local lettings plan are necessary to ensure that development plan policy is met. The other provisions relating to a footpath contribution, landscape management plan and transport works are also necessary to make the development acceptable in planning terms. Consequently the obligation meets the tests in the Framework.

37. Regulation 123 of the Community Infrastructure Levy Regulations sets out limitations on the use of planning obligations. The provisions in the undertaking are either outside the definition of "infrastructure" as set out in section 216(2) of the Planning Act 2008 or are projects where there have been less than five obligations entered into since April 2010. In particular, the SPA mitigation contribution would be spent on a project officer, rangers, a coastal dog project and monitoring in accordance with the Supplementary Planning Document. I am therefore satisfied that the requirements of both Regulation 122 and 123 are complied with and that the obligation may be taken into account as a reason for granting planning permission.

Conditions

38. As well as taking account of the tests for conditions in the Framework and the further advice in the Planning Practice Guidance, I have adjusted the suggested wording where necessary in the interests of clarity and brevity.
39. In addition to the standard time limit conditions for outline permissions I shall list the approved plans. This is for the avoidance of doubt and to facilitate any necessary minor material amendments in respect of the matters that form part of the application. As landscaping is reserved further conditions requiring details about planting and implementation are unnecessary. However, in the interests of the appearance of the area and to safeguard protected trees, conditions are necessary to secure tree protection measures and an arboricultural method statement.
40. In order that the development functions properly and safely details are required of roads, footways and other hard surfaced areas. For similar reasons visibility splays should be provided at both the new and existing entrances; off-site highway works secured; parking provided and retained and wheel washing facilities installed to prevent material being deposited on the roads. Due to the water course that runs across the site and the advice of Southern Water, details of surface water and foul drainage are required.
41. Details of external materials are included in the matter of "appearance" and so a further condition to this effect is unnecessary.

Conclusions

42. The proposal would not significantly detract from the green gap between Cowes and Gurnard and would not lead to the inappropriate coalescence of settlements. As such, it would take place on "appropriate land" in accordance with Policy SP1. There are no other considerations to outweigh this finding or the compliance with the development plan. Consequently the proposed development is acceptable and the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of appearance and landscaping ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and 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 three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with drawing nos 12010(AP)00.01C, 12010(AP)03E, 12010(AP)04E, 12010(AP)05D and 12010(AP)06D.
- 4) The details of landscaping required by Condition 1) shall include details of all trees to be retained. No development, including site clearance, shall take place until details of the protection of any retained tree by means of fencing or other barrier have been submitted to and approved in writing by the local planning authority. The fencing or other barrier shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development. It shall be retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition, no fires lit, no trenches dug or excavations made and the ground levels shall not be altered.
- 5) No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the local planning authority. This shall include measures to minimise potential damage to retained trees and shall be adhered to throughout the development of the site.
- 6) No development shall take place until details of the design, surfacing and construction of roads, footways, accesses and car parking areas have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the roads and footways which provide access to it have been provided.
- 7) No dwelling shall be occupied until the visibility splays shown on drawing no 12010(AP)03E have been provided at the new junction and at the existing vehicular access onto Place Road. Thereafter no obstruction to visibility shall be placed within the splay areas at any time.
- 8) No development shall take place until details of the design, surfacing and construction of the highways improvements shown on drawing no 12010(AP)03E have been submitted to and approved in writing by the local planning authority. These shall include the introduction of right hand turn lanes serving the development access junction and the existing junction between Place Road and Place Road/Broadfields Avenue; associated carriage widening; footway realignment; drainage; street lighting; pedestrian refuse island and upgrade of 2 bus stops. Development shall be carried out in accordance with the approved details before the occupation of any of the dwellings hereby permitted.

- 9) No dwelling shall be occupied until the parking spaces or garage to serve it have been provided in accordance with drawing no 12010(AP)03E. Thereafter they shall be retained and kept available for the parking of vehicles at all times.
- 10) No development shall take place until details of the installation and use of wheel washing facilities have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided in accordance with the approved details and shall be operational in accordance with a timetable previously agreed in writing by the local planning authority.
- 11) No development shall take place until details of foul and surface water drainage including any sustainable drainage system and its on-going maintenance over the lifetime of 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.

Richborough Estates