



Appeal Decision

Site visit made on 28 October 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2019.

Appeal Ref: APP/E1210/W/19/3234766

122 Matchams Lane, Hurn, Christchurch BH23 6AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Stuart Ward against the decision of Christchurch Borough Council.
 - The application Ref 8/18/3565/FUL is dated 18 December 2018.
 - The development proposed is demolition of the existing buildings and construction of a replacement detached house with associated parking, access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing buildings and construction of a replacement detached house with associated parking, access and landscaping at 122 Matchams Lane, Hurn, Christchurch, BH23 6AN, in accordance with the terms of the application, Ref 8/18/3565/FUL, dated 18 December 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 1 April 2019, Christchurch Borough Council merged with Bournemouth Borough Council and Poole 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 Christchurch Borough Council until such a time as they are revoked or replaced. It is therefore necessary for me to determine this appeal with reference to policies set out in the plans produced by the now dissolved Christchurch Borough Council.
3. The appeal was submitted against the failure of the Council to determine the application within the prescribed period. Since the appeal was lodged, the Council has indicated that, had it been in a position to determine the application, it would have refused it for two reasons relating to its effect on the openness of the Green Belt and on the biodiversity value of the area. However, since the appeal application was lodged, further comments from Natural England and the Council's Natural Environment Team have been submitted in respect of the second putative reason for refusal. The Council's position is that this issue could now be satisfactorily addressed by way of planning condition and I shall proceed on this basis.
4. Notwithstanding that the proposed detached garage is shown on the submitted site plans, the appellant indicated to the Council on the 26 April 2019 that this element was to be removed from the proposal. As such, I have deleted this element from the description of the proposed development.

5. During my site visit, I also noted that the original dwellinghouse had already been demolished and that a mobile home was positioned on site.

Main Issues

6. In light of the above, the main issues are:
- whether the development would be inappropriate development within the Green Belt and whether it would harm its openness, having regard to the National Planning Policy Framework (the Framework) and policies in the Development Plan; and
 - if the development would be inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

7. From the evidence, it appears that the appeal site was previously occupied by a structure that had been used as a residential dwelling over a considerable period of time. The building was a modest, single storey structure with a utilitarian appearance. Although no certificate of lawfulness¹ was sought or granted, the Council accepted the lawful use of the site and planning permission was granted for a replacement dwelling on 2 March 2018².
8. The approved replacement dwelling would take the form of a single storey structure with modern asymmetric roof profile set back towards the rear of the site. A separate detached garage would be sited on the southern side of the site, closer to the road which runs adjacent to the eastern boundary.
9. The site is currently laid to grass, surrounded by a high timber board fence and has a mobile home sited close to its point of access. The site is adjacent to a large commercial building to the south and there is also a separate detached dwelling on low lying ground to the west. Other than these buildings, the area is generally rural and wooded with dispersed tourist parks and businesses to the north.
10. The appeal sites lies within the Green Belt which is protected for its undeveloped and generally open character. The Framework indicates that new buildings should be considered inappropriate within the Green Belt with a number of exceptions, including where a building is to be replaced and provided the new building is in the same use and not materially larger than the one it replaces. Policy KS3 of the Core Strategy³ pre-dates the Framework and makes no references to inappropriate development nor the exceptions, however, it is broadly consistent with the Framework's aims to preserve the openness of the Green Belt.
11. Under the Christchurch Borough-wide Character Assessment Supplementary Planning Guidance (SPG) (2003), the site also falls within the Hurn Bridge and Hurn Court Character Area. Amongst other things, the area is described as being enclosed and contained by landform and forest landscapes, with scattered development pattern of historic buildings and building groups and

¹ Certificate of Existing Lawful Use under Section 191/2 of the Town and Country Planning Act 1990

² Ref 8/17/3130/FUL

³ Christchurch and East Dorset Local Plan – Part 1 – Core Strategy – Adopted April 2014

individual building groups set within distinct spaces of paddocks, fields or woodland edge landscapes. The appeal site generally fits with the description of the wider CA.

12. The permission for the replacement dwelling and garage was treated as a replacement building not materially larger than the one it was to replace. It was not deemed inappropriate development under the terms of the Framework on this basis.
13. The original dwelling and associated buildings have been demolished but no further works have commenced. Whilst the Council have indicated that the pre-commencement conditions have been breached, I have limited information in this regard. In any case, given the limited works that have been undertaken on site, there would appear to be sufficient opportunity to remedy any breaches before any physical works involving the construction of the dwelling take place. As such, the extant permission still remains the baseline from which to assess any potential impacts on the Green Belt and character of the area.
14. As detailed in the Council's evidence, the current proposal seeks to provide a dwelling with a total floor area of approximately 266 sqm with integral basement level garage. Notwithstanding that its footprint is still shown on the submitted site plans, the detached garage has been omitted from the proposal. The Council has accepted this alteration. I also consider that this omission is necessary in the interests of protecting the openness of the area.
15. Given that the basement level would be below the single storey dwelling and would not increase its height or overall massing, I do not consider that this aspect has an impact on the openness of the area or the visual qualities of the area.
16. In view of the omission of the garage and the deduction of the volume of the basement level, the proposal would be similar in scale and massing to the scheme approved in 2018 and thus would not be materially larger than either it or the original dwelling. In visual terms, given the overall scale, massing, siting and design of the proposal, I consider that the proposal would be no more harmful to the openness of the area than the extant scheme or the original dwelling.
17. In addition to the effect of the proposal on the openness of the Green Belt, I have considered the effect of the proposal on the character and appearance of the area. For reasons of its scale, siting, massing and improved design, the proposal would not harm the character or appearance of the surrounding areas.
18. In view of this main issue, the proposal is not inappropriate development and would not have a harmful effect on the openness of the Green Belt. The proposal therefore complies with Core Strategy Policy KS3 and the Framework.

Other Matters

19. I note the comments from the Parish Council in respect of the need for a condition preventing habitation of the garage. However, as the garage has been excluded from the scheme, such a condition is not necessary.
20. I note that the appeal proposal is within approximately 150 metres of Town Common which is a designated Site of Specific Scientific Interest and which also forms part of the Dorset Heathlands Special Protection Area and Dorset

Heaths Special Area of Conservation and Ramsar site. Notwithstanding its close proximity, the Council has indicated that the proposal would not result in an increase in residential dwellings and thus, the Habitats Regulations⁴ are not triggered. I have no reason to disagree with this conclusion.

21. The Council has indicated that in the event that the appeal is allowed, that informatives should be added in respect of the appellant's duty to pay any monies due under the Community Infrastructure Levy at the appropriate juncture, and to require the removal of a mirror which has been erected on the opposite side of the road from the application site. As these are matters separate to the current planning appeal and are not necessary to condition to make the development acceptable in planning terms, I have not considered these aspects further.

Conditions

22. I have considered the conditions in light of paragraph 55 of the Framework and the Planning Practice Guidance. I have undertaken some minor editing in the interests of precision and clarity.
23. In addition to the statutory time limit conditions, it is necessary to list the approved plans in the interests of certainty.
24. Pre-commencement conditions are necessary in relation to tree protection and biodiversity enhancement measures. Additional pre-commencement conditions in respect of the submission and approval of a construction traffic management statement, drainage schemes (both surface and foul water) and the precise means of access are also necessary. The appellant's agreement has been sought prior to the imposition of any pre-commencement conditions.
25. In the interests of the visual qualities of the area, it is necessary to impose conditions relating to construction materials and landscaping. It is also necessary to condition the provision of the access and parking prior to occupation of the dwelling.
26. Lastly, a condition relating to the removal of permitted development rights is necessary in order to ensure that future works that may otherwise harm the openness of the Green Belt is prevented given that an increased built mass over and above the original dwellinghouse has already been accepted.

Planning balance and conclusion

27. For the above reasons and taking into account all other matters raised, the appeal is allowed, subject to the conditions set out below.

Hollie Nicholls

INSPECTOR

⁴ The Conservation of Habitats and Species Regulations 2017

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Notwithstanding the details shown on the submitted plans, no detached garage shall be constructed and the development hereby permitted shall be otherwise carried out in accordance with the following approved plans:
 - 18-RG/297/005 J Site Plan Showing New Dwelling & Levels
 - 18-RG/297/002 H Elevations 1
 - 18-RG/297/001 H Floor Plans
 - 18-RG/297/006 D Block and Location Plan
 - 18-RG/297/003 H Elevations 2
- 3) Other than for the erection of tree protection, before any equipment, materials or machinery are brought onto the site, a pre-commencement site meeting between the Local Planning Authority (in consultation with the Tree Officer), Arboricultural Consultant and Site Manager shall take place to confirm the methods of protecting trees on and adjacent to the site during development in accordance with the Arboricultural Impact Assessment and Tree Protection Scheme ref: JH/AIA/18/073, dated 04/01/19. The tree protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority.
- 4) Prior to commencement of development hereby approved the applicant shall submit for approval in writing by the Local Planning Authority a Biodiversity Mitigation and Enhancement Plan certified by Dorset County Council Natural Environment Team (DCC NET).

The proposed development shall be carried out in accordance with the mitigation measures and recommendations of the certified BMEP.
- 5) Prior to commencement of the development hereby approved, a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

The approved Statement shall be adhered to throughout the construction period.
- 6) Prior to the commencement of the development hereby approved, a foul and surface water drainage scheme, to include appropriate arrangements

for the discharge of foul and surface water, shall be submitted to and approved in writing by the Local Planning Authority.

The drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the Local Planning Authority and shall be retained thereafter.

- 7) Prior to commencement of the development hereby approved, a scheme showing precise details of the means of access to the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved scheme.
- 8) Prior to any commencement of works above ground level, details of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Samples of the materials to be used will be made available for the Local Planning Authority to inspect on the application site. All works shall be undertaken strictly in accordance with the details as approved.
- 9) Prior to any commencement of works above ground level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials; means of enclosure; details of boundary planting, schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate).

The landscape works shall be carried out as approved prior to the occupation of the dwelling hereby approved.

- 10) Pursuant to condition 3 above, in order for the condition to be discharged, the Local Planning Authority shall be given 5 working days' notice in writing for a site inspection in the event of any or all of the following occurrences:
 - Any removal of the specified tree protection to facilitate the landscape scheme;
 - Any alteration to the scheme of tree protection;
 - Prior to commencing excavations for drains and soakaways;
 - Prior to the removal of the tree protection measures.

Subsequently the works will be carried out in accordance with the agreed programme and timescale.

- 11) The dwelling hereby approved shall not be first occupied until the access, turning and parking shown on the approved plans has been constructed. Thereafter, these areas shall be maintained, kept free from obstruction and available for the purposes specified.
- 12) Notwithstanding the provisions of Schedule 2, Part 1 Classes A, B, C, D, E and F of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof no extension to the dwelling, porch, garden shed, greenhouse, garage or car port shall be erected nor any hardstanding area extended without express planning permission first being obtained.

CONDITIONS END