



Appeal Decision

Site visit made on 9 October 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

Appeal Ref: APP/V1260/W/19/3230018

44 Montagu Road, Highcliffe, Christchurch BH23 5JX

- 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 David James Architects against the decision of Christchurch Borough Council.
 - The application Ref 8/18/2997/FUL, dated 22 October 2018, was refused by notice dated 8 February 2019.
 - The development proposed is demolition of outbuildings and construction of single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of outbuildings and construction of single storey dwelling, at 44 Montagu Road, Highcliffe, Christchurch BH23 5JX in accordance with the terms of the application Ref 8/18/2997/FUL, dated 22 October 2018, subject to the following conditions:
 - 1) The development hereby approved shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby approved shall be carried out in accordance with the following approved plans and drawings: 1831 56 Existing Survey; 1831 51 Location and Block Plan; 1831 52 Site Plan; 1831 53 Floor Plans; 1831 54 Elevations and 1831 55 Indicative Street Scene.
 - 3) Prior to the commencement of the development hereby approved, details and samples of all external facing and roofing materials including boundary treatments shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be undertaken in accordance with the approved details.
 - 4) Prior to the commencement of the development hereby approved a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. This shall include the following: Car parking provision for contractors, details of material storage areas and site hoarding. The development hereby approved shall be undertaken in accordance with the approved CMP.
 - 5) Prior to the commencement of the development hereby approved a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of all retained landscaping, proposed landscaping, a programme for its implementation and the means to provide for its future maintenance. Thereafter the

approved landscaping scheme shall be undertaken and maintained in accordance with the approved details. Any trees or plants which within a period of 3 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) Before the development hereby approved is occupied the first 5 metres of the vehicular access, measured from the rear edge of the highway, must be laid out and constructed to a specification submitted to and approved in writing by the local planning authority.
- 7) Before the development hereby approved is occupied the existing highway vehicular crossing must be expunged and reinstated to a specification which must be submitted to and approved in writing by the local planning authority.
- 8) Before the development hereby approved is occupied the parking area shown on Drawing Number 1831 52 Site Plan, must have been constructed. Thereafter, this area must be permanently maintained, kept free from obstruction and available for the purposes specified.

Preliminary Matters

2. On 1 April 2019, Christchurch Borough Council ceased to exist and became part of a new Unitary Authority known as Bournemouth, Christchurch and Poole Council. The development plans for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies of the adopted Christchurch and East Dorset Local Plan Part 1-Core Strategy (2014) (CS) and saved policies of the Borough of Christchurch Local Plan (2001) (LP).
3. Pursuant to Section 106 of the Town and Country Planning Act 1990, the appellant has submitted a signed and dated unilateral planning obligation at the appeal stage (Unilateral Undertaking). This includes a covenant for a financial contribution of £263 index linked towards the Dorset Heathlands Mitigation Strategic Access Management and Monitoring (SAMM), plus administrative fee of £75. I shall return to this matter later.

Main Issues

4. The main issues are the effects of the proposal on the character of the area, and; the integrity of the Dorset Heathlands Special Protection Area, Dorset Heaths Special Area of Conservation, and Dorset Heathlands Ramsar sites ('the Dorset Heathlands').

Reasons

Character of the area

5. The appeal site comprises land that forms part of the rear garden of 44 Montagu Road (No 44). The site is occupied by a double garage and sheds, which are accessed from Mill Lane.
6. No 44 is a detached chalet bungalow located on the corner of Montagu Road and Mill Lane within a generous plot. It forms part of a wider residential area, which is characterised by a range of property designs and styles, including

bungalows, two storey properties and chalet bungalows. In particular, along Mill Lane the spacing between dwellings is varied as is the positioning of dwellings relative to Mill Lane. The plot sizes and frontage treatments to properties are also different. Cumulatively, these factors contribute to a diverse streetscene.

7. The proposed dwelling would be single-storey and of a contemporary design, served by a new vehicular access off Mill Lane. It would be sited to face Mill Lane and to broadly align with the sizeable side elevation of No 44. Although the proposed dwelling would be forward of the adjoining bungalow at 5 Mill Lane (No 5) and close to the road, in views from along Mill Lane, the extent of this would be largely mitigated by its modest scale and existing dwellings and the landscaping and boundary treatments associated with these.
8. Further, the proposed dwelling would be afforded generous separation of approximately 5m from the rear boundary of No 44. While there would be a lesser gap of about 1.5m from the common boundary with No 5, the off-set of these properties from each other, combined with the difference in roof forms and heights, would produce a good degree of space around the buildings. Consequently, and despite the proposed building occupying a comparatively greater proportion of its plot, due to its low-lying design, appropriate siting and spacing it would be compatible with the varied arrangement of dwellings along Mill Lane.
9. Furthermore, the proposed dwelling would be of a similar size and in the broad location of a detached swimming pool building, which has previously been approved at No 44¹. Whilst this is not determinative, it lends support to my overall view that the new dwelling would be acceptable in the proposed location.
10. Drawing on the above reasons, the proposal would not harm the character of the area. Accordingly, I find no conflict with the design aims of Policy HE2 of the CS, which along with other matters requires development to be compatible with its surroundings, or Policy H12 of the LP, which amongst other things requires that proposals are appropriate in character, scale and design to the immediate locality.

The Dorset Heathlands

11. The site is situated between 400 metres and 5km of the Dorset Heathlands. In combination with other residential development in the area, development would be likely to have a significant effect on these sites, and without mitigation it could not be ascertained that the integrity of the sites would not be adversely affected.
12. CS Policy ME2 states that development between 400 metres and 5km of the designated Dorset Heathland sites needs to provide mitigation through a range of measures which must be delivered in advance of the developments being occupied and must provide for mitigation in perpetuity, secured by way of a legal agreement. The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (SPD) provides further detail, setting out the Council's approach to the mitigation of harmful effects on the designated sites. It requires all new residential development between 400 metres to 5km

¹ Ref. 8/18/1609/HOU

of the protected heathlands to be subject to a financial contribution towards mitigation measures in order to avoid adverse effects on the integrity of the designated sites.

13. The appellants have entered into a Unilateral Undertaking in order to secure the required financial contribution for SAMM to mitigate the development's effect on the designated sites. Financial contributions for mitigation measures are secured through legal agreements and the Community Infrastructure Levy (CIL), the latter of which cover necessary Heathland Infrastructure Projects (HIPs) and are utilised as set out in the Dorset Heathlands Planning Framework SPD and as evidenced in annual monitoring and delivery reports.
14. I have also consulted Natural England who confirm that in respect of delivery of both elements (SAMM and HIPs) the Council has been delivering the necessary measures since 2007 and it has full confidence in this respect that the mitigation will be delivered. From the evidence before me, I am satisfied that the financial contributions arising from the Unilateral Undertaking and the CIL would provide sufficient mitigation and that the mitigation would be secured and implemented in a proper and timely manner.
15. Based on the foregoing, I am able to ascertain, as the competent authority undertaking Appropriate Assessment, that the integrity of the Dorset Heathlands designated sites would not be adversely affected by the development. Consequently, I find that the proposal would accord with CS Policy ME2, the Conservation of Habitats and Species Regulations 2017 and would be consistent with the Dorset Heathlands Planning Framework SPD.

Other Matters

16. The introduction of a modest two-bedroom dwelling, and any additional activity associated with its occupation, including noise and traffic generation would have no significant impact on the living conditions of neighbours.

Conditions

17. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. In addition to the standard timescale condition, I have included a condition specifying the relevant drawings and plans as this provides certainty. The details of the landscaping and proposed materials are important to ensure the satisfactory appearance of the development. A condition requiring a CMP is needed in the interests of the living conditions of neighbours and highway safety.
18. Works to the site's access and other highway works, along with the provision of a parking area within the site are required in the interests of highway safety. The Council has suggested a condition in respect of the siting of gates. However, a sliding gate is shown on the submitted plans and I have not been given any clear reason why this would be unacceptable. In light of this such a condition is not necessary.
19. Having regard to the PPG² no exceptional circumstances have been demonstrated for the Council's suggested condition removing permitted

² Paragraph: 017 Reference ID: 21a-017-20140306

development rights in relation to roof alterations to the proposed dwelling. Therefore, such a condition does not meet the necessity test.

20. Conditions 3, 4 and 5 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

21. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal
INSPECTOR