
Appeal Decision

Site visit made on 24 June 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeal Ref: APP/Q1255/W/18/3212791
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/18/00925/F, dated 10 July 2018, was refused by notice dated 4 September 2018.
 - The development proposed is sever land and erect 1 no. 2 bedroom bungalow with parking.
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Decision

1. The appeal is allowed and planning permission is granted to sever land and erect 1 no. 2 bedroom bungalow with parking at 76 Merley Lane, Poole BH21 1RZ in accordance with the terms of the application, Ref APP/18/00925/F, dated 10 July 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The appellant has submitted a unilateral undertaking (UU) which would secure a financial contribution towards Strategic Access Management and Monitoring (SAMM) in connection with European sites. I shall return to this later.
3. There have been various changes to national and local planning policy since the Council issued its decision. This includes adoption of the Poole Local Plan (2018) (PLP) and updates to the National Planning Policy Framework (the Framework). The parties have had an opportunity to comment on the implications for the appeal and I have taken their representations into account.

Main Issues

4. The main issues in this case are:
 - a) the effect of the proposal on the character and appearance of the area;
 - b) whether the scheme would provide an acceptable living environment for future occupiers; and
 - c) the effect of the development on the living conditions of the occupiers of the new dwellings immediately to the south.

Reasons

Character and appearance

5. The character of Merley Lane has evolved considerably in recent years. The properties fronting the south side of this street originally had long rear gardens backing onto those in Merley Gardens. A significant number of gardens have been severed to facilitate backland housing developments of detached bungalows and chalet bungalows. These are accessed by shared private driveways running along the sides of existing or replacement dwellings on the street frontage.
6. No 76 Merley Lane is a case in point. This property has been replaced with a two-storey dwelling with a row of three chalet style dwellings constructed at the rear. The latter are visible at a distance along the access drive, much like other developments in the street, but they are not unduly prominent. Backland development has become an established part of the local character.
7. The proposed bungalow would be positioned adjacent to the shared driveway, midway between the dwelling on the Merley Lane frontage and the new chalet style properties behind. This area of land was shown on the plans for the approved scheme as a communal landscaped area and an open 4-bay car port.
8. Backland plots in Merley Lane are generally arranged in rows parallel to the street frontage. However, the developments are not uniform and there is some variation in layout. Given this context, I do not consider that the siting of the proposed dwelling would be so incongruous as to be materially harmful to the character and appearance of the area.
9. The Council has already approved an open-sided building of almost identical scale and form in this location. The visual impact of the proposed bungalow would not be significantly greater, especially when viewed from outside of the site. The bungalow footprint would not be unduly small, and its garden would be commensurate with the size of property and other plots in the scheme. There would be a mix of dwelling types in the overall development, but this variety is reflective of Merley Lane as a whole.
10. Accordingly, I conclude that the proposal would not cause material harm to the character or appearance of the area. There would be compliance with PLP Policies PP27 and PP28 insofar as they seek to ensure that residential proposals involving plot severances or plot sub-divisions provide sufficient land to enable a type, scale and layout of development including parking and usable amenity space to be accommodated in a manner which would preserve or enhance the area's residential character.

Future living environment

11. The Council is concerned that the proximity of windows to the shared driveway would encourage occupiers of the bungalow to close their curtains for privacy, thereby giving rise to a dark, oppressive living conditions. The number of comings and goings associated with the three dwellings at the rear of the site is unlikely to be significant and consequently the level of intrusion would be low.
12. Notwithstanding this, an appropriate balance of privacy and natural light could be achieved using net curtains or blinds, but even if future occupiers chose to close their curtains it would not render the internal environment poor. The main living area would be served by large south-facing bifold doors, whilst

Bedroom 2 would have a second window to provide additional daylight. The bedroom windows would face onto parking and as such the outlook would not be especially attractive. Nonetheless, the rooms would receive an acceptable level of daylight and there are opportunities for planting to mitigate the impact of parked cars.

13. I have not been directed to any standards for minimum window-to-window distances. However, the relationship of the new bungalow to adjoining dwellings is unlikely to compromise privacy for future occupiers of the development. Overall, I am satisfied that the scheme would provide an acceptable living environment. The proposal would comply with PLP Policy PP27 insofar as it seeks to maintain a high standard of amenity for future occupants.

Living conditions

14. The Council contends that the proposed building would combine with fencing on the western boundary of 78 Merley Lane to create a 'cramped, stark and unpleasant environment' for residents across the site. Although more solid in comparison with the approved car port, the proposed bungalow would be modest in height and mass. Its relationship to the shared driveway would be comparable to that which has been approved at the front of the site, with the exception that the appeal scheme would provide additional space for planting to soften the visual impact of the building. The communal landscaped area shown on the approved plans would be lost, but new evergreen hedging along the garden perimeter would create an attractive setting without being oppressive for the residents of the new dwellings at the rear of the site.
15. I conclude that the proposal would not compromise the living conditions of occupiers of the dwellings immediately to the south. It would comply with the requirement of PLP Policy PP27 that development should not result in a harmful impact upon amenity for both local residents and future occupiers.

Appropriate Assessment

16. The appeal site lies within the zone of influence of the Dorset Heathlands Special Protection Area and Ramsar site, the Dorset Heaths Special Area of Conservation, and the Poole Harbour Special Protection Area and Ramsar site. The effects of the proposal on these designations must be considered in combination with other plans and projects in the area. It is impossible to rule out likely significant effects through increased recreational disturbance of protected birds and nitrate pollution. Appropriate Assessment is therefore required under The Conservation of Habitats and Species Regulations 2017.
17. The appellant has submitted a UU which secures a contribution towards SAMM in line with the Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document and the Poole Harbour Recreation Mitigation Interim Scheme (2019). The SAMM measures, taken together with Heathland Infrastructure Projects are funded via the Community Infrastructure Levy, would be effective beyond all reasonable scientific doubt in mitigating or avoiding adverse effects on the protected sites.
18. As competent authority for the purposes of Regulation 63 of Regulations, I am satisfied that the proposal would not have an adverse effect on the integrity of the European protected sites, having regard to their conservation objectives.

19. PLP Policy PP32 states that development will only be permitted where it would not lead to an adverse effect upon the integrity, either alone or in-combination, directly or indirectly, on nationally, European and internationally important sites. The SAMM contribution ensures compliance with this policy.
20. On the evidence before me, the planning obligations within the UU would be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. As such, they comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Other Matters

21. I have taken into account all other matters raised in representations. Those which relate to over-development of the site have already been considered in my reasoning above.
22. The proposed access and splays were accepted by the Planning Inspector for the existing development¹ and the Highway Authority raises no objection to the principle of an additional dwelling or the shortfall of one visitor parking space against the Council's standards. I have no reason to take a different view; based on the submitted evidence and my own observations, there would be no highway grounds on which to dismiss the appeal.
23. The occupiers of 74 Merley Lane have raised concerns regarding the impact of the proposal on their living conditions. However, the building would be no more dominant than the approved car port, and there is no evidence to persuade me that the development would lead to excessive noise or loss of privacy. A new fence has been erected between the site and No 74 and this would reduce any impacts to an acceptable level.

Conditions

24. I have considered the Council's suggested conditions against the tests set out in the Framework and Planning Practice Guidance. I have attached a condition specifying the approved plans to provide certainty. Conditions requiring the Council's approval of external materials and a landscaping scheme are needed in the interests of the character and appearance of the area.
25. In the interests of highway safety, conditions are necessary to require the provision and retention of the vehicle parking and visibility splays, and to secure adjustments to the access width in line with the Highway Authority recommendations. The access revisions need not be a pre-commencement condition and therefore I have adjusted the condition wording accordingly. To prevent flooding, I have attached a condition requiring all hard surfacing to be either porous or drained to a permeable or porous surface.
26. A further condition is necessary to secure mitigation measures for surface water flooding, as an addendum to the agreed Drainage Plan for the site. To prevent harm to biodiversity and trees, revisions to the agreed Biodiversity Mitigation Plan for the site, and Arboricultural Method Statement and Tree Protection Plan are needed. The information specified in this paragraph is fundamental and must be provided prior to any development commencing.

¹ APP/Q1255/W/17/3168550

27. To comply with PLP Policy PP37, I have attached a condition requiring the provision of on-site renewable energy sources prior to first occupation. The application does not include any detail regarding bin stores and the lighting of the access, and therefore further details are required to ensure satisfactory waste storage and pedestrian safety respectively.
28. The Council has suggested a condition to remove permitted development rights for windows and doors. Such a condition is unnecessary in relation to the walls. I have therefore adjusted the condition to relate to new roof openings only, as these have the potential to introduce overlooking into neighbouring gardens.

Conclusion

29. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

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: Site, Block and Location Plans Drawing No. 8654/500 A; Floor Plans and Elevations Drawing No. 8654/501.
- 3) No development shall commence until an updated Biodiversity Mitigation Plan for the entire site 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 commence until a revised Arboricultural Method Statement and Tree Protection 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.
- 5) No development shall commence until further details of mitigation measures for surface water flooding have been submitted to, and approved in writing by, the local planning authority. These measures shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby approved and thereafter retained.
- 6) No development above DPC (damp proof course) shall take place until details and samples of all external facing and roofing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) The dwelling hereby permitted shall not be occupied until revised plans showing the access widened to 5m for the first 6m depth from the highway edge; passing bays widened to 5m; and the remainder of the driveway widened to 3.7m have been submitted to, and approved in writing by, the local planning authority. The development shall subsequently be implemented in accordance with the agreed details prior to first residential occupation of the bungalow and thereafter retained and maintained in perpetuity.
- 8) The development hereby permitted shall not be occupied until a landscaping scheme including (but not limited to) details of replacement trees and other planting, walls/fencing and other means of enclosure and any changes in levels has been submitted to, and approved in writing by, the local planning authority. Upon approval:
 - a) the approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive following occupation of the bungalow or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the local planning authority;
 - b) all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting;

- c) the scheme shall be properly maintained for a period of 5 years and any plants (including those retained as part of the scheme) which die, are removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the local planning authority gives written consent to any variation; and
 - d) the whole scheme shall be subsequently retained.
- 9) The dwelling hereby permitted shall not be occupied until detailed particulars and plans of the bin stores and surfacing and lighting of the access have been submitted to, and approved in writing by, the local planning authority. The development shall subsequently be implemented in accordance with the agreed details prior to first residential occupation of the dwelling and thereafter retained and maintained in perpetuity.
 - 10) Before the dwelling hereby permitted is first occupied and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any subsequent re-enactment thereof, the highway visibility splays indicated on the approved Site Plan shall be 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.
 - 11) The dwelling hereby permitted shall not 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, have been submitted to, and approved in writing by, the local planning authority. The approved renewable energy sources shall subsequently be installed prior to first occupation of the dwelling, and thereafter retained and maintained.
 - 12) The dwelling hereby permitted shall not be occupied until the vehicle parking shown on the approved plan has been constructed, and this shall thereafter be retained and kept available for those purposes at all times.
 - 13) Any new ground hard surfaces shall be shall either be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site. The hard surface shall thereafter be retained as such unless planning permission is otherwise approved.
 - 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent amendments to or re-enactments thereof), no window, door or other openings shall be created in the roof slopes of the dwelling hereby permitted.

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