
Appeal Decision

Site visit made on 8 August 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 30th September 2016

Appeal Ref: APP/G1250/W/16/3151544
2 Petersfield Road, Bournemouth BH7 6QE

- 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 Greenbee Homes Ltd against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-13539-A, dated 4 January 2016, was refused by notice dated 23 March 2016.
 - The development proposed is the erection of 3 chalet bungalows with associated parking.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 chalet bungalows with associated parking at 2 Petersfield Road, Bournemouth BH7 6QE in accordance with the terms of the application, Ref 7-2016-13539-A, dated 4 January 2016, subject to the conditions set out in the Annex to this decision.

Application for costs

2. An application for costs was made by Greenbee Homes Ltd against Bournemouth Borough Council. This application is the subject of a separate Decision.

Main Issues

1. The application was refused for reasons which included the effect on the Dorset Heathlands Special Protection Area (SPA), a "Ramsar" site and the Dorset Heaths Special Area of Control. The Council indicated in its decision notice that this objection could be overcome by the submission of a legal obligation to make financial contributions to mitigate the effect of the development. The appellants have submitted such an undertaking, to which I will refer below, but in essence, this reason has been overcome.
2. A further reason for refusal related to the failure to make a contribution towards affordable housing. However, the decision of the Court of Appeal¹ in May 2016 overturned a challenge to the Written Ministerial Statement (WMS) of 28 November 2014, which provides that for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. The

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441, dated 11 May 2016

Planning Practice Guidance (PPG) has since been amended to reflect the approach in the WMS. The Council concedes that as a result of this change in circumstances affordable housing contributions are no longer sought.

3. Accordingly, the remaining issue is the effect of the proposal on the character and appearance of the surrounding, mainly residential, area, including the effect on trees.

Reasons

4. The appeal site comprises part of the long, wide garden of the detached house at 2 Petersfield Road, which extends to the rear of houses and gardens on Harewood Road. The site is not in or adjacent a conservation area, and there are no other local designations in respect of character.
5. Harewood Road is a wide road, with attractively landscaped highway margins, complemented by the planting in the front gardens of many of the houses fronting it, which are set well back from the road. Petersfield Road possesses a distinctly different character as it is a narrow road, with double yellow lines on both sides, with only 4 houses, a plant nursery and Kings Park, a public play area and open parkland.
6. There is a dispute between the Council and the appellants as to the applicable Core Strategy (CS) policy. Policy CS21 deals with the housing distribution across Bournemouth during the plan period, identifying that an additional 6.438 dwellings will be needed to be provided over and above those already approved or allocated at the time that the plan was prepared. It says that urban intensification will take place in areas that are well served by sustainable modes of travel, and sets out criteria for the identification of such areas, one of which is where they are within 400 metres of a key transport route.
7. The appellants say that the site is within 400m of the A35 to the south of the appeal site, and there is nothing to dispute this fact. Neither does the Council dispute that the A35 is a key transport route which is shown as such on the key diagram within the CS. Accordingly, I find that Policy CS21 is the applicable policy, which provides a presumption which favours urban intensification in this location, subject to meeting other criteria of the policy.
8. These criteria include an expectation that proposals should contribute positively to the character and function of the neighbourhood and maintain and enhance the quality of the street scene. Thus, the force of Policy CS21 is that there is an expectation that new development will take place within existing spaces in specific areas such as this, and therefore the erosion the spacious character is not objectionable unless it fails to meet the criteria of the policy.
9. The proposal would be seen by the public mainly in the context of the existing houses in Petersfield Road. These houses do not share the same degree of spaciousness enjoyed by the houses in Harewood Road, which benefit from a wide tree-lined road, with grassed highway margins and houses set well back from the footway. The narrowness of Petersfield Road and the closer relationship to the highway gives the road a more intimate character. The dwelling proposed at the front of the site would echo the scale of the dwellings on the opposite side of Petersfield Road, and I consider that the proposal would fit in satisfactorily in the street scene.

10. The two rearward dwellings would not be prominent in views from Petersfield Road and glimpses of them would not be out of character with the wider area. The site can be viewed from the path which runs along the top of the bank in Kings Park, but that bank marks a clear divide between the parkland character and the residential area to the east, and the proposal would not be markedly out of keeping with that residential character. Furthermore, tree screening along the raised bank which marks the edge of Kings Park, together with additional planting proposed along the boundary would help filter views into the site. In my view, the provision of 3 family homes, at what I consider to be an appropriate density for the site's context, would not result in harm to the character or function of the area, or harm the street scene.
11. I appreciate that the proposal would alter the appearance of the hinterland to the neighbouring Harewood Road houses, whose occupiers have hitherto enjoyed a verdant open space, backed by tall trees in Kings Park. However these are primarily private views and there is very limited public appreciation of the site. Whilst the proposed dwellings would not possess the large gardens which benefit the neighbouring Harewood Road properties, the value of this spaciousness to wider character is limited. The proposed houses would have no material effect on the appreciation of the spacious Harewood Road street scene. Whilst the appearance of two dwellings in the large open rear garden would lead to an increased urbanisation of this site, it would be consistent with the aim of the CS Policy 21, and would suitably complement and respect the character of neighbouring development.
12. A material consideration is the appeal decision² in 1984 relating to the erection of a semi-bungalow at the rear of the site close to the embankment with Kings Park. The Inspector found that no matter where in the plot it might be located, it would not accord with the general pattern of linear development on a quite generous scale. I have not been provided with the plans for that proposal, but in the light of the Inspector's comments, I do not consider that it is necessary to see them to realise that the Inspector, if not the Council, found an objection to the sub-division of the plot.
13. Since then there have been a number of changes in planning policy, the most crucial of which is the adoption of Policy CS21, which positively advocates the urbanisation of the area within which the site is located. There has also been a shift in emphasis since the 1980s towards making an effective use of previously developed land, which was not formerly the case. The approval of the houses on the opposite side of Petersfield Road since the appeal decision has also changed the local context. Having regard to these changes and the age of the decision, I consider that it does not set a precedent that I need to follow.
14. In respect of trees, the Council's arboricultural officer is satisfied with the information provided, subject to the imposition of a condition to require that the proposed tree protection measures be implemented. The Council has not explained what further information is required, and on the basis of the submitted plans and proposals I am satisfied that the proposal would not be likely to result in damage or loss to trees important to the character and appearance of the area.

² Ref: T/APP/A1205/A/84/15061/PINS7

15. I therefore conclude on the main issues that the proposal would not result in material harm to the character and appearance of the surrounding mainly residential area, and would not conflict with CS Policies CS21, CS30 or CS41, the latter policies dealing with the promotion of green infrastructure and quality design. Nor would it conflict with saved Bournemouth District Wide Local Plan Policies 4.25 or 6.8, which respectively address landscaping and infill residential development.

Other matters

16. The Council had no objections on highways grounds. Whilst I recognise that the narrowness of Petersfield Road poses some local difficulties with illegal parking, the proposal would include adequate on-site parking and would be unlikely to add to these problems. The additional car movements arising from 3 dwellings would not make any material difference to traffic conditions. I noted the proximity of the proposed access to the ramped pedestrian access to Kings Park, but I am satisfied that the proposed access arrangements would provide adequate inter-visibility to ensure pedestrian safety.
17. Whilst I understand local residents' concerns about the removal of trees on the site prior to the submission of the application, there were no controls over them, and this cannot influence my decision. I also note residents' fears about the prospect of further development on adjacent land or a more intensive form of development being proposed on this site. Such concerns, whatever their basis, cannot influence my decision on this appeal, and other proposals would need to be considered on their own individual merits.
18. I have also taken into account neighbours' concerns about privacy and outlook, but the orientation of the proposed houses and the space between them, site boundaries and the neighbouring houses would be sufficient to ensure that no material harm to the neighbours' living conditions would be caused.

Obligation and conditions

19. The appellants have undertaken to pay a sum of £1065 to mitigate the effects of the development on the designated areas of nature importance that I have referred to above. This payment would be in accordance with a joint strategy adopted by a number of local authorities, and on the basis of the evidence before I consider the obligation to be necessary and that it would pass the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010, and those in the National Planning Policy Framework.
20. The Council has suggested a number of conditions which I have assessed in the light of national guidance. Conditions relating to materials, boundary treatments, external pipes and flues, landscaping and tree protection measures are needed in the interests of appearance. The submitted plans do not show boundary treatments, and I have therefore amended the Council's suggested condition to require the submission of details. Controls on construction working hours are justified to protect neighbours' living conditions,
21. As the site lies close to a suspected tip, a condition to provide a mechanism to deal with potential contamination is needed to protect the health and safety of occupiers of the proposed houses. A condition to deal with surface water drainage is required to ensure that the site is adequately drained in a sustainable manner. As the suggested drainage condition requires details of

the treatment of hard surfaces to be submitted, a separate condition would be unnecessary.

22. Conditions are needed to address pavement widening, visibility splays, details of the access, turning and parking arrangements and construction management are needed in the interests of highway safety. I consider that it is not necessary for footway widening to be the subject of a legal agreement, nor is it necessary for a condition to require agreements under other legislation.
23. National guidance says that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. Insufficient justification for the removal of such rights has been provided here, and I shall therefore not impose such conditions, other than to remove rights pertaining to new windows and dormer windows in the north-east facing elevation of the plot adjacent the boundaries of 71 and 73 Harewood Road, in the interests of privacy. I shall also require the first floor bathroom window in the same elevation to be obscurely glazed and non-opening for the same reason.

Conclusion

24. Having regard to the component dimensions of sustainable development there would be social benefits in providing a small number of additional houses in a Borough where there is pressure to deliver new housing within the plan period. There would also be some small economic advantages accruing from the construction and occupation of new dwellings. In the light of my findings above, there would be no material harm to the character and appearance of the area, and thus there would be a neutral environmental impact. Thus when looked at in the round, the proposal would constitute sustainable development, and for the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

- 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, other than in respect of details for which further approval is required by conditions below: 906.100c, 906.103a, 906.102a, 906.105a, 906.104a, 906.107a, 906.106a 906.110a and 906.112.
- 3) No development shall take place until details/samples of the bricks and tiles to be used on the external surfaces of the proposed 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.
- 4) Prior to the commencement of development, details of boundary enclosures shall be submitted to and approved in writing by the local planning authority. The enclosures shall be provided as approved prior to the first occupation of the dwellings hereby approved, and thereafter they shall be retained, unless otherwise agreed in writing by the local planning authority.
- 5) Prior to commencement of work on site a scheme for external pipe work and flues shall be submitted to and approved in writing by the local planning authority. Development shall be carried out strictly in accordance with the approved details and unless shown on the approved elevations and approved details any pipe work (with the exception of rainwater down-pipes) shall be internal to the building.
- 6) Before the commencement of development, unless otherwise agreed in writing by the local planning authority, a scheme for the whole site providing for the disposal of surface water run-off and incorporating sustainable urban drainage systems (SUDS), shall be submitted to and approved in writing by the local planning authority. The drainage works shall be completed in accordance with the approved details prior to occupation of the development or in accordance with a timetable to be agreed in writing by the local planning authority. The scheme shall include the following as appropriate:
 - a) A scaled plan indicating the extent, position and type of all proposed hard surfacing (e.g. drives, parking areas, paths, patios) and roofed areas.
 - b) Details of the method of disposal for all areas including means of treatment or interception for potentially polluted run-off.
 - c) Scaled drawings including cross section, to illustrate the construction method and materials to be used for the hard surfacing (sample materials and literature demonstrating permeability may be required).
- 7) Before the commencement of the development hereby approved, the following details shall be submitted to and approved by the local planning authority (LPA):
 - a) a 'desk study' report documenting the site history;

- b) a site investigation report documenting the ground conditions of the site, and incorporating a 'conceptual model' of all potential pollutant linkages, detailing the identified sources, pathways and receptors and basis of risk assessment;
- c) a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed (if appropriate), and
- d) a detailed phasing scheme for the development and remedial works (if appropriate).

The approved remediation scheme shall be fully implemented before the development hereby permitted is first occupied. Any variation of the scheme shall be agreed in writing by the LPA in advance of works being undertaken. On completion of the works written confirmation that all works were completed in accordance with the agreed details shall be submitted to the local planning authority

- 8) Within 3 months of the date of commencement of the development, full details of hard and soft landscape proposals shall be submitted to and approved in writing by the local planning authority. The hard landscape details should include, where appropriate, proposed finished levels, the layout of car parking spaces, surfacing materials, external fixtures e.g. lighting; bollards and vehicle and pedestrian access and circulation. Soft landscape details should include planting plans, a schedule of plants and an implementation timetable. The approved landscape scheme shall be implemented in full prior to occupation or use of the development commencing or as otherwise specified in the agreed timetable and shall be permanently retained unless otherwise agreed in writing by the local planning authority
- 9) No further site clearance or development work shall commence until there have been submitted to and approved in writing by the Local Planning Authority an arboricultural method statement and detailed drawings showing:
 - (a) the specification and position of fencing and other measures such as temporary surfacing, for the protection of the roots and crown spread of trees, groups of trees and other vegetation to be retained on and adjoining the site. Protective fencing should accord with the recommendations of BS 5837:2012 *Trees in relation to design, demolition and construction - Recommendations*.
 - (b) the programme for the erection and maintenance of protective fencing and the installation of any other protective measures; such programme will include details of supervision by an arboriculturist;
 - (c) details of any proposed alterations in existing ground levels and of the position of any proposed excavation and constructional details of any drainage, hard surfacing, foundations, walls and similar works within the protected area;
 - (d) details of contractors' compounds and areas for storage; and
 - (e) schedule of proposed tree works.

The details contained in the arboricultural method statement shall be thereafter implemented on site and the protective fencing and other protective measures shall be maintained during the course of construction.

Prior to commencement of development a detailed Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include safe access to the site for deliveries, loading and unloading of plant and materials and wheel cleansing of vehicles prior to egress from the site onto the public highway. The approved Construction Management Plan shall be implemented and complied with throughout the construction phase of the development.

- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials, and
- iii) wheel washing facilities;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 11) Prior to the commencement of development, details of a footway widening along the Petersfield Road frontage shall be submitted to and approved in writing by the local planning authority. The widened footway shall be provided in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved and thereafter the widened footway shall be retained and used only for the purpose as a footway.
- 12) Before the commencement of development, details of the specification, including a typical cross section of the surfacing of the access and areas for turning and parking shown on the approved plan shall be submitted to and approved in writing by the local planning authority. These areas shall be constructed and surfaced in accordance with the approved details and permanently retained and kept available at all times for the residents of the development hereby permitted.
- 13) Before the development hereby permitted is brought into use pedestrian inter-visibility splays of 2m x 2m shall be provided on the North and South sides of the accesses, the depth measured from the back of the footway into the development site and the width of the splays measured outwards from the edge of the access. No fence, wall or other obstruction to visibility over 0.6m in height above ground level shall be erected within the area of the splays at any time.
- 14) The proposed first floor windows in the North-East elevation of units 2 and 3 shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and fixed shut and shall be permanently retained as such unless otherwise agreed in writing by the local planning authority

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows shall be installed or dormer windows shall be constructed in the north-east facing elevations of Units 2 and 3.