



Appeal Decision

Site visit made on 13 August 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/B1740/W/19/3221006

Brockwood, 42 Barton Common Lane, Barton-On-Sea BH25 5PS

- 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 AJ Developments against the decision of New Forest District Council.
 - The application Ref 18/11146, dated 21 August 2018, was refused by notice dated 13 November 2019.
 - The development proposed is to demolish existing dwelling and erect 4 no 3 bedroom houses with garages and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on (i) biodiversity, including protected species (ii) the character and appearance of the area, and (iii) the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

Biodiversity

3. Brockwood is a large single storey dwelling set in landscaped grounds within the settlement of Barton-On-Sea. Access is via an unmade private access road which passes through Barton Common, which is a designated local wildlife site identified as hosting priority habitat. A Public Right of Way (PROW) passes through the Common and intersects with the access road.
4. Paragraph 170 of the National Planning Policy Framework (the Framework) advises that decisions should contribute to and enhance the environment by minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that if significant harm to biodiversity cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused. Circular 06/2005 advises that the presence of a protected species is a material consideration when a development proposal would be likely to result in harm to the species or its habitat. I am required by the Habitats Regulations¹ to consider the potential effect on protected species in such cases.
5. As identified by the Council's ecologist, the potential biodiversity implications of the scheme are three-fold. It would intensify vehicular use of the access track which passes through the Common, demolition of Brockwood and its associated structures may destroy integral habitat, and the felling of trees and clearing of vegetation may also lead to the loss of features used by wildlife. On this last

¹ Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017

- point, the appellant's tree report identifies that there is a medium to high probability of protected species (bats) using trees within the site for roosting.
6. There is therefore a reasonable likelihood of protected species and/or priority species and their habitats being present and affected by the development. As no detailed ecological appraisal or surveys have been submitted, I cannot ascertain the potential effect of the proposal in this regard, or conclude as to the merits of any potentially essential avoidance, compensation or mitigation. I am also unable to consider my responsibility as competent authority regarding the prospect of a European Protected Species (EPS) License being granted.
 7. As such, I cannot be satisfied that the proposal would not have an unacceptable, harmful effect on biodiversity, including protected species. The proposal would therefore conflict with the biodiversity aims of Policy CS3 of the Core Strategy for the New Forest District outside the National Park (adopted 2009) (CS) and the Framework in this regard.

Character and appearance

8. As reflected in the New Milton Local Distinctiveness Supplementary Planning Document (adopted 2010), the part of Barton-On-Sea around the appeal site is punctuated by significant tree groupings and housing becomes less dense nearer to the countryside edge. The appeal site is adjacent to 46 and 38 Barton Common Lane and the group are well enclosed and concealed within tree and hedgerow lined boundaries. As such, they appear to stand alone, separate from both the residential development at the adjacent Silverdale and the lower density housing along Barton Common Road to the south.
9. Public views of the site are largely restricted to the area around the PROW, from where Brockwood is experienced as a starkly rendered building with an extensive mass and a strong horizontal emphasis. It is set forward and its two wings are angled as to face the site entrance, leading it to dominate its plot. Although Brockwood's garden is an attractive feature, it is hidden behind the dwelling. Given the circumstances, the site does not have an appreciable looseness or low density, and, beyond glimpsed views of the mature trees along its rear boundary, it makes no significant contribution to the character of Barton-On-Sea's verdant, peripheral environment.
10. The proposed dwellings would be set back further into the site than Brockwood, utilising a muted palette of materials compatible with the semi-rural setting and the surrounding houses. Small gaps between the buildings and the hipped roofs would break up the massing and allow some filtered views through to the verdant west boundary. Gardens would be of an appropriate contextual shape and size, comparing more favourably to those of 38 and 46, which are on smaller, more tapered plots. The amount of hardstanding would be broadly equivalent to the existing dwelling, which has a large parking forecourt. As such, despite being higher density, the proposed houses would have a softer appearance, harmonious with the surrounding environment.
11. I note from the arboricultural evidence that a significant amount of the green infrastructure on the west boundary would be removed as a consequence of the development. However, the trees of notable merit would be retained, and the site plan indicates that comprehensive replanting would take place. As such, the site's limited contribution to the landscape character of the area would be maintained long term. With regard to pressure for future works, the

Monterey Pine would be a sufficient distance away from Plot 4's rear elevation. Although the middle plots are more contained and closer to the Holly and Oak trees, they have a partially southerly aspect, which will allow adequate sunlight into the garden and dwelling, making it unlikely that there would be justifiable calls for further tree work in the future.

12. I have been directed to an appeal elsewhere in the area². The site in that case occupies a prominent corner position within the street scene. As such, the circumstances in that appeal were significantly different, and the decision has had limited weight in my assessment.
13. I therefore find on this issue that the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the design aims of Policy CS2 of the CS and the Framework. I also find no conflict with the relevant guidance contained within the Housing design, density and character Supplementary Planning Document (adopted 2006) and the New Milton Local Distinctiveness Supplementary Planning Document (adopted 2010).

Highway safety

14. The appellant has calculated, using the TRICS database, that the scheme would generate an additional 15 trips over a 12-hour period, which equates to an average of 1.25 trips an hour. The Council has not disputed these figures and, given the site's location within a well serviced settlement, with good access to pedestrian routes, I find them reliable. Although I accept that this increase would be material, it would nonetheless be modest, and two vehicles meeting in the lane would continue to be an established but infrequent occurrence.
15. The first section of the access road has adequate width for vehicles to share the space, preventing the need for reversing back on to Barton Common Lane. The section nearest to the appeal site, which incorporates the bend in the carriageway and the crossing point of the PROW, has restricted visibility and is not wide enough for vehicles to pass. However, if two vehicles were to meet at this point the exiting party would have the opportunity to reverse back the short distance into the passing and turning space in the vicinity of the houses.
16. Such a manoeuvre would take place in the area of the PROW. As the PROW passes across the woodland floor it is uneven and unsurfaced, which logically restricts the speed of its users. As it intersects the site access, the woodland noticeably gives way to openness of the road. Users of the PROW would therefore have the opportunity to see or hear an oncoming vehicle prior to entering the carriageway, particularly as the environment is largely tranquil and vehicles would be noisy as they passed over the loose surface. Further, given that the constraints of the access road would be known to the majority of drivers, I find it likely that, in all but exceptional cases, vehicles using the lane would be travelling at a proportionately low speed, aware of potential conflict.
17. I acknowledge the poor alignment and uncompacted surface of the road. However, no substantive evidence has been provided to demonstrate that the increase in its use would cause fundamental damage. Although I note from a representation that an ambulance previously encountered difficulty, this is an existing constraint, and there is no evidential basis upon which to conclude that emergency services would be physically unable to gain access to the

² Appeal Ref: APP/B1740/W/19/3226044

development if it were essential to do so. With regard to refuse collection, this is already a practical reality in relation to the existing properties. A designated bin store area could be required by a condition in the event I was minded to allow the appeal. The frequency and type of construction vehicle using the access could also be controlled by a condition.

18. As such, whilst I appreciate the concerns expressed by the Council, the Town Council and interested parties in relation to this matter, there is no substantive basis to conclude that the modest increase in use of the existing access would prejudice its integrity or significantly affect the safety of its users and other users of the highway network.
19. I therefore find on this issue that the proposal would have an acceptable effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. It would accord with the requirements of Policy CS2 of the Core Strategy, the Framework and the guidance within Hampshire County Council's standing advice document in this respect.

Other Matters

20. The site is within influence of the New Forest and Solent Coastal European Sites (the SPAs). There is no dispute that it cannot be ruled out that the proposal would have significant recreational effects on the features of interest of the SPAs. The Council, in carrying out an Appropriate Assessment, has found that payments towards mitigation, as outlined in the Mitigation Strategy Supplementary Planning Document (adopted 2014), could be secured with a negatively worded planning condition. Had I been minded to allow the appeal, it would have been necessary for me to consider this information within an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I have not taken this matter further.

Planning Balance and Conclusion

21. The Council states that it cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 11 d (ii) of the Framework therefore applies, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The houses would contribute towards meeting the shortfall. However, due to the small scale of the development I consider that this benefit would be modest. I cannot be satisfied that the scheme would not have an unacceptable effect on biodiversity, including protected species. Given the advice in the Framework in relation to this matter, and my responsibilities as competent authority in this regard, this is harm which significantly and demonstrably outweighs the benefits of the proposal. The absence of harm in relation to the character and appearance of the area and highway safety are neutral factors in my assessment.
23. Taking all matters into account, I find that the proposal would conflict with the development plan as a whole. There are no other considerations, including the Framework, that outweigh the conflict. As such, the appeal shall be dismissed.

Matthew Jones

INSPECTOR