The Planning Inspectorate

# Appeal Decision

Site visit made on 6 August 2019

**by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 October 2019**

**Appeal Ref: APP/Q1255/W/18/3218999**
**Land rear of Adastral Square, Canford Heath, Poole BH17 8SA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Bournemouth and Poole Estates Ltd against the decision of Bournemouth, Christchurch & Poole Council.
- The application Ref APP/18/00736/P, dated 29 May 2018, was refused by notice dated 9 November 2018.
- The development proposed is described as "Outline application for the erection of 8 residential flats with associated garages, cycle and bin stores."

## Decision

1. The appeal is allowed and planning permission is granted for the erection of 8 residential flats with associated garages, cycle and bin stores at Land rear of Adastral Square, Canford Heath, Poole BH17 8SA, in accordance with the terms of the application, Ref APP/18/00736/P, dated 29 May 2018, subject to the conditions set out in the attached Schedule.

## Procedural Matters

2. The appeal seeks outline permission with landscaping a matter reserved. In so far as the submitted plans and drawings show details of landscaping, I have treated those as being purely illustrative.

3. It is noted that the proposal was initially for 9 flats, but this was amended through the planning application process. The appeal scheme is now for 8 flats, as described above.

4. Since the original planning decision by the Council the Poole Local Plan was adopted in November 2018 providing the statutory development plan for the site. The Council has provided information as to which policies of the new Local Plan that the proposal would relate to. The proposals have been considered against these policies rather than those set out in the Decision Notice.

5. On 1 April 2019 Bournemouth Borough Council merged with Borough of Poole Council and Christchurch Borough Council to become Bournemouth Christchurch and Poole Council. The development plans for the merged local planning authority remain in place for the former area of the Borough of Poole until such a time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved Borough of Poole.

## Main Issues

6. The main issues are the effect of the development on (i) the character and appearance of the area (including the effect to the adjacent playground), and (ii) the habitats of European Protected Sites at Poole Harbour and the Dorset Heathlands.

## Reasons

*Character and Appearance (including effect to the adjacent playground)*

7. The site is in the corner of a yard which is to the rear of some shops with flats above. The area is generally mixed in terms of some retail and residential predominantly. There is a planning history on this site which includes a 6 flat scheme over three storeys (ref: APP/16/00417/F) which has recently expired.

8. The circumstances of the site and the policy context, from the evidence before me, seems similar to that when this previous consent was given. The Council has not suggested that it is now against the principle of developing the site for flats for example. However, this is not a fallback position as the consent has now expired.

9. The main difference between the previously approved scheme and the appeal proposal is the additional storey so that 8 flats are now proposed, instead of the 6 included previously. The proposed building would now include a flat roof rather than the pitched roof previously approved.

10. The four storey building as proposed would be taller than most in the area, although the buildings that surround Adastral Square are of a comparable height with pitched roofs. In my opinion, the proposed flats would not appear overly dominant or prominent adjacent to these existing buildings, with the height differences not being significant in this context.

11. The flats would be taller than nearby houses, but the development would be seen more in the context of the tall pitched roof buildings around Adastral Square, due to their close proximity to the site, for example.

12. The proposed elevations have been 'broken-up' and the top storey set back to give a subservient appearance to the rest of the building. The modern flat development design is suitable for this development and there is no particular benefit in visual appearance terms to try to incorporate a pitched roof as part of the scheme. The garages at ground floor would not, in my opinion, be a prominent feature, given its surroundings and limited views of this elevation from public areas.

13. The proposed development would cast a shadow over the adjacent play ground area. However, the level of overshadowing would not be extensive given the height of the proposed building against an already tall brick wall. It would also only be for a relatively short period of the day, given the orientation. Furthermore, I see no particular reason why having a view of the flats from the playground would result in an overbearing impact or dissuade people using this facility. This is a sizable play area, and which mitigates against any overbearing impact some may perceive. I also recognise the potential benefit of natural surveillance over the playground from the proposed flats.

14. Overall, I regard the design and scale of the proposed flats as being appropriate and would not be a form of overdevelopment. It would therefore have no harm to the character and appearance of the area or have a negative visual impact. The proposal also would have no significant detrimental effect to the future enjoyment of the adjacent playground area. As such, the proposal is in accordance with policies PP27 and PP28 of the Poole Local Plan, adopted in November 2018. These policies seek to, amongst other things, require development to be of a good standard of design, be in keeping with neighbouring buildings, and ensure against harmful impacts to neighbour amenities.

*Habitat Sites*

15. The appeal site lies within a zone of proximity to the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and the Dorset Heaths Special Area of Conservation (SAC) where developments, either on their own or in conjunction with other proposals, are likely to have an adverse effect on the integrity of the SPA. Additional pressures in this regard will arise as a result of new house building. Accordingly, I consider that occupation of the proposed development would be likely to increase recreational pressures on the SPAs and, either alone or in combination with other development in the area, would have a significant effect on them. It is therefore necessary for an Appropriate Assessment (AA) to be undertaken.

16. In this case, the cumulative effects of potential development within the Poole area on the protected sites have been assessed in the Dorset Heathlands Planning Framework 2015-2020, dated January 2016 (the Mitigation Strategy). These have resulted in an implementation plan to mitigate the impact of new housing development upon the Dorset Heaths Special Protection Area. The measures included within this Implementation Plan are funded partly by CIL receipts and partly by payments secured through planning obligations.

17. Furthermore, the proposal also has the potential to effect Poole Harbour, which is another SPA. These relate to water quality and the pressures arising from recreational activities. Whilst the effects on Poole Harbour were not referred to in the Council's reasons for refusal, they were referred to in the Council's statement. It states that it has brought forward Interim Guidance, pending the introduction of the Supplementary Planning Guidance. This includes a charging schedule detailing the contributions that will be required to mitigate the adverse effects of development on the Poole Harbour SPA.

18. Considering the proposal would result in the introduction of 8 new dwellings in Poole, based on the evidence provided, including the Dorset Heathlands Mitigation Strategy and the Poole Harbour Interim Guidance, the increase in people in the area to be housed by the development would likely have an impact to these important ecological areas within close proximity to the site, such as through recreational pressures.

19. It is permissible for me, at this stage, to have regard to any proposed avoidance or mitigation measures. A legal agreement, signed and dated 10 October 2019, provides for the appropriate contribution to be made in accordance with the Mitigation Strategy and Interim Guidance. With this in place, I conclude that the effects of this proposal on the protected areas would be sufficiently mitigated so that no harm to their integrity would result.

20. The Council has accepted and signed the legal agreement under Section 106 of the Town and Country Planning Act 1990 as it would ensure that the financial contributions would be paid before the commencement of development. Furthermore, Natural England confirmed that a legal agreement to collect mitigation measures in accordance with the mitigation would be suitable, following an appropriate assessment.

21. The contributions 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, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

22. As competent authority for the purposes of the Habitats Regulations, I am satisfied that the proposal would not have an adverse effect on the integrity of European protected sites. Consequently, the proposed development would not adversely affect the Dorset Heathland or Poole Harbour European Sites and would not conflict with the National Planning Policy Framework (the Framework) or Local Plan policy PP32 in this regard.

**Other Matters**

23. The proposed building would be visible from some neighbouring houses, which may obscure some views. However, considering the distance to the nearest neighbouring properties I do not regard the proposed flats as having a significant impact to outlook or overshadowing effect.

24. There has been an indication of some anti-social behaviour in the area of the site, but there is no substantive evidence that the proposed development would increase any problems in this regard.

25. The proposal would result in some additional parking requirements, although I regard the parking provision along with cycle storage to be adequate to avoid any significant impact to parking pressures in the area. This is considered with regard also to the accessible location of the site, near shops and services for example.

**Conditions**

26. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.

27. I have attached the standard time limit condition for an outline application and a plans condition as this provides certainty.

28. Conditions requiring the parking provision, cycle storage and bin storage have been included, so that the site provides good quality amenities for future occupiers and options for use of sustainable forms of transport.

29. A condition requiring on-site renewable energy sources to an appropriate level has been included, to mitigate against the environmental and climate change impacts of the development.

30. There is also to be a condition requiring the bollards and marked out footpath to provide safe access for future occupiers. There shall also be a condition requiring details of surfacing/hard landscaping to ensure the access road is to a suitable standard for future occupiers and visitors to the development.

31. The recommended condition for details of lighting has not been included, as it has not been sufficiently demonstrated that this is necessary in relation to the proposed development. From my understanding, the access and service area are already in use and it is not clear why the lighting of this area needs to be controlled by condition.

**Conclusion**

32. For the reasons given above the appeal is allowed.

*S Rennie*

INSPECTOR

**Schedule – Conditions**

1. Details of the landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3. The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matter to be approved.

4. The development hereby permitted shall be carried out in accordance with the following approved plans, other than where they relate to landscaping:

   Topographical Survey 0088_01 1:200

   Amended Site, Location and Plan ASAL.0518.003

   Amended Proposed Floor Plans ASAL.0818.001

   Amended Proposed Elevations ASAL.0818.002

5. Prior to first occupation of the first flat, the bollards as shown on the approved plans shall be constructed in accordance with details and specification to be submitted to and approved in writing by the Local Planning Authority and subsequently retained. The pedestrian route, as indicated on the approved plans, shall be permanently marked out and kept clear and available for the safe passage of pedestrians.

6. Prior to the first occupation of the first flat, the bin store shown on the approved plans shall be available for use. It shall thereafter be retained as such.

7. Prior to first occupation, details of the hard surface/landscape works, to make good the surface treatment of the access/service road shall be submitted to and approved in writing and include a timetable for the works. The approved details shall then be implemented and thereafter maintained and retained.

8. 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 and subsequently implemented prior to first occupation of the building, retained and maintained.

9. The development hereby permitted shall not be brought into use until the cycle storage, parking spaces and garaging shown on the approved plan have been constructed and ready to use, and these shall thereafter be retained and kept available for those purposes at all times.