The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Appeal Ref: APP/D1265/W/19/3236834
1 Watergates Lane, Broadmayne DT2 8HA

- 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 Mr Read against the decision of Dorset Council.
- The application Ref WD/D/18/001612, dated 13 July 2018, was refused by notice dated 29 August 2019.
- The development proposed is 2 no. detached dwellings with off road parking.

Decision

1. The appeal is allowed and planning permission is granted for 2 no. detached dwellings with off road parking at 1 Watergates Lane, Broadmayne DT2 8HA in accordance with the terms of the application, Ref WD/D/18/001612, dated 13 July 2018, subject to the following conditions:

    1) Details of the access, appearance, landscaping, layout, and scale (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 last of the reserved matters to be approved.

Preliminary matters

2. The appeal relates to an application for outline planning permission. A site plan has been provided indicating how the development could be laid out, but as all matters are reserved for subsequent consideration, I have treated this as purely illustrative.

Main Issues

3. The main issues are the effect of the development on (i) the character and appearance of the area; (ii) the living conditions of neighbouring residents with particular regard to privacy and outlook; and (iii) the living conditions of future residents with particular regard to privacy, and the likely size of internal and external areas.

Reasons

Character and appearance

4. The area is suburban in character. The site is one of a number of terraced dwellings on Watergates Lane at the edge of the settlement that have long gardens extending out to open fields. On the opposite side of Watergates Lane are the rear boundaries of a further housing area, Old Brickfields, where dwellings are generally detached and more informally arranged, but still with substantial plots. The site is a corner plot where Watergates Lane meets Knighton Lane. It is significantly raised up from Knighton Lane such that views into the site from here are not readily available.

5. The proposal would provide two new dwellings to the rear of No.1. Given the level change to Knighton Lane, the dwellings would have no true road frontage and so would introduce a form of development somewhat at odds with the prevailing character of the area. The provision of two new dwellings on the rear garden would also result in plot sizes that would likely be much smaller than most others in the vicinity.

6. However, the dwellings would be hidden from Watergates Lane by No.1 and largely screened from Knighton Lane by the levels. The layout and the proximity of any dwellings to their respective boundaries would not therefore be readily discernible from outside the site. Therefore, no demonstrable harm would arise to the character and appearance of the area. Accordingly, I find that there would be no conflict with those aims of Policy ENV12 of the West Dorset, Weymouth and Portland Local Plan 2015 (LP) that seek to ensure that development respects the character of the surrounding area.

Neighbouring residents

7. The illustrative plans suggest that the dwellings would be arranged alongside a new access drive stretching back from the side of the existing No.1. In such an arrangement, they would be close to the side boundary of No.2 Watergates Lane. Two storey dwellings in this location would have a harmful overbearing effect on the outlook of No.2 which has a considerably narrower garden than No.1.

8. However, scale is a reserved matter and neither the appellant nor the Council have suggested that single storey dwellings could not be constructed on this site. Given the height of the boundary fence and hedge between Nos. 1 and 2, the effect of any single storey dwellings would not be overbearing on the outlook of No.2.

9. Similarly, appearance and layout are also reserved matters. If they were sited as suggested, there is no substantive evidence that dwellings could not be designed without first floor windows facing towards Nos. 1 or 2, or their garden areas. If confined to a single storey, conventional suburban boundary treatments would sufficiently protect the privacy of these existing dwellings.

10. I, therefore, find that the proposal would not harm the living conditions of existing neighbouring residents. Accordingly, there would be no conflict with that part of LP Policy ENV16 that seeks to minimise the impact of development on the amenity of existing residents, including through protecting privacy and preventing excessive overbearing impacts.

Future residents

11. If the site were developed as suggested, the rear garden of plot 2 would be directly aligned with an existing first floor window of No.1 Watergates Lane. However, the distance would be similar to those found in many suburban environments where dwellings back onto one another. Indeed, the Council's officer report indicates that minimum rear garden depths of 10m can be found at Old Brickfields, suggesting that this is a suitable distance for a dwelling to be from a neighbouring garden boundary.

12. LP Policy ENV12 indicates that new dwellings must comply with national technical standards. However, whilst the submitted plans are for illustrative purposes only, the suggested footprints are larger than the required internal space for a single storey one-bedroom dwelling for both single and two-person occupancy. There is, therefore, no robust evidence that suitably sized dwellings could not be accommodated within the site to provide adequate living accommodation.

13. Turning to the external space, in the layout shown this would certainly be limited in size, particularly between the rear of the dwelling and neighbouring property boundary. However, the Council accepts that there is no policy setting out minimum garden sizes which would appear to be commensurate with the internal space described in my preceding paragraph. There is no substantive evidence that the spaces, which have been suggested to extend around the sides of the dwellings, would be insufficient to accommodate clothes drying, refuse and cycle storage, even if those side areas were not readily useable for sitting out and the like.

14. The Council has suggested that the requirements of the Local Highway Authority, which may result in a greater land-take by parking and access facilities, would further reduce the available garden space. However, space around the access, parking and turning areas on the illustrative plans could be reduced without affecting my above findings.

15. Whilst the dwellings and their garden spaces would likely be smaller than many others in the locality, I have found that they would provide adequate internal and external living space for their future occupiers. Therefore, there would be no conflict with those aspects of LP Policies ENV11, ENV12 or ENV16 that seek to provide adequate living conditions for future residents, including adequate provision for refuse storage, cycle parking and drying areas.

Other matters

16. The Parish Council have suggested that inadequate parking and turning facilities exist. However, the Council has confirmed that the parking provision may be appropriate given the likely scale of dwellings and accessibility of the site by public transport. If more parking is found to be required, that could be addressed at the reserved matters stage. The adequacy of sprinklers to achieve compliance with the building regulations would be considered through that alternative legislative process, as confirmed by the Council.

Appropriate Assessment

17. The above analysis indicates that conditions are in place that could lead to the grant of planning permission. The Council's officer report indicates that the site is within 5km of Warmwell Heath Site of Special Scientific Interest (SSSI),

which is part of the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC). The report also sets out that it is within the catchment of Poole Harbour SSSI, SPA and Ramsar Site.

18. I have no reason to disagree with the Council's suggestion that due to their proximity, increased recreational pressure and nutrients entering the harbour area via the sewerage network, could form pathways leading to significant adverse effects on the integrity of these European nature conservation sites (European Sites). Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 is, therefore, required. This I have conducted on a proportionate basis with regard to the evidence provided by the Council[1] and the consultation responses from Natural England provided with the Council's appeal questionnaire.

19. The evidence suggests that increases in the human population due to new residential development results in additional nitrogen entering Poole Harbour. Such is contributing to the growth of wide spread algal mats through the process of eutrophication that restrict the growth, distribution and variety of important food available for wading birds, amongst other impacts. The Council has conducted its own Appropriate Assessment for the development that indicates that Community Infrastructure Levy (CIL) receipts from the development would be used to fund nitrogen reduction measures in Poole Harbour. Such measures are set out in the Nitrogen Reduction in Poole Harbour SPD 2017.

20. Furthermore, the intensification of residential development has placed additional pressure on the Dorset Heaths, including increases in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation, soil erosion and disturbance by humans and their pets. Such has had an adverse effect on the heathland ecology.

21. As with the Poole Harbour sites, the Council's Appropriate Assessment indicates that CIL receipts would eb taken towards mitigating the effects of recreational pressure on the Dorset Heaths and Heathlands European Sites. The mitigation would take place in accordance with the Dorset Heathlands Planning Framework SPD 2016.

22. Having considered the Council's Appropriate Assessment, Natural England have confirmed agreement that the mitigation in accordance with the two SPDs referred to above would provide sufficient avoidance/mitigation that adverse effects on the integrity of the site are avoided for all affected European Sites. Placing substantial weight on Natural England's response as Statutory Nature Conservation Body, following my own Appropriate Assessment, I am also satisfied that significant adverse effects would not occur.

Conditions

23. Conditions are required to secure the approval of the reserved matters. A plans condition is not necessary as all matters are reserved, the submitted site plan is illustrative, and the location plan does not contain any specific details that the development must accord with. The Council has suggested a condition that the submitted layout details must show the access to the highway,

[1] Appropriate Assessment for Application ref: WD/D/18/001612 (1 Watergates Lane, Broadmayne); The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document 2016; Nitrogen Reduction in Poole Harbour Supplementary Planning Document 2017

driveway layout and parking and turning areas. However, as these are all clearly a part of access and layout, they would be submitted as a matter of course and a separate condition is not necessary.

24. The Council has also suggested a condition requiring the obscure glazing of various upper floor windows. However, as layout, appearance and scale are reserved matters, there is no certainty at this stage about which elevations may contain windows, the direction they would face, or whether the scale or scale of development would warrant such a condition in any case. Such a condition is therefore unreasonable to impose at this stage and would be inherently imprecise.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

M Bale

INSPECTOR