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## Appeal Decision

Site visit made on 3 February 2020

**by Andrew Bremford BSc (Hons) MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 February 2020**

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**Appeal Ref: APP/P2114/W/19/3235033**

**Aldermoor Farm, Upton Road, Ryde PO33 3LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs D Simon against the decision of Isle of Wight Council.
  - The application Ref P/00347/19, dated 28 March 2019, was refused by notice dated 4 June 2019.
  - The development proposed is conversion of barns to provide 3 dwellings; relocated bus stop (revised scheme).
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### Decision

1. The appeal is allowed and planning permission granted for the conversion of barns to provide three dwellings and the relocation of bus stop at Aldermoor Farm, Upton Road, Ryde PO33 3LA, in accordance with the terms of the application Ref P/00347/19, dated 28 March 2019, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. I have taken the description of development in the heading above from the planning application form. In my decision, I have amended the description of development so that it is more concise. This still reflects the planning application proposal.
3. In regard to the Council's second reason for refusal the appellant has submitted in support of the appeal a completed and signed certified copy of a Unilateral Undertaking for the sum of £1921 to provide mitigation under the Solent Recreation Mitigation Strategy. I return to this matter later.
4. The Council advise they no longer wish to defend the third reason for refusal in respect of a contribution towards affordable housing provision. This is because the planning application was validated prior to the date that the Council required affordable housing contributions for developments of the size proposed. I therefore do not address this matter in the reasoning below.
5. The Council also advise they no longer wish to defend the fourth reason for refusal in respect of the effect of the proposal on protected species (bats). This is because the Council's ecologist has reviewed an updated bat survey report, dated June 2019, noting that as the survey findings revealed that bats are not roosting in the structures at the appeal site it is considered that no further surveys or conditions are required. I therefore do not address this matter in the reasoning below.

## **Background and Main Issues**

6. In response to my request the Council has provided their 'Five Year Land Supply Update 2018' report. It indicates that, as of 1 April 2018, forward supply amounts to around 83.15% of that necessary to demonstrate a 5-year housing land supply. Thus, it appears to be common ground between the main parties that the local planning authority cannot currently demonstrate a 5-year supply of deliverable housing sites. In this context, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged. Planning permission should therefore be granted unless any adverse effects associated with the proposal significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
7. In the context of the above, the main issues are (i) whether or not the appeal site is in an acceptable location for the proposal with particular regard to accessibility; and (ii) the effect of the proposal on the integrity of the Solent Special Protection Area.

## **Reasons**

8. The appeal site comprises a group of agricultural and stable buildings within Aldermoor Farm on the eastern side of Upton Road. The proposal is for the conversion of barns to provide three dwellings and the relocation of the bus stop. The existing vehicular access to Aldermoor Farm would be retained to provide access to the proposed development. In addition, a new footpath would be constructed to connect the site to the relocated bus stop.

### *Location and accessibility*

9. As shown on the Island Plan<sup>1</sup> (IP) proposals map the site is located within the Ryde Key Regeneration Area (KRA) approximately 0.2 miles outside the settlement boundary of Ryde.
10. Policy SP1 of the IP sets out the Council's spatial strategy for development. It states, amongst other things, that the Council will in principle support development on appropriate land within or immediately adjacent to the defined settlement boundaries of the KRAs. Taking into account the location of the site, and as a matter of fact and degree, I do not consider that the appeal site is immediately adjacent to the defined settlement boundary of Ryde.
11. Policy SP1 also states that unless a 'specific local need' is identified, development proposals outside of, or not immediately adjacent to a defined settlement will not be supported. The policy does not expressly indicate what might constitute a 'specific local need' to justify development, however the supporting text to the policy indicates local need includes identified local requirements for housing, a demonstrable contribution to maintaining local facilities (such as schools, shops and community facilities) and to maintain or enhance the wider viability of local communities. It goes on to explain that the KRAs are wide areas within which regeneration is encouraged, as it would result in development in the most sustainable locations, generally within and immediately adjacent to the settlement boundaries of key towns; Ryde being one such town on the island. It also states that it is expected that the greatest

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<sup>1</sup> Full title: Island Plan – Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document, March 2012.

- level of development over the plan period will occur within the KRAs, with the priority being to locate the majority of housing and employment development in locations that minimise the need to travel.
12. However, even in this context, I have not been presented with a 'specific local need' to justify the development outside of the defined settlement boundary. This weighs against allowing the proposal.
  13. Whilst I have found conflict with Policy SP1 of the IP, having regard to paragraph 213 of the Framework it is necessary that I consider whether such a policy is consistent with the Framework. In this case, the policy is more restrictive than rural housing policy outlined in paragraph 79 of the Framework. Indeed, this part of the Framework states that '*decisions should avoid the development of isolated homes in the countryside*'. To this extent, I find that Policy SP1 of IP is out of date and hence I afford the conflict with it only moderate weight in decision making terms.
  14. There is no indication from either of the main parties that the proposal would lead to isolated homes in the countryside. Indeed, the dwellings would not be physically isolated from other buildings by virtue of the proximity of other development along both sides of Upton Road. Furthermore, the appeal site is within a relatively short distance of the settlement of Ryde. On this basis, I find that the proposal would not lead to the provision of isolated homes in the countryside. In this regard, I do not consider that the proposal would conflict with paragraph 79 of the Framework. This is a material consideration of significant weight in favour of allowing the appeal.
  15. The Council claim the site is not in an accessible location. The main access to services and facilities in Ryde from the site would be via Upton Road. There is no footway alongside the road from the site for approximately 0.2 miles in the direction of Ryde. However, this section of Upton Road is subject to a 30mph speed limit, has some street lighting, and has some sections of grass verge which offers some informal refuge from oncoming vehicles for pedestrians. Therefore, considering the relatively short distance, travelling to Ryde would not present any significant physical restrictions for pedestrians and cyclists. A bus service operates from Upton Road to Ryde, with hourly services between 08:16 and 17:21 every day except Sundays and Public Holidays. There is also a designated cycle route close to the site at Upton Cross with links to other settlements across the island. Taking all these factors into account, I am satisfied that the appeal site is in an accessible location.
  16. Given the above, whilst future occupiers of the proposed dwellings would travel by private motor vehicle for some journeys to access services and facilities, I do not consider that they would be heavily reliant on the private motor vehicle for all journeys. It would be possible to walk or cycle in respect of some day to day trips or to use public transport. In reaching this view, I also note that paragraph 103 of the Framework states that '*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making*'.
  17. In conclusion on this main issue, and for the reasons outlined above, the proposal would not accord with Policy SP1 of the IP. However, this policy is out of date in so far that it is not consistent with the less restrictive rural housing policy as outlined in the Framework. Consequently, I afford the conflict with

this policy only limited weight in the overall planning balance. Weighed against this is the fact that the proposal would not conflict with the rural housing and accessibility aims of the Framework. Indeed, the development would not be isolated, and the appeal site is in an accessible location. In respect of the latter consideration, the proposed development would not therefore conflict with the accessibility requirements of Policies SP7 and DM17 of the IP.

18. The proposal's accordance with the rural housing policy and accessibility requirements of the Framework is a material consideration of significant weight and is one which outweighs the limited weight to which I afford the conflict with Policy SP1 of the IP.

#### *Special Protection Area*

19. The appeal site is located within the 5.6 km buffer zone of the Solent Special Protection Area (SPA). The Solent coast, particularly its mudflats, shingle and saltmarshes, provide essential winter feeding and roosting grounds for birds that spend the winter in the area. The SPA is designated predominantly to protect over-wintering birds.
20. Considered alone and in combination with other plans or projects, adverse effects arising from increased recreational pressure on the integrity of the SPA cannot be ruled out. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) indicates the requirement for an Appropriate Assessment (AA). As the competent Authority, it falls to me to undertake an AA.
21. In this case, I am satisfied that the proposal would result in recreational pressure in terms of the use of the SPA. I consider that the effects of three proposed dwellings, both on their own and in combination with other development projects, is such that they are likely to have significant effects on the integrity of the SPA, particularly from activities such as walking, cycling and dog walking. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development.
22. The Council has referred me to the 'Solent Recreation Mitigation Strategy' 2017 (SRMS). The strategy seeks to prevent bird disturbance from recreational activities through a series of management measures which actively encourage all coastal visitors to enjoy their visits in a responsible manner rather than restricting access to the coast or preventing activities that take place there. I afford the SRMS significant weight as a material planning consideration for the purposes of determining this appeal.
23. Natural England (NE) have not been directly consulted in relation to the appeal proposal. However, the Council has drawn my attention to paragraph 2.9 of the SRMS which indicates that NE considers that the evidence upon which the SRMS is based confirms "*avoidance measures are required in order to ensure a significant effect, in combination, arising from new housing development around the Solent, is avoided*". I am satisfied that the SRMS provides a strategic and site-specific solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the SPA arising from new residential development.

24. The Council seeks to mitigate likely significant effects on the integrity of the SPA through collection of contributions, details of which are set out in the SRMS in accordance with Policy SP5 of the IP. These contributions are used to fund wardens, site-specific visitor management and bird refuge projects, monitoring measures and other initiatives to raise visitor awareness, and thus reduce disturbance of birds. I am satisfied that the required financial contribution, to be secured through a Section 106 legal agreement, would fully address the effects of the development on the SPA.
25. The appellant has submitted a Unilateral Undertaking (planning obligation) during the course of the appeal to pay the sum of £1921 to provide mitigation in line with the SRMS and the Council's statement in regard to mitigation payments from 1 April 2019. I am satisfied that the mitigation payment is required in order to avoid an adverse effect on the integrity of the SPA. I am also satisfied that the planning obligation meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the Framework. The Council, in their appeal statement, have confirmed that a Unilateral Undertaking would address the second reason for refusal. As such, and given the completed agreement, it no longer wishes to pursue this reason for refusal. Consequently, I conclude that the proposal would accord with Policies SP5 and DM12 of the IP and paragraph 175 of the Framework.

### **Other Considerations**

26. The proposed development would boost the supply of housing in the area in the context that the local planning authority cannot currently demonstrate a 5-year supply of deliverable housing sites.
27. The proposal would lead to some employment at construction stage, although I do accept that this economic benefit would be relatively short lived.
28. The development would seek to at least maintain the vitality of existing services and facilities in Ryde and other settlements further afield, and potentially could lead to some enhancements. Furthermore, with additional residents living in the Upton Cross area there is potential for improvements to the existing public transport services, thereby improving the accessibility credentials of the area for both existing and future occupiers of properties.
29. The development would relocate the existing bus stop approximately 40 metres further north along Upton Road. There is no verge or pavement in the location of the existing bus stop, hence those waiting for a bus must stand in the highway. The proposal, by virtue of the proposed footpath linking the appeal site to the location of the proposed relocated bus stop would incorporate a refuge area off the highway for those waiting for a bus. The evidence before me indicates support for the proposed relocation of the bus stop from the highway authority on grounds of improved highway safety, and I see no reason to disagree. Moreover, the bus operating company has not raised any objection in principle to the proposed relocation of the bus stop.
30. In determining this appeal, I afford the above considerations positive weight in the overall planning balance.

### **Other Interested Party Comments**

31. I have taken into account comments made by other interested parties. Whilst I acknowledge that the proposal would result in the relocation of the bus stop, I have not been presented with any compelling evidence to suggest that this would unacceptably inconvenience residents in the area who choose to use the public transport service. Indeed, as noted above, the relocation of the bus stop would improve highway safety.
32. A third party has drawn my attention to their right of way and access through the appeal site to their plot of land. However, this is a private matter and therefore not relevant to my appeal decision.
33. None of the other matters raised alter or outweigh my overall conclusion on the main issues.

### **Conditions**

34. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions in the interests of precision and clarity, and in order to comply with the advice in the Planning Practice Guidance.
35. I have not included any pre-commencement conditions as it is not essential for any of the conditions to include such a clause to achieve their purpose. The appellant was given the opportunity to comment on the Council's suggested planning conditions.
36. Planning permission is granted subject to the standard three-year time limit condition. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of certainty.
37. Although not suggested by the Council, I consider it necessary in the interests of good design and the character and appearance of the area to impose a planning condition relating to the design and materials of all new windows and doors.
38. In the interests of the character and appearance of this countryside location conditions are necessary in respect of boundary treatments, and hard and soft landscaping. I have combined the Council's two suggested conditions in respect of hard and soft landscape works as two separate conditions are not necessary.
39. Conditions 6, 7 and 8 in respect of visibility splays, details of the proposed footway link, bus stop and street lighting column relocation, and parking spaces within the site are necessary in the interests of highway safety. The appellant has suggested that because the street lighting column is the property of the Council it would be unreasonable to make its relocation a requirement of the planning permission and therefore a condition should not be imposed. However, the street lighting column lies within an area of verge where a section of the footpath to provide a link to the relocated bus stop is proposed. Hence, the street lighting column would need to be relocated to a position where it would not restrict the width of the footpath nor unacceptably impede access visibility. Thus, as suggested by the Council, I consider it necessary to include a 'street lighting column relocation' by way of the imposition of a condition.

40. Finally, and in the interests of controlling the effect of future development on the character and appearance of this countryside location, there is exceptional justification for removing specified permitted development rights.

### **Planning Balance and Conclusion**

41. The mitigation payment would avoid any adverse effect on the integrity of the SPA and so there would be no conflict with the habitat and biodiversity conservation requirements of the Framework or the IP. However, this is a matter of neutral consequence in the overall planning balance.
42. The proposal would fail to accord with Policy SP1 of the IP. This weighs against allowing the proposed development. However, the conflict with the policy is afforded only moderate weight as it is not entirely consistent with the rural housing policy in the Framework which is a material planning consideration.
43. The conflict with Policy SP1 of the IP needs to be weighed against the fact that when the proposal is considered against rural housing policy in the Framework, I have found that there would be no conflict with it. In addition, I have also found that the appeal site is in an accessible location. In this regard, there would be no conflict with the environmental sustainability requirements of the Framework or the IP.
44. The proposal would boost the supply of housing in the area. In addition, there would be some associated economic benefits. These are matters to which I afford significant weight in the overall planning balance, particularly given the shortfall in housing land supply.
45. In the context of the above, and taking into account the aforementioned other considerations, I find that the adverse impact of the proposal's conflict with Policy SP1 of the IP would be significantly and demonstrably outweighed by the identified benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.
46. On balance, for the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Andrew Bremford*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:2500 and 1:1250 'Site Location Plan' AW030 GA-100 Rev 00; 'General Arrangement Plans – Proposed' AW030 GA-103 Rev 00; 'Elevations Proposed' AW030 GA-104 Rev 00; and 'Landscape Plan and Boundary Details' AW030 GA-105 Rev 00.
- 3) No new windows and doors shall be installed until details of their design and materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the details shown on the submitted plans, no boundary treatment shall be installed until details of the positions, design, materials and type have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be installed in accordance with the approved details and completed in their entirety prior to first occupation of the dwellings.
- 5) The development hereby approved shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The hard landscaping details shall include proposed finished levels or contours; means of enclosure; car parking layouts; hard surfacing materials; refuse or other storage units. The soft landscaping details shall include a schedule of proposed plants, noting species, plant sizes, proposed numbers / densities and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.
- 6) The development hereby approved shall not be occupied until sightlines have been provided in accordance with approved plan AW030 GA-105 Rev 00, dated January 2019. Nothing that may cause an obstruction to visibility when taken at a height of 1.0m above the adjacent carriageway / public highway, other than the existing telegraph pole to the north of the access, shall at any time be placed or be permitted to remain within that visibility splay.
- 7) The development hereby approved shall not be occupied until details of the proposed footway link, bus stop relocation and street lighting column relocation, based on the principles shown on approved plans AW030 GA-100 Rev 00 and AW030 GA-105 Rev 00, both dated January 2019, have been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the approved footway link, bus stop relocation and street lighting column works have been undertaken in accordance with the approved details.

- 8) The development hereby approved shall not be occupied until space has been laid out within the site in accordance with approved plan AW030 GA-100 Rev 00, dated January 2019, for a minimum of 6 cars to be parked at a ratio of two per dwelling and for vehicles to turn so that they may enter and leave the site in forward gear. The space shall not thereafter be used for any purpose other than that approved in accordance with this condition.
- 9) Immediately following the implementation of this permission, notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modification) the following Classes of Schedule 2 of the Order as amended are withdrawn.

Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class B - enlargement consisting of an addition to the roof

Class C - alteration to the roof

Class D - erection or construction of a porch outside any external door

Class E - building, enclosure or swimming pool for purposes incidental to the enjoyment of the dwelling or a container for domestic heating purposes

Class F - hard surface for any purpose incidental to the enjoyment of the dwelling house

Part 2

Class A - gate, fence or wall or other mean of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject to this permission.