The Planning Inspectorate

Appeal Decisions

Site visit made on 3 January 2019

by J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 1st March 2019

Appeal A - Ref: APP/Q1255/W/18/3203055
R/O 46 Abbotsbury Road. Poole, Dorset BH18 9DD

- 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 CR Acquisitions Ltd against the decision of Poole Council.
- The application Ref APP/17/01534/F, dated 25 September 2017, was refused by notice dated 21 November 2017.
- The development proposed is to sever land and erect 6 no 2-bedroom bungalows with parking.

Appeal B - Ref: APP/Q1255/W/18/3205730
R/O 46, 52, 54 & 56 Abbotsbury Road. Poole, Dorset BH18 9DD

- 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 CR Acquisitions Ltd against the decision of Poole Council.
- The application Ref APP/17/01948/F, dated 21 December 2017, was refused by notice dated 20 April 2018.
- The development proposed is to sever land and erect 5 no. 2 bedroom bungalows with parking.

Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matters

2. As set out above there are two appeals. They differ in terms of the number of dwellings, with Appeal B proposing 5 dwellings and Appeal A proposing 6. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated. For ease of reference I have referred to the different cases as Appeal A and Appeal B.

3. I have used the address description from the original application forms although this differs from Appeal A to Appeal B the site area and boundaries for the two appeals are the same as is the point of access.

4. An application for costs was made by C R Acquisitions Ltd against Poole Council in respect of Appeal B. That application is the subject of a separate Decision.

5. In July 2018, the revised National Planning Policy Framework (The Framework) was published. The main parties have had an opportunity to comment on the significance of the changes and I have had full regard to the revised Framework in determining this appeal. Since the site visit the Government has

published its Housing Delivery Test results alongside the publication of an updated revised National Planning Policy Framework (The Framework). This makes minor revisions including an additional footnote to Paragraph 11 (effective from 20 February 2019). The Housing Delivery Test outcome for the Council indicates that delivery has been below the requirement over the last three years (at 68%). However, the implementation arrangements contained within Annex 1 mean that at the current time the tilted balance in paragraph 11(d) would not be engaged. References to the Framework throughout this decision relate to the 2019 Framework.

6. On 13 November 2018 the Council adopted the Poole Local Plan (Local Plan). Policies in the Core Strategy (2009) and the Development Management DPD (2012) have therefore been superseded. Policies in the Poole Local Plan now have the weight of fully adopted policies. The Broadstone Neighbourhood Plan (NP) adopted on 26 June 2018 now forms part of the development plan for the area and carries the weight of adopted policy. The main parties have been afforded the opportunity to make representations on these changes. I have taken into consideration representations made in reaching my decision.

7. Planning permission has been granted for 4 dwellings on broadly the same site area as the two appeal schemes. This is via two planning permissions, the first for three dwellings[1] and the second for one dwelling[2]. Both are to be served from the same access. The principle of residential development has therefore been established on this site for four dwellings.

8. The proposal under Appeal B was amended during the life of the application to five two bedroomed units rather than that described on the original application form. As this is the basis of the Councils' decision I have utilised the revised description in the banner heading above and considered Appeal B on that basis.

9. The application site is within 5Kms of a Site of Special Scientific Interest which is part of the designated Dorset Heathlands Special Protection Area (SPA) and Ramsar site, and part of the Dorset Heaths Special Area of Conservation. The proximity of these European sites means that determination of the application should be undertaken with regard to the requirements of the Habitat Regulations 2010. The appellants have completed a legal agreement under Section 111[3] and made a financial contribution towards the Dorset Heathlands Mitigation Strategic Access Management and Monitoring. The Council has confirmed that this secures the appropriate mitigation in accordance with the requirements of PP32 and overcomes the second reason for refusal in respect of Appeal A. This matter was resolved to the satisfaction of the Council in respect of Appeal B during the course of the planning application.

Main Issues

10. The main issues in respect of both appeals are: -

- whether the proposals accord with the development plan in regard to the size of the dwellings and the acknowledged local needs;
- the effect of the development on the character and appearance of the area;

[1] APP/16/01807/F plus non material amendment of App/17/00955/F
[2] APP/17/00550/F
[3] of the Local Government Act 1972

- the effect of the development on the living conditions of the future occupiers of the proposed houses with regard to the quality of the living conditions; and in respect of appeal A, whether the occupiers of the units would be reliant on artificial sources of heat and light.

Reasons

Development Plan

11. There is no dispute regarding the use of this site for residential purposes given the extant planning permission. Consideration needs to be given as to whether the increased density on the site and the provision of smaller residential units would accord with the development plan.

12. The Local and Neighbourhood plans have been adopted since the Council took its decisions on these appeals. Both are material considerations and form the starting point for the planning decisions. An important factor being the size of units provided. The NP acknowledges an essential need for additional housing locally. It highlights a significant requirement for larger 3 and 4 bedroomed properties to meet the demand for families in order to achieve a sustainable community with a balanced demographic.

13. The appellants have highlighted that Local Plan Policy PP2 states that new development should be directed to the most accessible and sustainable transport locations but that it also makes provision for developments outside of those locations including those which achieve affordable housing. The appellants say that the proposal does not meet the criteria for providing affordable housing but argue that in view of the exceptions provided for sustainable development patterns are not a relevant consideration and do not preclude either scheme from coming forward.

14. The starting point for a decision is the development plan and this includes the Local Plan and the NP which both need to be considered. To balance the housing stock the Neighbourhood plan indicates, through Policy BP5, the application of a different approach to the size of new units in the inner zone to that in the outer zone. The site is in the outer zone where new residential development is encouraged subject to properties being 3 bedroomed dwellings or larger. Where a different approach is to be taken to the policy it requires that the proposal should demonstrate how it would contribute to balancing the housing stock and meet site specific requirements. The appellants highlight that policy does not prescribe indicative densities for residential plot severances stating that these would be location specific.

15. The appellants argue that the proposal will contribute towards balancing the housing stock and complies with the NP policy, they refer to the evidence base that has informed the NP which they say identifies a need for 1 to 2 bedroomed properties and for those wishing to downsize which they say demonstrates the need for additional 2 bed units. Moreover, they comment that the Examining Inspectors decision which that the zonal approach to BP5 is sufficiently justified and includes flexibility. They cite a case locally which was approved for a two bedroomed unit however from it appears that case was at the boundary of the inner zone and the plot size was a contributing factor such that the circumstances are not comparable.

16. I find that the NP policy takes a legitimate, location specific approach to this matter effectively requiring development in the outer area to incorporate larger units. It also requires schemes which do not incorporate them to demonstrate how they meet the needs of the local and neighbourhood plans. In these appeals, whilst noting that the NP has been adopted since the Council made its decisions, I have no substantive evidence that there is a predominance of 3 bedroomed dwellings in the area which needs to be rebalanced such that would lead me to depart from the NP requirements for this location. In this regard both schemes, conflict with Policy BP5 of the NP.

17. The appellants highlight the need to significantly boost the supply of new homes and point to the presumption in favour of sustainable development where policies for the supply of housing are considered out of date. However, there is no evidence that the Council does not have an adequate supply of housing and therefore the policies of the development plan, which include those of the Local and Neighbourhood plan, carry fully weight.

18. For the above reasons the proposal would be contrary to Policies PP27 and PP28 of the Local Plan; to Policy BP5 of the NP and to the aims of the Framework. These seek, amongst other things, to ensure that residential proposals in the outer zone of the NP area deliver family sized accommodation to meet the identified needs of the plan area.

Character and appearance

19. The area is characterised mainly by bungalows in substantial plots. The appellants say that the character is of linear development with front elevations having a common reference point. They argue that increase in density would not result in demonstrable harm to the character and appearance of the area stressing it is evolving with back-land development already taking place locally. The planning permission on this site for four dwellings they say also reflects that approach.

20. Nonetheless Councils' principal concern is that the higher density would result in the layout appearing cramped due to the proximity of dwellings to one another. This would be exacerbated by the confined nature of tandem car parking spaces squeezed between dwellings which, in the case of Appeal A would be exacerbated by the roof overhangs.

21. The appellants argue that there are only limited vistas into the site which is set at a lower than surrounding dwellings on Abbotsbury Road. Views into the site would be achieved as fleeting glimpses and the relationship to existing properties would be the same as in the extant planning permission. Even so the limited vista from public roads would not lessen the material change in character which would result from the higher density.

22. The cumulative footprint of the proposal for five dwellings would be less than that of the four approved dwellings and the properties would have a linear arrangement, even so the spacing between the proposed units would be uncharacteristically close. This would be particularly so in respect of the proposal in Appeal A. That scheme would represent a material difference in the character of the site and represent a closer, denser development in an area which is typified by a looser urban grain. Five, or a further increase again to six would, in my view, lead to an unacceptably cramped arrangement on the site and generate inadequate spacing between buildings. It would result in an

overly dominant appearance such that it would be harmful to the prevailing character of the area and represent poor design. The appellants say that in the case of Appeal B the scheme was acceptable to the planning officer with a positive recommendation however it is the decision of the Council which must be addressed and not the recommendation of the planning officer.

23. Parking provision in Appeal B would be less harmful to the interaction between private space from one dwelling to its neighbour though in the case of three of the dwellings it would be immediately adjacent or very close to the wall of the dwellings and would therefore be cramped.

24. For these reasons the proposal would conflict with Policies PP27 and PP28 of the Local Plan; to Policies BP4 and BP5 of the NP; and to the design aims of the Framework. These seek, amongst other things, to ensure that; plot severances are only permitted where sufficient land can be assembled to enable development of a layout and scale which would preserve or enhance the residential character of an area and achieve high quality design that reflects or enhances local patterns of development.

Living conditions

25. The overall height and proximity to the boundary of the plots at either end of the site are generally in the same location as the approved dwellings and their overall relationship with existing dwellings is also similar. However, the increased number of dwellings would result in the proximity of living space from one dwelling being particularly close to the car parking space for the adjacent plot and which would also extend beyond the rear wall of the house and into the private garden areas. This would result in an unacceptably close relationship between the units such that the living conditions of each would be compromised by the close nature of the windows and garden space in very close proximity one to the other. Additionally, the narrow access alongside Unit 1 would make the approach to the front door particularly oppressive. The Framework advocates a high standard of design and the NP specifies that back land sites generally should be resisted unless they represent, amongst other things, sensitive design. In this respect the proposal fails to meet these aims.

26. In regard to windows arrangements; in respect of Appeal B, I do not concur with the Councils view that the light reaching the side elevations of the dwellings would result in conditions that would be harmful or result in insufficient light for future occupiers, particularly so given that these would not serve primary rooms. Whilst the arrangement of the houses is very close the side windows would not, in my view, lead to such poor access to light as to warrant refusal.

27. In respect of Appeal A the Council argues that the oppressive living conditions would result in the reliance on artificial sources of heat and light. Policies PCS31 and PCS32 have been deleted and Policy PP37 of the Local Plan now sets the criteria for new development to contribute to tackling climate change using passive design features to minimise the need for artificial light heating and cooling and to maximise solar gain. The appellants argue that the details contained in their Energy and Resources statement addresses these matters and combined with the incorporation of onsite renewable energy sources would meet 10% of the predicted energy requirements and could be controlled by condition. This specification of energy efficiency would be a benefit however in respect of the details it would not change the north facing orientation of

internal living spaces or proximity of units and as such the credentials of the development are only part compliant with Policy PP37. The Council considered that the amenity provision for future residents fell short of their expectations and this was judged to be indicative of overdevelopment. Based on the evidence I have no reason to disagree.

28. For these reasons the proposal would be harmful to the living conditions of the future occupiers of the proposed dwellings in conflict with Policy PP27 of the Local Plan; Policy BP4 of the Broadstone NP; and to the aims of the Framework. These policies seek, amongst other things, to secure high quality design that respects the character of the local area and ensures that new homes contribute to tackling climate change through careful orientation and use of passive design features in order to provide high quality living conditions.

Conclusion

29. Even though the proposals would support a more efficient use of land as set out in Paragraph 122 of the Framework it also makes it clear that where a planning application conflicts with an up-to-date development plan including any made neighbourhood plans permission should not usually be granted. In this case those policies seek to address a specific housing need there are no material considerations that indicate the NP policies should not be applied. The presumption in favour of sustainable development does not alter the statutory status of the development plan as the starting point for decision making and, on this basis, both appeals fail.

Other Matters

30. I note the volume of objection letters which have been received. I have taken these into account in reaching my decision, but they do not change my overall conclusion.

31. Representors have made comment about the removal of trees on the site and the impact on the water table. The Tree Preservation Order relates to boundary trees and there are no proposals to remove trees protected by that order. Technical consultees were satisfied that drainage issues were not insurmountable as attenuation and infiltration methods could be introduced to deal with surface water drainage and the site is not located in an area at risk of flooding. I have no substantive evidence before me to lead me to disagree and as such drainage matters do not weigh against either of the appeal schemes.

32. I have taken into account that the development is not prominent in the street scene and that the design and massing of the building heights would be similar to those previously approved. There would be no highway safety risk or any lack of parking. Refuse and bin storage arrangements are acceptable to the Council and there are no overriding biodiversity or ecological issues in relation to the site. These factors weigh in favour of the appeals, but they do not outweigh the harm I have identified in relation to the main issues in either appeal.

33. The appellants highlight that Appeal B was recommended for approval by officers. However, it is the decision of Council which I must consider. I have reached my findings on the merits of the scheme in the context of Local and NP policy as it currently exists and in so far at it is material. Notwithstanding the fact that both have been adopted since the time of the Council's decisions.

34. The Council advised that the contribution levels for the Dorset Heathlands management mitigation have increased since the planning decisions were made. The Council has also highlighted that a new policy has been introduced to require a contribution to mitigate the impact of recreation associated with new residential units upon Poole Harbour. Revised payments and papers have been submitted in respect of each appeal for both matters and the Council have confirmed acceptance. However, given my findings on the main issues I do not need to consider these matters further.

35. The appellants say the site is well connected to the town and district centres and will provide much needed additional homes in a sustainable location. It is not disputed that the site could deliver additional homes however the additional one or two included in the two alternative schemes would make only a modest contribution to the overall supply. Neither scheme would outweigh the harm which has been identified in relation to the main issues.

36. The appellants have responded to the publication of the Housing Delivery Test figures and the adjustments to the Framework. Whilst the appellants argue that the shortfall in the delivery of housing weighs in favour of the development for both appeals, it is significant that the Housing Delivery test thresholds set out in the Framework do not apply in this Council area at this time and do not therefore affect my findings in relation to either appeal.

Conclusion

37. For the above reasons there are no material considerations which would warrant a decision other than in accordance with the development plan

38. For the reasons set out above and having regard to all other matters raised both Appeal A and B should be dismissed.

Janet Wilson

INSPECTOR