



## Appeal Decision

Site visit made on 17 November 2020

**by M Scriven BA (Hons) MSc CMgr MCIHT MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 December 2020**

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**Appeal Ref: APP/V1260/W/20/3251689**

**Chaddesley House, 9 - 11 Chaddesley Wood Road, Poole, BH13 7PN**

- 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 R Smith of Bracken Developments LTD against the decision of Bournemouth, Christchurch and Poole Council.
  - The application Ref APP/19/00577/F, dated 8 May 2019, was refused by notice dated 20 February 2020.
  - The development proposed is demolition of the existing buildings and erect a building for 19 apartments with associated parking and access.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. For clarity, the address and description of the proposed development are taken from the Council's decision notice as the wording varies in the appellant's application and appeal forms.
3. The appellant has provided additional drawings at the appeal stage which were not before the Council at the time of their decision. The appeal process should not be used to evolve a scheme. It is important that what I consider is essentially what was considered by the local planning authority, and on which interested people's views were sought. The appellant considers the changes to be minor. However, in my view the suggested amendments materially alter the nature of the proposal. Accepting these plans at this stage could therefore prejudice the interests of other interested parties. Therefore, I have not accepted these plans and have instead determined the appeal on the basis of those submitted as part of the application process
4. The Council's decision notice included reasons for refusal relating to the effect of the proposed development on the Dorset Heathlands Special Protection Area (SPA) and Poole Harbour SPA, I have dealt with these matters below.

### Main Issues

5. The main issues are the effect of the proposed development on;
  - The character and appearance of the area, including protected trees.
  - The living conditions of neighbours, with particular regard to outlook, privacy and daylight.

## Reasons

### *Character and appearance*

6. The appeal site sits in an elevated position on the headland, the existing three buildings and associated grounds are largely screened by attractive, established trees and vegetation. Chaddesley House itself is a locally listed building. However, permission has previously been granted for its demolition and the Council has raised no concerns in relation to the loss of this non designated heritage asset. I have seen nothing that would lead me to a different conclusion.
7. Although several neighbouring properties are in close proximity to the site boundary, when seen from below and the wider aspect from the south and beach, the existing site provides a valuable natural green break in the built form. The appeal site therefore makes a significant contribution to the wider sylvan character and attractive appearance of the area, both in the context of the immediate area and more distant setting.
8. In contrast to the existing spacious arrangement of buildings, the proposed development would incorporate an expansive block of 19 apartments, rising over what would appear to be four floors, five if including the basement, located tight to the site's northern and eastern boundaries. The ridge height of the roof would be comparable to that which sits elevated behind. The higher levels of the proposal would be clearly visible in the wider setting of the site in the headland as well as the immediate area around it, including Chaddesley Wood Road and the beach. As such, what appears currently as a natural valuable gap in the built form would be largely and harmfully lost to the proposed development.
9. The proposed building's overall scale and depth, with its associated expansive elevations extending back significantly over the plot would be at harmful odds with the prevailing built form below and adjacent to it, generally being of lower density housing. Similarly, the height of the proposal would not integrate with the built form of its surrounds but rather appear at odds with that immediately below it, consisting of detached and terraced houses on Chaddesley Wood Road and generally detached dwellings at Chaddesley Glen, over two to three floors.
10. The scale of the building, albeit set back from the southern boundaries and in footprint percentage terms of the wider plot comparable to that around it, would also be clearly apparent when seen from the public car park at Shore Road, irrespective of proposed landscaping. The overall appearance of the proposed building would be made more prominent by virtue of the proposed balconies on all elevations creating the look of an even larger building overall.
11. The significant plot coverage of the proposal as a whole, incorporating expansive areas of parking and minimal recreation space, would appear uncharacteristic of that which locally prevails. However, the scheme at ground level would be largely unseen from public view given the existing and proposed boundary treatments and would be further screened through appropriate landscaping conditions. It would also appear feasible to relocate the proposed bin and recycling store to better screened areas.
12. My attention has been drawn to other flatted development and properties of a four-storey appearance which exist nearby, including Wykeham Lodge in

Chaddesley Glen, and the character area study attempts to link the plot to that which sits behind rather than below. However, the appeal site provides a valuable buffer between several of these larger developments and few of the existing developments appear to be of the scale, bulk and building footprint of the proposed development. I have also not been given further information relating to their previous acceptance or that which they replaced, and I must consider the proposal on its own merits.

13. The appellant has provided information regarding the history of the site, detailing how Chaddesley House previously sat in the headland as a lone form and how development has occurred around it, seeking to further justify the proposal. However, the character and appearance of the area has clearly evolved over time and that which currently exists would be harmed by the proposal for the reasons above.
14. I note that the appellant has sought to amend a previous design, utilising high quality materials which would soften the overall prominence of the proposed building, including timber cladding. The proposal follows a contemporary, stepped design, with the higher floors set back. However, as can be clearly seen in the Computer Generated Imagery and other evidence, the intended building would not be seen in isolation, but rather substantially filling a valuable green gap in the headland. As such, the intended design approach does not offset the identified harm of the proposal.
15. Turning to the issue of the effect on trees, the appellant's tree reports identify that two established protected trees would require removal to facilitate the proposed development, (ref TPO 12/99) T19 and T21. T19 is a Beech located in the southern corner of the site, which although sitting behind T20, is visible from Chaddesley Wood Road and provides a degree of screening to the existing building in the gap between 7a Chaddesley Wood Road and T20. Beech trees are difficult to establish in maritime areas such as the appeal site, adding to its importance. T21 is a tall attractive Monterey pine located at the existing access and is clearly an integral feature, adding to the overall sylvan character of the area, both in close and more distant views.
16. Neither T21 nor T19 appear to be dead, diseased or dying. Unlike other unprotected trees within the site identified for removal, the loss of the two protected trees would not be offset through a planting scheme given their value and it would take many years for any new trees to establish themselves. As such, notwithstanding the view of the appellant, the removal of T21 and T19 is in my view unacceptable given their condition and clear contribution to the wider character and appearance of the area. Their loss would amount to significant harm.
17. The positioning of the proposed building, very close to other established protected trees (T1, T30 and T31), would likely result in a demand from future occupiers to prune the canopies, particularly where the protected trees overhang the proposed balconies in the northern corner of the building. Useable outdoor space is lacking in the proposal, therefore demand for regular use of the balconies is likely to be high. As such, there would be pressure to prune as residents would seek to maximise available light and outlook. I accept that as demonstrated in the appellant's daylight and sunlight study, there would be less demand to prune as a result of darkness to habitable rooms.

18. Nevertheless, any substantial pruning or significant crown reduction of the existing protected trees would harm the sylvan character and appearance of the area given the valuable contribution of the trees to the setting of the plot. Moreover, if such works were to occur the proposed building would then appear more separated from the trees which would surround it, making the proposal even more prominent in its setting.
19. I acknowledge that mature trees require pruning to maintain health and structural integrity. However, the scope for the pressure from future residents to significantly prune several of the protected trees would likely be greater than would be expected through routine pruning. These matters cannot be adequately dealt with through the use of conditions or the tree preservation order in place as the likely demand, resulting in an increased risk of harm to the trees, would be hard to resist if planning permission was granted.
20. I do however accept that given the comprehensive analysis and management methods proposed within the appellant's tree reports, that the remaining protected trees would not be harmed through any harmful adverse effect on the tree roots. This could be secured through an appropriate condition if the proposal was otherwise acceptable. Nevertheless, this does not alter my conclusion that there would be unacceptable harm resulting from the loss of several protected trees and risks to some of those retained.
21. For the reasons above the proposal would significantly harm the character and appearance of the area. Therefore, the proposed development would not accord with Policy PP27 of the Poole Local Plan, 2018 (LP), which seeks amongst other things to ensure development reflects or enhances that nearby in terms of size, scale and massing, as well as not resulting in the loss of trees that make a significant contribution to the character and appearance of the area. Similarly, the development would not accord with Policy PP28 of the LP which seeks to ensure that the scale and massing of flatted development and space between buildings, reflects the established pattern of development.
22. Similarly, the proposed development would conflict with the National Planning Policy Framework, 2019 (the Framework) objective of achieving well-designed places. Likewise, the proposal would not accord with the Planning Policy Guidance and associated National Design Guide, 2019, referred to by the appellant.

#### *Living conditions of neighbours*

23. The proposed development would be positioned very close to the boundaries with 39 and 41 Chaddesley Glen. Given the overall height and scale of the proposed development, it would appear as a highly prominent and visually intrusive structure when seen from No 41. In my view this would have an unwelcome overbearing impact on the outlook from No 41, tangibly diminishing the enjoyment of the property.
24. The close proximity of the building's living rooms of flats 7, 12 and 17, as well as proposed balconies, would be further harmful to the neighbours' living conditions at No 41 as they would lead to overlooking of usable outdoor space and result in a loss of privacy. The living conditions of neighbours at No 39 would be harmed further to a loss of privacy, particularly as a result of overlooking to the outdoor space of the property. Notwithstanding the garden

- of No 39 is already overlooked by neighbours, the proposal would further compound a lack of privacy in outdoor areas.
25. The fact that the existing, lower density buildings are close to the respective boundaries would not mitigate this harm given the proposal is for a far larger and taller building, incorporating balcony space that would look down on that around it. The materials intended to be used in the balcony screens would only partially mitigate the harm to the living conditions of occupants at No's 39 and 41, as views of the properties would still be likely from the building.
26. I accept that the proposal would not replace any open views given that which is already in situ, including boundary trees. However, the proposed building would be harmfully and substantially different in terms of height, scale and bulk than that which it would replace.
27. I acknowledge that the living conditions of neighbours at 7a Chaddesley Wood Road would be unharmed given the building at No 7a's relationship with others nearby, the set back of the proposed building and subsequent separation distance between it and the small side window of the property. Similarly, any effect of overlooking of the garden would be negligible given the garden is situated below and behind a high fence.
28. The detailed daylight and sunlight reports demonstrate that the effect of the proposal in these regards on properties nearby would be of little harm, albeit I do note non-compliance with Building Research Establishment daylight guidelines<sup>1</sup>, would be likely to be experienced by one side window of No 41. However, I do not consider this would be sufficient to cause unacceptable harm.
29. As such, whilst I find little harm to neighbours' living conditions with regard daylight, the proposal would result in moderate harm to neighbours' privacy and outlook. Therefore, the proposal would not accord with Policy PP27 of the LP, which amongst other things seeks to ensure that development proposals should not adversely effect the living conditions of others.

### **Other matters and planning balance**

30. The appeal site is within 5 Km of the Dorset Heathlands and Poole Harbour SPAs as defined by the Conservation of Habitats and Species Regulations, 2017. Financial contributions have been secured by the Council which they consider necessary so as to ensure that the development, along with other plans and projects would not cause harm to the special interest features of the sites of international nature conservation importance. However, bearing in mind my findings on the main issues there is no need to pursue this further.
31. Article 9 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) imposes a duty on decisionmakers to consider the relevant Directives and whether there is a reasonable likelihood of Protected Species being present and affected. Ecology surveys in the site identified a presence of bats and summer roosting. I have no reason to consider that the mitigation and management measures proposed by the appellant would lead to harm to bats or wider ecology of the site. As such had the proposal been otherwise acceptable, the details contained in the ecology report would have been

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<sup>1</sup> Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a good practice guide, 2nd Edition' by P J Littlefair 2011

suitable to be secured through an appropriate condition. The provision of bat boxes would provide a very small benefit in terms of biodiversity gain. However, in the main the lack of harm relating to biodiversity interests would be neutral and weigh neither for nor against the development.

32. Notwithstanding the view of the appellant, that the Council have not responded on various matters raised in their appeal submission does not equate to the appellant's arguments being accepted by the Council. Likewise, the absence of objection from the Council on other matters including light, noise and air pollution, does not amount to more than a neutral consideration in the appeal.
33. I recognise that it may be practicable to make more efficient use of the land than the buildings do in their current form. However, this does not necessitate the harmful proposal before me. The appellant contends that the proposal would result in an increase in local property values. However, on the evidence before me I do not consider the existing development adversely effects the area in such a way.
34. The development would be located in an accessible location and have adequate parking provision. The development would utilise a widened existing access and link to existing footways and footpaths, albeit suggested gates would assist with legibility and security. An appropriate condition requiring a construction traffic management plan would deal with any short-term traffic impacts if the proposal was otherwise acceptable. Likewise, a condition relating to drainage arrangements would also be appropriate. However, these matters are of neutral weight.
35. That the proposed apartments may be more fit for purpose than the existing converted buildings in my view carries limited weight as the existing flats do appear habitable. I do though accept that they would likely benefit from being more energy efficient than the current homes. This weighs moderately in favour of the development.
36. The proposal would provide a windfall amounting to a net gain of 14 homes and there would be some economic benefit during its construction. This would be consistent with the Framework's objective of boosting significantly the supply of homes and thus would have associated social benefits.
37. However, the proposal's harm to the character and appearance of the area, coupled with the harm to neighbours' living conditions outweighs the benefits identified above.
38. There is a dispute between the parties as to whether the Council can demonstrate a 5-year supply of housing land. The Council contend that they have 5.2 year supply, whereas the appellant suggests it should be 4.63 years at best. However, even if I were to agree with the appellant's position, for the reasons above, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole. On this basis, the development would not benefit from the 'tilted balance' set out in paragraph 11d of the Framework. As such this not a material consideration that weighs in favour of the proposal.
39. Having regard for the forgoing, I therefore find that there are no material considerations that justify a decision other than in accordance with the Development Plan in this case.

## **Conclusion**

40. For the reasons above, when considered against the Development Plan and Framework as a whole, the appeal is dismissed.

*M Scriven*

INSPECTOR