



Appeal Decision

Site visit made on 18 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2020

Appeal Ref: APP/V1260/W/20/3251840

Plot R, Land Off Gillett Road, Poole, Dorset. Grid Ref Easting:407271. Grid Ref Northing: 93330

- 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 Talbot Village Trust against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/19/00870/F, dated 2 July 2019, was refused by notice dated 4 November 2019.
 - The development proposed is erection of a two-storey building for use as a digital exchange, with associated access road, car park, bin store, cycle store, back-up diesel generator and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a two-storey building for use as a digital exchange, with associated access road, car park, bin store, cycle store, back-up diesel generator and associated works at Plot R, Land Off Gillett Road, Poole, Dorset. Grid Ref Easting:407271. Grid Ref Northing: 93330, in accordance with the terms of the application, Ref APP/19/00870/F, dated 2 July 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Talbot Village Trust against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Procedural Matters

3. The site address in the banner heading above is taken from the appeal form, as this provides a more precise description than that on the application form, which solely comprises the postcode and Ordnance Survey Grid References of the site, and that of the decision notice which is 'Land South of Gillett Road, Talbot Village, Poole, BH12 5BF'.
4. An Energy Statement by L2 Energy Consulting dated 16 January 2020 (the ES) was submitted as part of the appellant's statement of case. This is in response to the Council's second reason for refusal, relating to the failure of the proposal to make a contribution towards tackling climate change by incorporating renewable energy sources to provide a proportion of the development's future energy use, in accordance with Policy PP37 of the *Poole Local Plan 2018* (the Local Plan). The ES confirms that 20% of the proposed building's future energy

requirements could be achieved by means of roof-mounted solar photovoltaic panels, thereby exceeding the 10% renewable energy requirement of Local Plan Policy PP37. The Council has subsequently confirmed that this matter can be dealt with by means of a condition, and, on this basis, does not intend to pursue the second reason for refusal. I have dealt with the appeal accordingly.

5. The appellant has submitted a Drainage Strategy by PFA Consulting dated 29 January 2020 (the DS) in response to the Council's third reason for refusal, in respect of concerns that the development would increase flood risk from heavy or sustained rainfall, contrary to the objectives of Local Plan Policy PP38. The DS concludes that the appeal scheme is capable of incorporating appropriate sustainable drainage measures to drain surface water. The Council has subsequently confirmed that it is satisfied with the proposed drainage strategy, which would incorporate infiltration devices to deal with surface water run-off, and that this matter can be dealt with by means of a planning condition. I have dealt with the appeal accordingly.

Main Issue

6. The main issue is whether the proposed development would provide a suitable location for a digital exchange, having regard to local and national policy regarding sustainable economic growth.

Reasons

7. The appeal site lies to the south of Gillett Road, within Talbot Village, and comprises a relatively flat, undeveloped grassed field, which was formerly used as grazing land. To each side of the site are a GP surgery and a Bournemouth University (BU) surface car park. To the rear is a thick belt of mature, protected trees which separates the site from Highmoor Farm. Land on the opposite side of the road is currently being developed with student accommodation associated with the Arts University of Bournemouth (AUB).
8. The site lies within land at Talbot Village allocated under Local Plan Policy PP21 to deliver major growth of the AUB and BU, in recognition of the vital role these national university status establishments perform within the economy of Poole and the wider south east Dorset area. The Policy aims to deliver an academic and employment centre of excellence, whilst protecting the biodiversity interests of the internationally recognised heathland wildlife habitat of the nearby Talbot Heath SSSI. This is to be achieved by means of development in 3 identified character areas: the Talbot Academic Quarter (Area TV1), the Talbot Innovation Quarter (Area TV2) and Talbot Heath (Area TV3).
9. These allocations accord with guidance for the future development of the area contained within the *Talbot Village Supplementary Planning Document 2015* (TVSPD), whose vision is to 'support and strengthen the Universities and deliver a dynamic Digital Village to sustain entrepreneurial businesses, while protecting and enhancing important wildlife habitats, heritage assets and respecting the amenity of the local community'.
10. The Council's first reason for refusal relates to the proposed siting of the digital exchange/office hub (the DE) within Area TV1, where it has the potential to undermine the stated Policy PP21 objective of expanding the AUB and BU specifically within this area to provide 33,000 sq m of additional academic floor space and 450 student bed spaces. This, the Council argues, could be harmful

to the growth and economic success of the universities, and in turn, the wider economies of Bournemouth, Poole and South East Dorset.

11. I acknowledge the Council's concerns that the appeal scheme could potentially undermine the explicit spatial strategy for Talbot Village contained within the relatively recently adopted Policy PP21, since the proposed DE would be sited outside Area TV2, which is specifically identified as an innovation quarter, consisting of up to 25,000 sq.m floor space of class B1, health care and other university-related uses in support of the Universities. As such, this Area comprises allocated land where uses such as the appeal proposal are clearly directed.
12. This spatial strategy accords with guidance in the *National Planning Policy Framework 2019* (the Framework) for planning policies to address the specific locational requirements of different sectors by providing for clusters or networks of knowledge and data-driven, creative or high-technology industries. In this respect, I note the significance of the appeal scheme planning application in reinforcing the strategy, as the Council has confirmed it was the first application to be considered by the Council in respect of the innovation quarter, which has yet to be developed, since the adoption of the Local Plan. I concur with the Council that a digital exchange facility could constitute a fundamental element of the supporting infrastructure associated with the future innovation quarter.
13. The objectives of the TVSPD, as supported by Local Plan Policy PP21, are to set up an academic and employment centre of excellence, comprising new academic buildings in connection with both Universities and a new Digital Village linked to the universities. With this in mind, I note that the supporting text to Policy PP21 confirms that Area TV1 'will be the focus for new academic floor space and student bedspaces' (paragraph 7.37). Also, the TVSPD recognises that the Universities may not need all of the land to the south and east of their campuses, and that, alternatively, the Area TV1 land could be used for other forms of development.
14. Furthermore, General Principle 1) b) of Policy PP21 states that all development proposals at Talbot Village must 'be compatible with surrounding uses within the Talbot Village allocation and not prejudice the delivery of the requirements set out in 2) (a) and (b)'. Also, the Policy allows for 'ancillary uses, where they are demonstrably needed to support the primary function of the innovation quarter', under criteria 2) (c), with no stipulation that such ancillary uses must be located within Area TV2, provided that they would not contravene the overarching intentions of the Policy.
15. The appellant is seeking a 5-year time limited permission, on land very close to Area TV2, after which time, the development would be removed from the site. The modular, prefabricated building construction and temporary access arrangements from Gillett Road would facilitate the simple removal of the scheme. During the temporary period, the proposal, which would accommodate up to 30 employees, has the potential to help facilitate the future development of the nearby innovation quarter. It could contribute to future investment into Area TV2, by providing high speed internet access and acting as an incubator for start-ups, including those of University graduates, and small businesses looking to expand, who could then potentially move into Area TV2, once the supporting infrastructure in this area has been provided. Restricting permission

to a temporary period would take account of an anticipated future lack of need for the appeal proposal once a larger digital exchange facility is sited within Area TV2 to serve the innovation quarter once it is established.

16. The appellant's Design and Access Statement, submitted with the planning application, identifies a variety of potential areas of economic growth, including businesses and facilities directly associated with the Universities, that would be aided by the temporary DE. Accordingly, I find that the proposal would align with the Council's overall objectives for the development of Talbot Village, as reflected in the TVSPD and Policy PP21. It would also accord with Local Plan Policy PP17 which includes the proposed innovation quarter within the Borough's allocated employment land, noting it has the potential to provide business start-ups and development of industries linked to the specialism of BU and the AUB, such as creative media and health-care facilities.
17. In coming to this conclusion, I have had regard to the letters of support for the proposal from both Universities, and the absence of any evidence of short-term plans for the expansion of the Universities into the appeal site within the proposed temporary 5-year consent period.
18. My attention has been drawn to permission Ref 20/00095/F dated 5 June 2020, in respect of a digital exchange facility within Area TV2, which was granted after the submission of this appeal. I do not consider that this removes the need for the appeal proposal, since it relates to a notably smaller scheme which would provide a more limited data storage and exchange facility to meet immediate and short-term requirements, and would not include associated offices. As such, this approval does not alter my findings in respect of the main issue.
19. For the above reasons, I therefore conclude that the proposal would provide a suitable location for a digital exchange. As such, it would accord with the objectives of Local Plan Policy PP21 and the TVSPD, which seek to deliver major growth of the Universities, and require new development at Talbot Village to be compatible with surrounding uses within the Talbot Village allocation and not prejudice the expansion of BU and the AUB within Area TV1 and the creation of an innovation quarter within Area TV2, as set out in paragraphs 2) (a) and 2) (b) of the Policy. This accords with Policies of the Framework which seek to build a strong, competitive economy as set out in Chapter 6.

Other Matters

20. I have noted the third party concerns in respect of a number of issues, including the impacts of the proposal on: SSSI heathland; ecology and biodiversity; living conditions of neighbouring occupiers; the character and appearance of the area; traffic and highway safety; the operation of, and future expansion plans for, the adjacent GP surgery; and the loss of open space and farmland.
21. The site lies within 400m of the Bourne Valley SSSI part of which is an internationally designated site of nature conservation importance (Talbot Heath). Both parties have confirmed that Natural England (NE) were consulted on the results of an Appropriate Assessment carried out by the Council during the consideration of the planning application, and that NE confirmed that the proposal would not give rise to significant effects on the heathland, as it would

not lead to direct access onto Talbot Heath, and that no mitigation measures would be required. As such, there is no need for me to consider this matter further.

22. I am satisfied that other potential ecology and biodiversity impacts have been satisfactorily addressed by the appellant's Ecology Reports and Biodiversity Enhancement and Mitigation Plan (BEMP) which formed part of the planning application and appeal submissions, and the implementation of which can be ensured by planning conditions.
23. Given the distance between the appeal site and the nearest neighbouring residential properties, I am satisfied that the proposal would not affect the living conditions of the occupiers of neighbouring residential properties with respect to privacy, outlook or daylighting impacts. The proposed generator is to be enclosed by an acoustic canopy and fencing, the implementation and retention of which can be secured by a planning condition to ensure that there would be no materially harmful noise impacts arising from the development. On this basis, I am satisfied that this matter has been properly dealt with.
24. Having regard to the impact of the scheme on the character and appearance of the area, I find that the proposed modular prefabricated office building comprises an acceptable functional design, which would be appropriate within the mixed use character of the surrounding area, and given the temporary nature of the scheme. Subject to planning conditions to ensure appropriate materials for the external finish of the building, the retention of adjacent protected trees, and the planting of additional trees as proposed within the appellant's BEMP, I am content that this subject has been satisfactorily addressed.
25. The Council's Transportation Officer has raised no highway safety concerns in respect of the development, finding the new vehicular access and car and cycle parking provision to be acceptable. The Council has confirmed that this matter can be dealt with by conditions and I do not disagree, given the scale and nature of the proposal and the accessible location of the appeal site. I am, therefore, content that this issue has been adequately addressed.
26. The Council did not consider the proposal to materially harm the current operation of the adjacent GP surgery, having regard to privacy and light impacts and neither do I, given the distance between the surgery and the new building, the proposed juxtaposition of windows in both buildings, and the existing boundary landscaping between the sites. I am not persuaded that future expansion plans for the surgery into the appeal site comprise a valid objection to the appeal scheme, since I have no detailed evidence before me of specific expansion proposals to date, and in light of the separate ownership of the appeal site.
27. In response to third party concerns about loss of open space and farmland, the principle of developing the site and wider adjacent area has already been established through the development allocation of Local Plan Policy PP21. On this basis, I am satisfied that this matter has been addressed.

Conditions

28. I have considered the Council's suggested conditions in accordance with Paragraph 55 of the Framework and the National Planning Practice Guidance

and, where necessary, I have modified them, and added and deleted conditions. In addition to the standard implementation condition (1), it is necessary to define the plans for certainty (2). The permission is limited to a temporary 5-year period, in accordance with the terms of the planning application and to accord with the Council's overall objectives in respect of the future growth of Talbot Village, including the expansion of Bournemouth University and the Arts University (3).

29. In the interests of protecting the character and appearance of the area, conditions are necessary to ensure appropriate external facing materials in respect of the new building (4), the planting of additional trees (5) and the protection of trees worthy of retention (6). To ensure that the new development does not harm the living conditions of neighbouring occupiers, a condition is necessary to ensure satisfactory sound attenuation measures are installed with respect to the approved generator (7).
30. To ensure that there is no harm to protected species and that on-site biodiversity is enhanced, conditions are necessary to ensure that any protected species on site are removed and relocated prior to the commencement of the appeal scheme (8), the development is carried out in accordance with the appellant's Ecology Report and BEMP (9), and the car park lighting is of an appropriate design (10).
31. To ensure that the development does not harm the interests of delivering a sustainable development, reducing carbon emissions and reducing reliance on centralised energy supply, a condition is necessary to ensure the provision of 10% of the predicted future energy use of the dwelling from on-site renewable sources (11).
32. To ensure that the development does not increase flood risk on or off site, a condition is necessary to ensure the implementation and subsequent management and maintenance of a SuDS scheme (12). The Council has suggested that these details should be provided prior to the commencement of development. Paragraph 55 of the Framework advises that conditions that are required to be discharged before development commences should be avoided, unless there is clear justification. Having regard to the details of the appeal scheme and the drainage strategy submitted by the appellant during the course of this appeal, which includes pervious pavements for the parking bays and the drainage of runoff from the building roof to a nearby infiltration trench, it is not necessary to require the drainage scheme details to be submitted and approved prior to the commencement of the development, and I have amended the condition accordingly. I have also omitted the Council's suggested condition 12, requiring permeable tarmac surfacing for the car park, since this would be encompassed within the surface water drainage scheme.
33. A condition is required to ensure the provision of satisfactory outdoor lighting to ensure the safety of future users of the site (13). Conditions are necessary to ensure highway safety and the provision of adequate car and cycle parking (14), (15) and (16).

Conclusion

34. For the reasons given above, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

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:

Proposed Site Plan, Drg. no: Dig Exchange SP 2, received 10/10/2019;
Site Location Plan Drg. no: Dig Exchange SLP, received 16/10/2019;
Preliminary Design of Site Access from Gillett Road, Drg. no. T317/14 Rev. E, received 28/08/2019;
Proposed Street Lighting Plan and accompanying specification leaflet (drawing ref: T317/17 rev. B), received 09/10/2019;
Proposed Floor Plans & Elevations, Drg. no: PKR00GFDRA01 rev. 10, received 09/07/2019;
Ecology Report dated 11/10/2019 and received 11/10/19;
BEMP received 24/10/2019;
Outdoor Lighting Plan, ref: T317/17 Rev.B;
Outdoor Lighting Report RML T317 received 09/10/19; and
J200K generator specification sheets, received 30/07/19.

- 3) This permission is limited to the period of 5 years starting from the date of this Decision Notice. Upon the expiry of this period of time, the temporary office building hereby permitted, shall cease to operate. Within a month of the expiry of this permission, the office building, along with all associated services (cycle stores, generator and any other paraphernalia associated with the office building, including the hard surfaces and provision of the temporary access), shall be removed from the land and the land shall be restored to its previous state.

The Local Planning Authority shall be advised in writing when the reinstatement of the site has been completed so that it can be checked on site.

- 4) The materials to be used for the external wall and roof of the office building shall be as specified in the application form.
- 5) 4 trees (2 no. maple trees towards the front of the site and 2 no. oak trees along the southern edge of the Plot R, as shown on the plan in Appendix 4), in the location specified by the Habitat Retention and Enhancement Plan at Appendix 4 of the Ecology Report (dated and received on 11/10/19), shall be planted in accordance with BS3936, BS4043, BS4428 and BS8545 within 1 month following implementation of this permission. The trees shall be thereafter maintained for a period of five years including the replacement of any trees, or any trees planted in replacement for it, which die, are removed or become damaged or diseased within this period with trees of a similar size and of the same species, unless the Local Planning Authority gives written consent to any variation. The Local Planning Authority shall be notified in writing when the trees have been planted so that compliance with the condition can be confirmed. Furthermore, notwithstanding the submitted details of the tree planting, shown on the plan in Appendix 4 (the Habitat Retention and Enhancement Plan) of the Ecology Report (dated and received

on 11/10/19), the planting of 2 oak trees shall be undertaken in such a way that a separation distance between the newly planted trees is at least 10m.

- 6) No fires shall be lit within 15 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or adjoining land. No concrete mixing shall take place, or oil, cement, bitumen or chemicals stored within 10 metres of the trunk of any tree to be retained on the site or adjoining land.
- 7) The generator shall be installed, and its enclosure shall be erected in accordance with the approved details of sound attenuation insulation (received 30/07/19). All works which form part of the scheme shall be completed before the office building is brought to use. The scheme, as approved, shall be thereafter maintained and retained on site for the duration of the temporary planning permission.
- 8) Prior to commencement of development hereby permitted (including the removal of herbage or the disturbance of topsoil), any species protected under the Wildlife and Countryside Act 1981 (and, if necessary, elements of their support habitat), shall be removed under licence by a suitably qualified ecologist. Where protected species are discovered during the works on site, the works shall stop immediately until consideration of the need for a methods of removal of the protected species is made and such removals shall be carried out in accordance with the details of the timing and method of proposed rescue, protection and relocation of protected species and habitat that shall have first been submitted to and approved in writing by the Local Planning Authority. Such works shall be subsequently carried out in strict accordance with the approved details of methodology and programme.

No vegetation shall be removed during the bird nesting season (1st March - 30th August), unless it can be sufficiently demonstrated by an ecologist that nesting birds are not present.

Rubble piles (located to the southwest of the proposed development, as specified in Appendix 3 of the 'Ecological assessment to inform the proposed construction of a digital exchange and associated car park on land off of Gillett Road, Poole, BH12 5BF' by Simon Geary Ecology Services Limited (dated and received on 11/10/19) and the Biodiversity Mitigation & Enhancement Plan (prepared by Simon Geary Ecology Services Ltd and dated 24/10/19) shall be retained and maintained as reptile habitat for at least the period of development.

- 9) Details of the biodiversity mitigation, biodiversity enhancement and habitat retention as outlined in 'Ecological assessment to inform the proposed construction of a digital exchange and associated car park on land off of Gillett Road, Poole, BH12 5BF' by Simon Geary Ecology Services Limited (dated and received on 11/10/19) and the Biodiversity Mitigation & Enhancement Plan (prepared by Simon Geary Ecology Services Ltd and dated 24/10/19) shall be undertaken in accordance with the mitigation requirements set out within the above referenced documents.

Any works on site relating to habitat manipulation (if required) shall be undertaken and supervised by a Suitably Qualified Ecologist, as described

within 'Ecological assessment to inform the proposed construction of a digital exchange and associated car park on land off Gillett Road, Poole, BH12 5BF' by Simon Geary Ecology Services Limited and the Biodiversity Mitigation & Enhancement Plan (prepared by Simon Geary Ecology Services Ltd and dated 24/10/19).

- 10) The car park street lighting (as specified in the Outdoor Lighting Report, prepared by RML, dated 07/10/19) shall use lights with a colour temperature of 3000K or less in order to comply with 'Bats and artificial lighting in the UK' by Institution of Lighting Professionals with BCT, Guidance Note 8, 2018.
- 11) Before the development hereby permitted is brought to use, details of the use of on-site renewable energy sources to meet a minimum of 10% of predicted energy use of the development, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved renewable energy sources shall subsequently be implemented, retained and maintained for the lifetime of the development hereby permitted.
- 12) The development hereby permitted shall not be brought into use until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Details of the sustainable drainage scheme shall:

- Provide information about the designed storm period and intensity; the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - Include a timetable for its implementation; and
 - Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 13) Details of the Outdoor Lighting Report (dated 09/10/19, project no: T317) and Lighting Plan (drawing no: T317/17, rev. B, received 09/10/19) shall be implemented prior to the first use of the office building hereby approved, and these details thereafter retained and maintained to ensure the lighting remains in working order for the duration of the temporary permission hereby granted.
 - 14) The access, turning space, barrier to the car park and vehicle parking shown on the approved plan shall be constructed prior to the first use of the building hereby permitted, and these shall thereafter be retained and kept available for those purposes at all times.
 - 15) Before the development hereby permitted is brought into use and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof, the land designated as visibility splays, as indicated on the approved plans, shall be cleared of all obstructions over 0.6 metres above the level of

the adjoining highway, including the reduction in level of the land if necessary, and nothing over that height shall be permitted to remain, be placed, built, planted or grown on the land so designated at any time.

- 16) Notwithstanding the approved plans, prior to the first use of the development hereby permitted, secure cycle parking will be provided in accordance with a scheme to be submitted to and approved by the local planning authority, and thereafter retained.

*****End of Conditions*****