
Appeal Decision

Site visit made on 23 April 2026

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2026

Appeal Ref: 6002790

23 Albert Street, Cowes, Isle of Wight PO31 7ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr T Robinson of Rotapoint Ltd against the decision of Isle of Wight Council.
 - The application Ref is 24/01628/FUL.
 - The development proposed is the demolition of garage; proposed semi-detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the living conditions of existing occupiers of the neighbouring property of 13 Moorgreen Road (No.13), with particular regard to daylight and outlook;
 - whether the future occupiers of the proposal would be likely to experience acceptable living conditions in respect to outdoor space and privacy;
 - whether the proposal would make adequate provision for affordable housing; and
 - whether the proposal would be likely to have a significant effect on the integrity of the Solent relating to recreational disturbance and nitrates.

Reasons

Living conditions – neighbouring occupiers

3. The proposed dwelling would extend to a similar depth of the neighbouring property of No.13 and sited marginally closer to it than the side elevation of the existing detached single garage on the site. However, the two storey height of the proposed dwelling would be significantly taller than the existing garage and the single storey, mono pitched rear extension to No.13. As a result, the amount of daylight reaching No.13's dining room and the kitchen within the rear extension through the windows in the property's side elevation would be substantially reduced. Given these windows are the sole openings serving each room (albeit the kitchen also has a glazed door) they would become dark, gloomy and uninviting spaces as a result of the scale and proximity of the proposed dwelling. This would be of detriment to the living conditions of No13's occupants.

4. Although sited further away from the site boundary than the previously refused scheme¹, nonetheless, the close relationship and height of the proposed dwelling would significantly obscure the outlook from windows of No.13's dining room, kitchen and first floor rear bedroom. Views would predominantly comprise the solid side elevation and roof of the proposed dwelling. In combination with the daylight levels indicated above, this would lead to the occupiers of No.13 experiencing an unacceptable and oppressive level of enclosure.
5. Consequently, I conclude that the proposal would harm the living conditions of existing occupiers of the neighbouring property of No.13, with particular regard to daylight and outlook. It would be contrary to Policy DM2 of the Island Plan Core Strategy (Core Strategy) which, amongst other things, supports the provision of an attractive and functional built environment.

Living conditions – future occupiers

6. A shallow yard is proposed to the rear of the site, predominantly for waste, recycling and cycle storage, with a larger outdoor space located at the front, between the parking area and the front elevation. This area would also provide pedestrian access from the parking area to the proposed dwelling's main entrance part way down the side elevation.
7. The modest size of the front outdoor space limits its ability to support the activities future occupiers would reasonably expect to carry in an external space, including drying washing, gardening and growing vegetables, playing and relaxing. The function of the space as a pedestrian access further constrains its usability. In addition, the low level boundary treatment proposed to the Moorgreen Road frontage would provide little privacy for future occupiers of the proposal when using this space. The proposed landscaping would assist in providing some screening from publicly accessible areas. However, such planting would take time to grow and establish, whilst also taking up space necessary to support the other aforementioned activities likely to be undertaken.
8. The appeal site comprises part of the long, thin garden area associated with 23 Albert Street (No.23), a semi-detached three storey property located on higher ground. The elevated position and height of No.23 facilitates clear views of the appeal site, particularly from the first and second floor rear windows. Although the exact distance between the existing and proposed dwellings is disputed, direct views into the proposed bedroom at first floor level through its only window would be possible. As such, future occupiers would be unlikely to experience adequate privacy when using this room. While there would be a similar visual connection to the proposed kitchen/dining room, this would be largely screened by the close boarded fence to be erected above the existing retaining wall.
9. Nevertheless, I conclude that future occupiers of the proposal would be unlikely to experience acceptable living conditions in respect to outdoor space and privacy, contrary to Policy DM2 of the Core Strategy in this regard.

¹ Council ref: 23/01805/FUL; dated 16 April 2024

Affordable Housing

10. Policy DM4 of the Core Strategy requires financial contributions to be made towards affordable housing for developments of 1-14 units in Key Regeneration Areas such as the Medina Valley, which includes Cowes. The Affordable Housing SPD² sets out how the contribution is calculated, based on the value of the property at first sale/occupation. The Council will use this contribution towards the cost of the provision or improvement of affordable housing, applied on a hierarchical approach across the Island based on site's location. This obligation is, therefore, necessary to make the proposal acceptable in planning terms.
11. While the appellant has indicated that a Unilateral Undertaking (UU) based on the Council's own standard template will be submitted with the appeal, thereby securing the affordable housing contribution, no such legal agreement is before me. In the absence of a duly executed UU, I conclude that the proposal would not make adequate provision for affordable housing and would be contrary to Policy DM4 of the Core Strategy and the Affordable Housing SPD in this regard.

Integrity of the Solent

12. The site is located within the catchment of three European Designated Sites afforded protection under the Habitats Regulations³; Solent Maritime Special Area of Conservation; Solent and Dorset Coast Special Protection Area (SPA); and the Solent and Southampton Water SPA (hereafter referred collectively as the Solent). Therefore, it is incumbent upon me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the Solent.
13. The natural conservation interest of the Solent results from the varied bird species supported by the habitat, particularly during the winter months. The protection of the Solent seeks to ensure that migratory birds can feed undisturbed whilst they build up energy reserves to survive the winter before journeying back to their breeding grounds. A key issue which prevents the Solent from meeting this objective relates to additional recreational pressures placed on the area.
14. As the proposal would lead to an increase in the number of homes in the area, and therefore the population living nearby, it would lead to a rise in the number of people likely to access the Solent for recreational purposes. This heightens the risk of disturbance to the birds which, in turn, can lead to an increase in bird mortality or a reduction in the amount of energy an individual bird has available at the end of the winter, should it move away from the feeding ground due to human presence. It is therefore likely that the proposal, taken both in isolation and cumulatively with other projects, would have a significant adverse effect on the integrity of the Solent. Consequently, it is necessary to conduct an Appropriate Assessment concerning the effect of the proposal.
15. The approach to avoiding or mitigating significant effects to the Solent from increase recreational pressure comprises securing contributions towards the Bird Aware Solent Strategy (revised September 2024) (the Strategy). The Strategy was established by the Solent Recreation Mitigation Partnership (the Partnership),

² Affordable Housing Contributions Supplementary Planning Document (March 2017) (Affordable Housing SPD)

³ Conservation of Habitats and Species Regulations 2009 (as amended) (Habitats Regulations)

which includes the Council, Natural England, wildlife conservation bodies and other local authorities of the Solent region.

16. The Partnership will use the contribution to help fund the implementation of the Strategy, through five core delivery strands; Governance; Monitoring; Collaboration; Engagement; and Site-based Investment. Within each strand, as detailed within the SPD, a series of activities and priorities have been identified. From the evidence before me, I therefore conclude that the obligation sought is necessary to make the development acceptable. Again, the appellant has indicated that a UU would be submitted with the appeal to secure this contribution but no such document has been provided.
17. With regard to nitrates, the Solent is currently in an unfavourable condition due to excessive levels of nitrogen and phosphate discharging into its waters, including from residential uses. However, the evidence before me indicates that the proposal would be within the catchment of the Sandown Waste Water Treatment Works (WwTW) which outfalls in the English Channel, not the Solent. Therefore, subject to the imposition of a pre-commencement condition, were I to allow the appeal, securing the discharging of foul water into the Sandown WwTW, the proposal would not increase the amount of nitrates in the Solent.
18. Nonetheless, I conclude that the proposal would be likely to have a significant effect on the integrity of the Solent with regard to recreational disturbance and conflicts with Policy DM12 of the Core Strategy, the SPD and the Habitat Regulations insofar as they seek to protect such designated areas.

Other Considerations

19. The provision of an additional dwelling would be beneficial to the local housing stock, with social and economic benefits derived from its construction and occupation. Due to the scale of the proposal, these benefits would be small. However, they could be delivered quickly on a brownfield site in a largely constrained urban area with a range of services and facilities within easy walking distance. Furthermore, the removal of the dilapidated garage would lead to an enhancement of the street scene, albeit to a modest degree.
20. Nonetheless, the proposal would harm the living conditions of occupiers of No.13 by restricting the outlook from, and reducing the amount of daylight to, several of the neighbouring dwelling's rooms to a substantial degree and attracts significant weight in my decision. Further, the future occupiers of the proposed dwelling would not be afforded adequate living conditions due to the size and usability of the proposed outdoor space and how private it would be. When using the rear bedroom, future occupiers would also experience inadequate levels of privacy due to the proximity to and lower level of the proposed dwelling to No.23. The harm in these respects would be moderate and I attach a corresponding level of weight to it.
21. In the absence of a suitable mechanism to secure mitigation relating to the increase in recreational impact on the Solent and given the international status of this designated site, the level of harm would be significant. Similarly, no mechanism is before me which would secure the affordable housing contribution required. Although a small amount, it would nonetheless, make an important contribution towards the provision of affordable housing in the local area. Its absence weighs against the grant of planning permission to a moderate degree.

22. Positive comments have been made by the Council in respect of the design changes made to the proposal in response to the previously refused scheme. Notwithstanding the removal of the garage would result in an enhancement to the street scene, the lack of harm to the character and appearance of the area is a neutral factor in my decision.
23. There is no dispute that the principle of residential development on the site is supported by Policy SP1 of the Core Strategy, given its location within the Cowes settlement boundary and the Median Valley Regeneration Area. However, Policy SP1 also requires the need to demonstrate that development in these areas would not have a significant effect on the integrity of a European Designated site, otherwise planning permission would not be granted. Given my conclusions above regarding the proposal's effect on the integrity of the Solent, Policy SP1 provides minimal support for the proposal. Consequently, I conclude that the proposal is contrary to the development plan as a whole.
24. The Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with the Framework, with the latest published position⁴ being 3.5 years. However, this figure was determined when a previous iteration⁵ of the Framework was in place, based on the requirement to demonstrate either a four or five-year supply, depending upon the status of a Council's development plan. Nonetheless, the evidence before me indicates that the Council's Housing Delivery Test score for the three year period to 2022 sits at 66%, below the 75% threshold the Framework considers as substantially below the housing requirement. As such, the presumption in favour of sustainable development set out at paragraph 11d of the Framework is relevant. As I have found that the proposal would be likely to have a significant effect on the integrity of the Solent, an area the Framework identifies as being of particular importance, this represents a strong reason to refuse the proposal and paragraph 11di is engaged.
25. While other Inspectors may have commented that even small-scale schemes in areas of chronic under-delivery attract meaningful weight, no further details of these decisions are before me. In any event, due to the engagement of paragraph 11dii, no further planning balance is necessary.
26. My attention has been drawn to the previously approved permission⁶ for a single dwelling on the site. While the appellant asserts that nothing has materially changed from 2002 which would render the appeal scheme unacceptable, this decision was made prior to the introduction of the Framework and in accordance with a different development plan. Therefore, the fact that a different planning regime was in place at the time the previously approved permission was granted represents a materially different circumstance to the one before me.
27. Although the previously approved permission may no longer be extant and the possibility of it being implemented may be slight, it nonetheless represents a fallback as it has more than a merely theoretical prospect of occurring. However, the harm of the proposal I have found in relation to the Solent and the provision of affordable housing leads me to conclude that it would be more harmful than the fallback, despite the similarities in their designs.

⁴ Housing Land Supply – Annual Position Statement on 1 April 2024

⁵ December 2023

⁶ Council ref: P/01479/02, dated 15 October 2002

Conclusion

28. The proposal conflicts with the development plan and there are no material considerations, including the presumption in favour of sustainable development, which indicate that a decision should be made other than in accordance with it. For the reasons given, the appeal is dismissed.

Juliet Rogers

INSPECTOR