
Appeal Decision

Site visit made on 15 May 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 27 June 2017

Appeal Ref: APP/Q1255/W/17/3168550
76 Merley Lane, Poole BH21 1RZ

- 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 MDM Developments Ltd against the decision of Poole Council.
 - The application Ref APP/16/00797/F, dated 4 August 2016, was refused by notice dated 30 September 2016.
 - The development proposed is to demolish existing buildings and erect 1no 4 bed house and 3no 4 bed chalet bungalows with garages and car port.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing buildings and erect 1no 4 bed house and 3no 4 bed chalet bungalows with garages and car port at 76 Merley Lane, Poole BH21 1RZ in accordance with the terms of the application, Ref APP/16/00797/F, dated 4 August 2016, subject to the conditions set out in the attached Schedule.

Main Issue

2. The main issue is the effect of the proposed development on highway safety.

Reasons

3. The appeal site is located along Merley Lane, a narrow local distributor road with limited footways and lighting. The site itself is accessed via an existing hard surfaced accessway which runs along the eastern boundary and currently serves a single two storey dwelling along with a number of outbuildings to the rear. The site occupies a slightly elevated position being around 1.5m above the highway and neighbouring No 78. The proposal would involve the demolition of the existing dwelling and its replacement with 4 new dwellings, three of which would be located to the rear of the site.
4. The Council is concerned that visibility at the access is so impaired that it would fail to provide a safe and suitable access for all users with the proposed increase in traffic movements likely to result in severe harm to highway safety. Policy PCS26 of the Poole Core Strategy (2009) (CS) and Policy DM7 of the Poole Site Specific Allocations and Development Management Policies DPD (2012)¹ (the "SSADMP") seek to ensure, amongst other things, that new development contributes positively to the retention of safe and accessible places and does not compromise or result in detriment to highway safety. In

¹ Poole Site Specific Allocations and Development Management Policies Development Management Document – adopted April 2012.

addition, Paragraph 32 of the National Planning Policy Framework ("the Framework") indicates that decision makers should take account of whether safe and suitable access to the site can be achieved for all people.

5. Furthermore, the Council's adopted Parking & Highway Layout in Development Supplementary Planning Document² ("the SPD") advises that visibility splays at junctions must be adequate and sets out some key factors in determining whether this is the case, including traffic volumes and road configuration. Although this accords generally with the guidance set out in the Manual for Streets (MFS), the MFS indicates that unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem. As such, I consider the central question to be whether visibility at the access would be such that the additional vehicular movements associated with the development would result in a material diminution in highway safety along this stretch of road.
6. During my site visit I drove down both Merley Lane and the access way itself. Although visibility from the track is restricted to the left³, I noted that in view of its elevated position, it was possible to clearly see vehicles approaching from this direction. Similarly, visibility to the right is generally clear. While I note that the owner of No 78 Merley Lane has indicated that were the proposal to proceed, they would install a hedge which would limit visibility in this direction, I note that there are numerous other accesses along this stretch of road which are similarly obscured by hedging of various heights and I have seen nothing which would indicate that these have resulted in any significant highway safety issues. Even were such an obstruction to be installed, I am satisfied that a reasonably cautious driver would be able to exit the access without posing a material risk to other road users.
7. Furthermore, the access is clearly visible in both directions along Merley Lane, whose residential nature and numerous accesses alerts drivers that they need to exercise a degree of caution. I am therefore satisfied that, even with the addition of hedging along the boundary, a reasonably observant driver travelling along this section of road would be alert to the likelihood of vehicles pulling out and would proceed with an appropriate degree of caution.
8. Nevertheless, the proposal would inevitably result in an increase in the number of vehicles using the access. However, during my visit I observed only moderate traffic along the main road with most vehicles travelling at reasonable speeds. While this may not be indicative of the traffic levels during peak times, there is no robust evidence, for example in the form of accident data, to suggest that there are any significant safety issues resulting from traffic levels or speeds along this stretch of road. As such, I consider the limited number of vehicular movements associated with the proposal would not materially alter highway safety in the immediate vicinity or place any significant additional pressure on the wider highway network.
9. Consequently, I do not consider that the proposal would result in an unsuitable access or would be materially detrimental to highway safety. Accordingly, I find no conflict with CS Policy PCS26, SSADMP Policy DM7, Paragraph 32 of the Framework or the SPD.

² (2011).

³ In part due to the installation of a mirror.

Other Matters

10. The Council's decision notice also refers to a number of other development plan policies including PCS5 and PCS15 of the Poole Core Strategy (2009) (CS). Those parts of Policy PCS5 which have been drawn to my attention in respect of highway safety relate to protecting the amenity of local residents while those in Policy PCS15 relate to addressing the adverse impacts of traffic upon communities through environmental enhancements and improved provision for pedestrians and cyclists. I note that neither of these matters has been specifically addressed in the Council's written evidence or are particularly relevant to the determination of the main issue. As such, I have not considered them in my reasoning above.
11. The Council's second reason for refusal relates to the impact of the development on the Dorset Heathlands Special Protection Area and Ramsar Sites and the Dorset Heaths Special Area of Conservation ("the Protected Sites"). CS Policy PCS28 restricts development which would be likely to lead to an adverse effect upon the integrity of the Protected Sites other than in a limited number of defined circumstances. These include where they make provision for mitigation measures to avoid such adverse effects taking place. In support of this, the Dorset Heathlands Planning Framework 2015 – 2020 Supplementary Planning Document ("the SPD") requires a financial contribution to be made for each new residential dwelling to fund a range of measures to mitigate the impact of development on the Protected Sites. Based on the evidence before me, it appears that the need for the contribution sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010.
12. The Council has confirmed as part of its written evidence that this reason for refusal has been overcome following the submission by the appellant of a duly executed planning obligation which secures the financial contributions sought. I agree with that position and am satisfied that the necessary mitigation measures have been secured. Accordingly, I am satisfied that the proposal would not be in conflict with CS Policy PCS28.
13. In reaching my decision, I have had regard to the concerns expressed by local residents both at application stage and as part of this appeal. Those which relate to highway safety and visibility have been taken into account in my reasoning above. Those which relate to drainage, character and appearance, neighbouring amenity, damage to adjoining land and the type of housing were considered by the Council at application stage and did not form part of its reasons for refusal. I have seen nothing as part of this appeal which would lead me to conclude that they would provide sufficient grounds to justify a refusal of planning permission for the development proposed.

Planning Conditions

14. I have had regard to the planning conditions suggested by the Council. In addition to the standard time condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty. Conditions requiring further details on the disposal of surface water are necessary in the interests of flood prevention and an updated Biodiversity Mitigation Plan is appropriate to ensure that current site conditions are taken into account.

15. Those which relate to visibility splays, the provision of bin stores, lighting and access are necessary in the interests of highway safety and amenity for future occupants as are those which relate to the car ports, parking and garages. I also consider a condition relating to energy performance to be appropriate in the interests of sustainability. Conditions regarding materials, landscaping, and the protection of trees are necessary in the interests of visual amenity and in order to protect existing trees
16. I also consider conditions requiring obscured glazing to be fitted to the east and west side elevations of Units 2, 3 and 4 and the landing window on the west side elevation of Unit 1 as necessary in order to protect the privacy of neighbouring occupiers.
17. The Framework advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. In this case, I am satisfied that the Council's suggested condition restricting the right to construct additional windows and doors along the side elevations of Unit 1 and the side and rear elevations of Units 2, 3 and 4 are necessary in order to protect the privacy of neighbouring occupiers.
18. A number of these conditions need to be discharged before work commences on site as these relate to matters which need to be resolved on a fully coordinated basis.

Conclusion

19. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

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:
 - Site, Block and Location Plans Drawing No. 8654/300 F
 - Unit 1 Floor Plans and Elevations Drawing No. 8654/301
 - Unit 2 Floor Plans and Elevations Drawing No. 8654/302 B
 - Unit 3 Floor Plans and Elevations Drawing No. 8654/303 B
 - Unit 4 Floor Plans and Elevations Drawing No. 8654/304 D
 - Car Barn Floor Plans, Elevations and Street Scene Drawing No. 8654/305
 - Sections A-A and B-B Drawing No. 8654/306 B
 - Tree Protection Plan Drawing No. GH1612b
- 3) No development shall take place until an updated Biodiversity Mitigation Plan has been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall take place until full details of surface water drainage 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.
- 5) No dwelling shall be occupied until details of the surfacing and lighting of the access have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the details so approved and once implemented the lighting and surfacing shall be retained and maintained thereafter.
- 6) No dwelling shall be occupied until details for the storage of refuse and recyclables have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved and the storage area shall thereafter be kept available for such purposes.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof, no dwelling shall be occupied until the visibility splays indicated on the drawing No 8654/300 F are cleared of all obstructions over 0.6 metres above the level of the adjoining highway, including the reduction in level of the land if necessary, and nothing over that height shall be permitted to remain, be placed, built, planted or grown on the land so designated at any time.
- 8) No dwelling shall be occupied until the carport, garages and vehicle parking areas have been constructed in accordance with the approved plans. Once implemented, the car port, garages and vehicle parking areas shall thereafter be retained and kept available for those purposes at all times.

- 9) No dwelling shall be occupied until details of the use of on-site renewable energy sources to meet a minimum of 10% of predicted energy use of the residential development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.
- 10) The development shall be carried out in accordance with Arboricultural Method Statement dated 03/03/16 and the Tree Protection Plan dated 04/03/16.
- 11) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of planting, walls/ fencing and other means of enclosure and any changes in levels. The approved scheme shall be implemented in accordance with the details so approved.
- 12) All planting, seeding or turfing comprised in the approved details of conditions 10 and 11 above shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning Act 1990 or any subsequent re-enactments thereof, no windows or doors (other than those expressly authorised by this permission) shall be constructed above ground floor level on the side elevations of Unit 1 or the side and rear elevations of Units 2, 3 and 4.
- 14) The dwellings hereby permitted shall not be occupied until the windows above ground floor level on the east and west side elevations of Units 2, 3 and 4 and the landing window on the west side elevation of Unit 1 have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 15) No development of a building/s shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.

END OF SCHEDULE