



Appeal Decision

Site visit made on 19 May 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2020

Appeal Ref: APP/D1265/W/20/3246854

Land adj 544 Wimborne Road East, Ferndown, BH22 9NG

- 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 Grahtone Developments Ltd. against the decision of Dorset Council.
 - The application Ref: 3/19/1351/FUL dated 19 June 2019, was refused by notice dated 14 August 2019.
 - The development proposed is erection of 1 no dwelling.
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Decision

1. The appeal is allowed and planning permission is granted to sever plot and erect 1 no. single storey 2-bedroom dwelling and widen existing access at Land adj 544 Wimborne Road East, Ferndown, BH22 9NG in accordance with the terms of the application, Ref: 3/19/1351/FUL dated 19 June 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of the proposed development in the banner heading above has been taken from the application form. However, the Council's decision notice and the appeal form describe it as: 'sever plot and erect 1 no. single storey 2-bedroom dwelling and widen existing access'. I have used this more precise description in my decision.
3. The appeal site is located within 5 km of the Ferndown Common Site of Special Scientific Interest which is part of the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation. The site is also within 5 km of the Dorset Heathlands Ramsar site. These sites are part of a number of international, European and national designations known as the Dorset Heathlands.
4. One of the Council's reasons for refusal related to the adverse effect that the proposal could have on the integrity of the protected sites in the absence of a mechanism to secure mitigation measures. However, the Council has advised that it is not defending this reason as it is satisfied that appropriate contributions would now be secured through the Community Infrastructure Levy (the CIL). I have sought further comments from both the Council and Natural England on this matter and I return to it below.

Main Issues

5. The main issues are the effect of the proposed development on i) the character and appearance of the area and ii) the integrity of the Dorset Heathlands habitats sites.

Reasons

Character and appearance

6. Wimborne Road East is a long road to the north of the town centre. It is lined with a mixture of residential, commercial and community properties of a variety of ages, designs, materials and plot sizes to either side. The appeal site lies between 544 Wimborne Road East (No. 544), one half of a pair of 2-storey semi-detached Victorian dwellings, and an access road to 546A Wimborne Road East, and 546 Wimborne Road East (No. 546), both detached bungalows. The site appears to have previously formed part of the garden to No. 544 and accommodates a shed but is separated from No. 544 by a wooden fence.
7. Two previous proposals for single-storey dwellings on the site have been dismissed on appeal¹. I do not have the details of the second application, but both the appellant and the Council refer to the first proposal as a comparator to the proposal before me. The current proposal is for a similar dwelling but one slightly lower, slightly narrower and deeper, repositioned so as to be further away from 544, but closer to No. 546.
8. Notwithstanding that plot sizes vary along the road the appeal site is substantially smaller than others in the vicinity that I observed during my site visit. The reduction in width of the proposed dwelling is not significant and the dwelling would still extend virtually the full width of the plot. It would therefore still appear somewhat cramped on its plot.
9. The proposed dwelling would be seen in close proximity to No. 544. I did not observe during my site visit that bungalows adjacent to 2-storey dwellings are a particular characteristic of the vicinity of the appeal site. The relationship between the proposed dwelling and No. 544 would thus exacerbate the somewhat cramped appearance of the proposal and its consequent adverse effect on the street scene. However, that effect would be mitigated by the proposed dwelling's relationship to the existing bungalows to the east and south and its being set back from the road.
10. I therefore conclude that the proposed development would result in limited harm to the character and appearance of the area. Whilst there is no objection in principle to a dwelling on the appeal site as it is within the Ferndown and West Parley Urban Area as designated in the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (2014) (CEDLP), the proposal would nevertheless conflict in respect of character and appearance with Policy HE2 of the CEDLP. This policy sets out that the design of development must be of high quality and that development will be permitted if it is compatible with or improves its surroundings in, amongst other things, layout and site coverage. However, as the harm I have identified would be limited, so would this conflict.
11. The development would thus not fully accord with paragraph 127 c) of the Framework which requires planning decisions to ensure that developments are

¹ APP/U1240/A/05/1183730 and APP/U1240/A/04/1150320

sympathetic to local character. Neither would it fully accord with paragraph 130 of the Framework which sets out that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

The integrity of the Dorset Heathlands

12. The appeal site lies within the Zones of Influence of the Dorset Heathlands SPA, Dorset Heaths SAC and Dorset Heathlands Ramsar site. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an appropriate assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites from the proposal, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
13. The Dorset Heathlands SPA is classified for its regular use by 1% or more of the Great Britain populations of Dartford warbler, Nightjar, Woodlark, Hen Harrier and Merlin, which form its qualifying features. The Dorset Heathlands SAC is classified for its range of heathland habitats, including alkaline fens, European dry heaths and Northern Atlantic wet heaths, which host a range of species including great crested newts and southern damselfly. Together these form its qualifying features. The Dorset Heathlands Ramsar site contains numerous examples of wet heath and acid valley mire. These heath wetlands are amongst the best of their type in lowland Britain and support a large assemblage of nationally rare and scarce species, especially invertebrates.
14. The conservation objectives for the SPA and SAC are to ensure that the integrity of the site is maintained or restored as appropriate, the SPA contributes to achieving the aims of the Wild Birds Directive and the SAC contributes to achieving the Favourable Conservation Status of its Qualifying Features.
15. The proposed development would result in a new dwelling within 5 km of the Dorset Heathlands. Natural England advises that residential development within such proximity is likely to have a significant effect on these sites either alone or in combination with other proposals through urbanising impacts from human pressures and damage caused by domestic pets. I therefore conclude that, in the absence of mitigation, the development would have a likely significant effect on the Dorset Heathlands.
16. However, in the context of an appropriate assessment, I can consider possible mitigation. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (the SPD) has been prepared by Bournemouth, Christchurch and Poole Council and Dorset Council in response to the likely significant effects identified by, and with the advice of, Natural England.
17. The SPD sets out the approach to mitigation of the harm arising from the effects of new residential development through contributions to Heathlands Infrastructure Projects (HIPs) and Strategic Access Management and Monitoring (SAMM). HIPs include the provision of Suitable Alternative Natural Greenspace (SANG) and the improvement of access to other sites. SAMM measures include employing wardens / rangers to manage visitor pressures, employing education officers to raise awareness, undertaking surveys of

heathland users and monitoring protected birds and species. These mitigation measures are delivered through financial contributions secured via the CIL.

18. Natural England has confirmed it supports the approach set out in the SPD and that it is content that a financial contribution towards mitigation measures is sufficient to avoid an adverse impact to the integrity of the European Sites². Although I have no details from the Council as to how the CIL payment would be used to fund specific mitigation for the likely significant effect of this particular development, it will be for Natural England to monitor the implementation and efficacy of the mitigation measures. I am therefore satisfied from the evidence before me that adequate mitigation for the likely significant effects of the proposed development on the integrity and conservation objectives of the Dorset Heathlands can be delivered through the CIL payment.
19. I therefore conclude that, subject to the implementation of the mitigation measures which will be secured through a CIL payment, there would be no adverse effect on the integrity of the Dorset Heathlands SPA, Dorset Heaths SAC and Dorset Heathlands Ramsar site. The proposed development would therefore accord with the Conservation of Habitats and Species Regulations 2017 (as amended), Policy ME2 of the CEDLP and, in this respect, the policies of the Framework for conserving and enhancing the natural environment.

Planning Balance

20. It is accepted that the Council cannot demonstrate a 5-year supply of deliverable housing sites. In this respect, from the evidence before me, the context for the current proposal is different to that which applied when the previous appeals were considered.
21. Although I have no evidence on the extent of the shortfall, paragraph 11 d) of the Framework is therefore engaged. I am satisfied that there would be no adverse effect on the integrity of the Dorset Heathlands habitats sites, so this particular matter carries neutral weight in my decision. Accordingly, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
22. The Framework recognises the Government's objective of significantly boosting the supply of land for housing. Although the contribution of a single dwelling to the local housing supply would be very modest, the dwelling would have social and economic benefits. Local planning authorities are required to support the development of windfall sites and to give great weight to the benefits of using suitable sites within existing settlements for homes. Planning decisions should support development that makes efficient use of land.
23. I have concluded above that the proposed development would have limited conflict with Policy HE2 of the CEDLP, the most important policy for determining the application, even though it carries full weight as being consistent with the Framework's policies on achieving well-designed places. I have also found that the proposal would not fully accord with the Framework's policies on character and appearance.

² By letter dated 24 June 2020

24. On balance, I do not consider that the limited adverse impact I have identified to the character and appearance of the area, when assessed against the policies in the Framework as a whole, significantly and demonstrably outweighs the benefit of the provision of an additional dwelling given the acknowledged need for housing in the area. Accordingly, the proposed development benefits from the presumption in favour of sustainable development.

Conditions

25. In addition to the statutory time limit, the Council has suggested conditions were planning permission to be granted. I have considered these conditions in the light of the tests set out in paragraph 55 of the Framework, amending them where necessary for the sake of clarity and precision. As the condition of the existing fencing to the site is a matter of concern to the occupiers of the neighbouring properties, I have attached a condition regarding boundary treatment.
26. A condition requiring compliance with the approved plans is necessary in the interests of certainty. A condition requiring the approval of materials is necessary in the interests of the character and appearance of the area as it affords greater precision than the materials schedule and indicative swatches shown on drawing PL02. The provision of the turning and parking area prior to occupation is necessary in the interests of highway safety. The implementation of an agreed Biodiversity Enhancement Plan is necessary in the interests of biodiversity in accordance with paragraph 170 of the Framework.

Conclusion

27. In this case the presumption in favour of sustainable development is a material consideration that indicates that a decision should be made other than in accordance with the development plan. For this reason, the appeal should be allowed, and planning permission granted subject to conditions.

Martin Small

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No PL01 Existing and Proposed Site Plans, Location and Drawing No. PL02 Proposed Elevations & Ground Floor Plan.
- 3) Notwithstanding condition 2), no development above slab level shall take place until details of the materials for the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Before the development hereby permitted is first occupied or utilised the turning and parking area shown on Drawing Number PL01 must have been constructed. Thereafter this area must be permanently maintained, kept free from obstruction and available for the purposes specified.
- 5) Before the development hereby permitted is first occupied or utilised all fences, gates or walls must have been erected in accordance with details that have been agreed in writing by the local planning authority. Thereafter all fences, gates or walls shall be permanently maintained and retained in accordance with the approved details.
- 6) The development hereby approved shall not be first brought into use unless and until a Biodiversity Enhancement Plan that has been agreed in writing by the local planning authority has been implemented and completed in full. Thereafter the approved enhancement measures shall be permanently maintained and retained in accordance with the approved details, unless otherwise first agreed in writing by the local planning authority.

End of Schedule