
Appeal Decision

Site visit made on 20 July 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2020

Appeal Ref: APP/B1740/W/20/3248381

9 Hurst Road, Milford-on-Sea SO41 0PY

- 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 OPM (Bournemouth) Ltd against the decision of New Forest District Council.
 - The application Ref 19/11044, dated 13 August 2019, was refused by notice dated 23 December 2019.
 - The development proposed is to erect a single storey bungalow.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by OPM (Bournemouth) Ltd against New Forest District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant has confirmed that the planning application form inadvertently refers to the appellant's agent as the applicant, and that this error was repeated in the appeal form. Nonetheless, the Council considered the appeal application on the basis that the applicant was OPM (Bournemouth) Ltd and so have I.
4. As part of the appeal, the appellant submitted an amended proposed site plan¹ and a new proposed access plan.² These plans include a pedestrian visibility splay. Amended or new plans should normally be the subject of a fresh planning application and the appeal process should not be used to evolve a scheme. Furthermore, some interested parties objected to the development having regard to its effect on pedestrians. I consider that these changes would deprive those who should have been consulted on the changed development of the opportunity of such consultation and that this would potentially prejudice some interested parties. I have therefore determined the appeal on the basis of the original proposed site plan.³
5. Since the Council's decision it has adopted a New Forest District Local Plan Part 1: Planning Strategy, July 2020 (the LPP1). I am required to determine this appeal on the basis of the development plan and national policy in place at

¹ Drawing Ref 1439R1/100a (revision a).

² Marked 'Scale 1:75'.

³ Drawing Ref 1439R1/100.

the time of my decision. The main parties have had the opportunity to comment on the LPP1 and the relevant policies. I have dealt with the appeal on this basis.

6. The Council's appeal statement of case refers to Appropriate Assessment with regard to the New Forest and Solent Coast European Sites (the European Sites). There is no reason for refusal in this regard. I deal with the European Sites in 'other matters' below.

Main Issues

7. The main issues are the effect of the proposed development on the character and appearance of the area, and on highway safety with particular regard to visibility.

Reasons

Character and appearance of the area

8. The appeal site is in a residential area of Milford-on-Sea, near the coast. It is part of an approved landscaping scheme for the recently built houses next to it on one side, though it is undeveloped and not yet landscaped. It forms one corner of a wide T junction at Hurst Road and Sea Road, with the other corner comprising front gardens of houses. Sea Road narrows rapidly to the north, as it curves away from the junction, and is a well-used route between the seafront and the village centre. The gap at the junction and expansive open corners framed by two storey houses either side and along Hurst Road, including blocks of flats, face towards the seafront to form an identifiable pattern of existing development. In particular, an appreciable sense of spaciousness at the junction that is noticeable in public views and locally distinctive.
9. The bungalow would be a relatively narrow building, modest in height, positioned towards one side of the appeal site and would occupy a relatively small proportion of its area. Nonetheless, its principal front elevation would face Sea Road with one corner close to the road edge. It would also be taller and greater in form and massing than an approved, but as yet built, 1.8m high wall along the north boundary of the appeal site. Due to intervening buildings or distance, the appeal site has no meaningful context with other bungalows further to the north in Sea Road.
10. As a result, the bungalow would be manifestly out of keeping with the scale and massing of the residential buildings and types of homes in Hurst Road and the southern end of Sea Road at the junction — an inappropriate adjunct against the side of the adjoining taller house. It would also face away from the seafront with little depth of garden to the road and the significantly more built-up appearance of the appeal site would be at odds with the openness of the counterpart land around the opposite corner of the junction. It would not therefore successfully transition this part of the Hurst Road frontage or turn the corner with Sea Road in a satisfactory manner. This discordant relationship and loss of openness would be unduly conspicuous in public views from Hurst Lane and the seafront to the south and east of the junction, and from the southern end of Sea Road.
11. I appreciate that there are uninterrupted views of the sea and towards local landmarks from the seafront itself and that there are other views from behind the seafront, level with the appeal site at the junction. However, on the

approach from Sea Road further to the north, the bungalow would be increasingly unduly prominent and obtrusive as the angle of view becomes more expansive across the corner on this side of the junction. The proposal would therefore also significantly detract from these views towards the seafront and beyond, including of the low café building which is an intrinsic part of the seafront, and adversely diminish the tangible sense and sequence of anticipation then arrival at this focal point in the street scene.

12. Consequently, I find that the proposal would cause harm to the character and appearance of the area. The development would not accord with LPP1 Policy ENV3. This policy includes that development should contribute positively to local distinctiveness and enhance a sense of place, be sympathetic to its environment and context, including having regard to layout, relationship to adjoining buildings, and enhance the character and identity of the locality. It would also conflict with the National Planning Policy Framework 2019 (the Framework) paragraphs 8(c), 124, 127(a), (c) and (d) and 130. These include that development should be sympathetic to local character, create high quality places with a sense of place and add to the overall quality of an area.

Highway safety

13. Traffic volume generated by the development would be low and vehicles would be able to turn on the appeal site and exit in a forward gear. Nonetheless, the access would be next to a low boundary wall and some taller planting in separate ownership to the north which restricts visibility. The main parties agree that the required major road distance for the visibility splay in this direction is 32m (the visibility splay), though at the usual 2.4m minor road distance, the visibility splay cannot be achieved. On the evidence before me, I have no reason to take a different view. Reducing the minor road distance to 2m would be appropriate having regard to guidance in Manual for Streets, March 2007 (MfS). However, the visibility splay would be 12m according to the Council or 20m according to the appellant and therefore, even on the appellant's evidence, significantly below the required distance.
14. Further reducing the minor road distance to 1.5m or 1.15m, as the appellant suggests, would increase the visibility splay to 25m or 30m respectively. However, this would be significantly below the MfS minimum acceptable 2m minor road distance which already reflects the relatively light and low speed traffic movements confirmed by the appellant's speed survey; moreover, vehicles would have to emerge further into Sea Road yet still not achieve the visibility splay. Consequently, visibility to the north for vehicles at the access, and visibility for vehicles approaching along Sea Road from the north, would be seriously deficient and there would therefore be an unacceptable increased risk of accident.
15. Despite the visibility splay that would exist to the south, the access would be reasonably close to the junction with Hurst Road, on the inside apex of a large radius in Sea Road. The angle of view in this direction for a driver leaving the appeal site would therefore be quite obtuse and some approaching vehicles may travel at greater speed than if this were a more abrupt turn off Hurst Road. In addition, the junction includes a central pedestrian crossing refuge and the proposed access would also be close to the junction of Sea Road with Castle Close, at a point where Sea Road narrows to a bend. Consequently,

there is already a high complexity of activity by all road users in this area and there would therefore be an unacceptable increased risk of accident.

16. The appellant contends that the Council and the Highway Authority did not object to a previous similar proposed access in a similar position.⁴ However, this has not been substantiated in the evidence before me and was not a main issue or other matter in another appeal.⁵ I have determined this appeal on its planning merits and find that the proposed access would unacceptably interfere with the safety and free flow of highway users, and consequently would cause harm to highway safety.
17. The proposed development would not accord with LPP1 Policy ENV3 and Policy CCC2. These policies include that development should have safe access. It would also be contrary to the Council's 'Stopping Distances and Visibility Splays' Technical Guidance Note⁶ and would conflict with the Framework paragraphs 109 and 110(c) which seek to ensure a safe and suitable access, to minimise the scope for conflict between vehicles and avoid unacceptable impact on highway safety.

Other Matters

18. I appreciate that the appellant has concerns with the Council's procedural handling of the appeal application at application stage, including with regard to the time period taken to make its decision. However, such matters are outside of the scope of my appeal decision.
19. I recognise that the appeal site is well located for walking or cycling to local facilities and services and is near bus routes. I also acknowledge that the proposed development would result in a net gain of one residential unit and that the appellant considers there is a local market demand for a small one bedroom bungalow, including for retired occupiers. New occupiers would also support the local economy through expenditure and the proposal would result in local construction and related work. It would be built to high standards of insulation, water and energy use and waste disposal, and would make provision for bio-diversity enhancement. Other benefits of the proposal suggested by the appellant relate to a New Homes Bonus, Council Tax receipts and a Community Infrastructure Levy payment.
20. I acknowledge that the appeal site is not within a Site of Special scientific Interest, the Green Belt, a Local Green Space, an Area of Outstanding Natural Beauty, a National Park, a Heritage Coast, an irreplaceable habit, a designated heritage asset or an area at risk of flooding or coastal change. I also acknowledge that the proposal would not have an adverse effect on the living conditions of occupiers of existing dwellings. However, the absence of harm in these matters is a neutral factor in my decision and does not lead me to conclude differently in terms of the harm that I have identified in the main issues above.
21. At application stage the Council considered that a Grampian planning condition would mitigate the impact of the development on increased recreational use of the European Sites and the impact of the additional overnight accommodation, having regard to nitrate/nitrogen levels. Since it made its decision, the Council

⁴ Council's application reference 12/98339.

⁵ APP/B1740/A/12/2175889.

⁶ Published by the Highway Authority.

considers that a suitable planning obligation is required with regard to recreational impacts. Notwithstanding the Council's view in these regards, the appellant has not submitted a planning obligation. However, in light of my findings in the main issues above, I do not need to consider this matter any further.

22. The Council considers that it can demonstrate a 5 year housing land supply and the appellant does not dispute this. On the evidence before me, I have no reason to disagree. However, the appellant contends that with supply at 43% of the housing requirement over the past three years the Council has failed the Government's Housing Delivery Test (HDT). The Council has provided no evidence regarding the HDT.

Conclusion

23. I have found in the main issues above that the appeal proposal would cause harm to the character and appearance of the area and to highway safety. Consequently, the proposed development does not accord with the development plan overall. Even if I were to conclude that the Council has failed the HDT, including to the extent suggested by the appellant (and thus the so-called 'tilted balance' of Framework paragraph 11 is engaged), given the modest scale of the appeal proposal the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh those benefits.
24. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR