



Appeal Decision

Site visit made on 23 June 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/V1260/W/20/3245560

5 Laurel Close, Christchurch BH23 4PG

- 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 Mr James Havelock against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 8/18/2986/FUL, dated 24 October 2018, was refused by notice dated 16 October 2019.
 - The development proposed is plot split and erection of a new dwelling with associated access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for plot split and erection of a new dwelling with associated access and parking at 5 Laurel Close, Christchurch BH23 4PG in accordance with the terms of the application, Ref 8/18/2986/FUL, dated 24 October 2018, subject to the conditions in the attached schedule.

Procedural matters

2. The Council's initial letter notifying interested parties of the appeal indicated that the appeal would be determined by way of a Hearing. This was later corrected by a further letter describing the written representations procedure. I am, therefore, satisfied that interested parties have been given the appropriate opportunity to comment during the appeal process.
3. An amended site plan, ref 2051-01 D, was provided to the Council during the consideration of the application. However, having sought clarification from the Council, they do not appear to have considered this plan in the determination of the application. Whilst the differences may be small, I cannot be sure that all relevant parties have had the opportunity to comment on the amended plan. I have, therefore, determined the appeal on the basis of the plans listed on the Council's decision notice.

Main Issue

4. The main issues are the effect of the development on the living conditions of future occupiers of the site; and the effect on the character and appearance of the area.

Reasons

Living conditions

5. There are large, mature trees on the site, protected by a Tree Preservation Order. The trees cast shade over much of the proposed garden area at various times of day. However, whilst it would be wrong to assume that all future occupants would prefer to receive sun late in the afternoon, the appellants photographic analysis of shade indicates that some parts of the garden would receive some sun at most times. Therefore, whilst in different parts of the site at different times, an appropriate balance of sunny and shady garden space would be available to future residents throughout most of the day.
6. The trees would also have an effect on daylight falling on the internal spaces. Whilst the design incorporates large windows in response to this, the appellant's Daylight Assessment¹ indicates that a noticeable effect would arise from the trees. Nonetheless, the conclusions of that Daylight Assessment indicate that internal daylight levels would accord with guidance set out in BRE – Site Layout Planning for Sunlight and Daylight: A Guide to Good Practice (2011) and there is no substantive evidence to refute this. I, therefore, find that there would be adequate daylight within the internal spaces.
7. It is possible that debris falling from trees could produce a nuisance to future occupiers. However, there is no clear evidence that this would arise to such a degree that it could not be tolerated by future residents. Nor, given the current health of the trees, is there any indication that they would cause a danger to the proposed dwelling or its occupants.
8. I, therefore, find that the proposed dwelling would have an acceptable relationship with the existing trees and there would not be significant pressure to substantially prune or fell them.

Character and appearance

9. Laurel Close is part of a wider area of single and two-storey dwellings with a suburban character. Many buildings, whilst having road frontage, are set back creating a spacious environment. The dwellings have a fairly uniform style and appearance that is grounded in a strong landscape setting of long established and mature trees, many of which are visible between and above the buildings. The trees on the appeal site make a strong contribution in this regard and are seen as part of a wider group on adjoining land.
10. Laurel Close has the appearance of a small cul-de-sac of bungalows arranged around a turning head. They have a similar set-back to one another, with the dwellings being broadly square to the carriageway edges. The proposed dwelling would be set further back on its plot, close to its rear boundary. It would not have such a strong relationship to the street as its neighbours.
11. However, despite its siting, it would still be visible from the street to the side of No.5 and not hidden behind other dwellings. The mature trees would continue to take precedence and the dwelling would not appear awkward when seen alongside these. Importantly, whilst introducing built form to a previously undeveloped space, the open, spacious character of this housing area, grounded in its landscape setting would not be eroded by the proposed siting.
12. The dwelling would be constructed close to the protected trees. However, my findings in terms of living conditions indicate that this relationship would be acceptable, so the trees would continue to make a strong contribution to the

¹ Mach Residential (24.05.2019): Daylight Assessment

character and appearance of the area. There is reference in comments from the Council's Tree and Landscape Team to replacement planting in connection with previous tree felling, but no particular evidence that this could not be accommodated.

13. There is limited information about parking and access, but the proposals indicate the use of an existing area of hardstanding. There is no reason to conclude that additional groundworks would be required or that these arrangements would harm the trees for any other reason.
14. I note that bungalows with rooms in the roof are not an obvious feature of the area. However, the proposed dormer window would be to the rear. Thus, whilst there would be rooflights to the front, those design features most obviously linked to the two storey element of the proposal would not be readily visible from the public realm.
15. I, therefore, find that the proposal would not harm the character and appearance of the area. As such, it would comply with Policies HE2 and HE3 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014, and Policy H12 of the Borough of Christchurch Local Plan 2001 (modified 2007) which require new development to be compatible with its surroundings, respect the landscape character of the area including taking account of natural features and not resulting in the loss of important trees.

Other matters

16. The dwelling would be close to the boundary with an adjoining school. Concern has been expressed regarding windows facing the school premises. However, only rooflights and a largely obscure glazed bathroom window would face the school grounds so no significant overlooking would result. There is no substantive evidence that an adjoining bin-store on the school campus would harm the living conditions of future occupiers.
17. Natural England have indicated the need for a Biodiversity Enhancement and Mitigation Plan (BEMP). Such a plan has been provided and agreed by the Natural Environment Team of Dorset County Council, subject to the measures being a condition of any planning permission.

Appropriate Assessment

18. The site lies within 5km of the Dorset Heathlands European Sites² (European Sites). Qualifying features include Dartford Warbler, Nightjar, Woodlark, Hen harrier and Merlin as well as other typical species of lowland heathland, wetlands and dunes. Their conservation objectives include ensuring the integrity of the sites is maintained or restored such that they contribute to achieving the favourable conservation status of their qualifying features, maintain the extent and distribution of the habitats and their function, the processes on which the habitats of qualifying features rely and the population and distribution of each of the qualifying features.
19. As set out in the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (SPD), the increase in population in the area arising from the proposal, in combination with other development, is likely

² Collectively the Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heaths Special Area of Conservation.

to place increased pressure upon the protected heathland, including through increases in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets.

20. The SPD sets out that mitigation measures designed to avoid significant adverse effects on the integrity of the protected sites can be achieved through the delivery of Heathland Infrastructure Projects (HIPs), funded through the Community Infrastructure Levy (CIL), and Strategic Access Management and Monitoring Measures (SAMMs). A unilateral undertaking has been provided to secure payment in respect of SAMMs and the SPD sets out governance measures as to how this payment would lead to appropriate mitigation.
21. Having sought the views of Natural England as Statutory Nature Conservation Body and the Council, with specific reference to the amount of contribution secured, I am satisfied that the mitigation provided through the HIPs and SAMMs, would ensure that significant adverse effects to the integrity of the European Sites would not arise. The measures would be appropriately secured through CIL and the unilateral undertaking.

Conditions

22. A plans condition is required in the interests of certainty. Details of facing materials and landscaping are required to protect the character and appearance of the area. To protect the trees, a condition is required to ensure that protected fencing is erected. Such must be a pre-commencement condition as any initial works could lead to adverse effects on the trees' health. However, there is no need for the approval of materials or landscaping to be pre-commencement conditions so I have adjusted the timing accordingly.
23. To ensure biodiversity enhancement in accordance with the National Planning Policy Framework (the Framework), a condition is required to secure mitigation detailed in the BEMP. To ensure that the school is not overlooked, a condition is necessary to secure obscure glazing of the first floor bathroom window.
24. The Council has suggested a condition to secure a construction management plan, but no reason has been given for the condition and I saw nothing at my site visit to suggest that one was necessary. The Council has also suggested a condition removing permitted development rights for roof alterations, but mindful of guidance in the Planning Practice Guidance that indicates that such conditions should only be used exceptionally, I find no justification for such an approach. I have made some revisions to the Council's suggested wording of conditions in the interests of clarity and precision and to ensure compliance with the Framework.

Conclusion

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

M Bale

INSPECTOR

Schedule (of 7 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: 2051-01 Rev C; 2051-02 Rev B.
- 3) Prior to the commencement of any works on site in connection with the development hereby permitted, the Tree Protection Barrier shown on the Tree Survey and Tree Protection Plan ref: 5034 shall be erected in accordance with the details set out in Figure 2 of the Report prepared by Mark Hinsley Arboricultural Consultants Ltd (ref 5034/JC/IMP/05/18). The Tree Protection Barrier shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within the fenced area, and the ground levels within that area shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
- 4) Prior to their installation, details and samples of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved and shall thereafter be maintained as such.
- 5) Prior to the occupation of the dwelling hereby permitted, detailed proposals for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include provision for landscape planting, the retention and protection of existing trees and other site features, walls, fencing and other means of enclosure and any changes in levels.
 - a) The approved scheme shall be fully implemented with new planting carried out in the first planting season October to March inclusive following occupation of the dwelling or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority;
 - b) all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting;
 - c) the scheme shall be properly maintained for a period of 5 years and any plants (including those retained as part of the scheme) which die, are removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the Local Planning Authority gives written consent to any variation; and
 - d) the whole scheme shall be subsequently retained thereafter.
- 6) Prior to the occupation of the dwelling hereby permitted the parts of the first floor window shown on the 'Rear – North East Elevation' detailed on drawing 2051-02 Rev B shall be obscure glazed with glass of a type that shall previously have been submitted to and approved in writing by the Local Planning Authority. The obscure glazing shall thereafter be maintained as such.

- 7) The mitigation measures set out in the Biodiversity Mitigation and Enhancement Plan approved by Dorset County Council on 27 December 2018 shall be fully implemented prior to the occupation of the dwelling hereby permitted and shall thereafter be maintained as such.