
Appeal Decision

Site visit made on 26 January 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2021

Appeal Ref: APP/V1260/W/20/3256099

25 Oakley Lane, Wimborne, BH21 1SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Hector Benjamin Limited against Bournemouth, Christchurch and Poole Council.
 - The application, Ref APP/20/00230/F, is dated 7 February 2020.
 - The development proposed is erect a pair of semi-detached houses with on site car parking with new and shared vehicular accesses.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Hector Benjamin Limited against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal site address on the application form is '25 Oakley Lane, Poole, BH21 1SF'. However, it is clear from the appeal form and my site visit that the site is within Wimborne. I have therefore amended the address in the banner heading.
4. The Council did not determine the application within the statutory time frame. However, its appeal statement indicated that it would have refused the scheme for 4 reasons relating to the effects on the character and appearance of the Oakley Lane Conservation Area, highway safety and the Dorset Heathlands and Poole Harbour designated habitats sites. However, during the appeal process, the appellant submitted a S111 undertaking with Heathland and Harbour Recreation Strategic Access Management and Monitoring contributions. The Council has confirmed receipt of these contributions¹. I return to this matter below.
5. The results of the 2020 Housing Delivery Test were published on 19 January 2021. The results show that Poole delivered 73% of its housing requirement over the preceding 3 years. The main parties have had the opportunity to comment on the implications of these results for this appeal and I have had regard to their comments in my decision.

¹ Email dated 8 January 2021

6. During the appeal process, the Council granted planning permission for the erection of 1no detached house with associated vehicular access and parking on the appeal site². I have also had regard to this permission in my decision.

Main Issues

7. The main issues are the effect of the proposed development on:
- i) the character and appearance of the area, with particular regard to the location of the appeal site within the Oakley Lane Conservation Area; and
 - ii) the safe and convenient use of the highway.

Reasons

Character and appearance

8. The appeal site lies at the eastern end of the Oakley Lane Conservation Area (the Area). In assessing the effect of the proposal, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. The National Planning Policy Framework (the Framework) sets out that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets and any harm to or loss of significance of such an asset requires clear and convincing justification. Any less than substantial harm must be weighed against the public benefits of the proposal.
9. The Area's historic significance appears to derive principally from its association with the Canford Estate. A particular feature of the Area is the 'Lady Wimborne' cottage style semi-detached dwellings, which are of distinctive design with gables and steep pitched roofs with decorative tiles and ridges. Several are listed as Grade II. There are also 'locally listed' buildings at either end of the Area, including No 25 Oakley Lane (No 25), a semi-detached dwelling in the Lady Wimborne style of historical, social and architectural interest.
10. The Area is characterised by older properties with later infill development set back from the road in a mixture of regularly and irregularly shaped plots. Although the size of the dwellings and plots vary, the dwellings are primarily set back from the road with gardens and parking areas to the frontages behind hedges and the plots are predominantly generous, resulting in a degree of consistency in the pattern of development. This low density, informal layout and the gaps between dwellings and the vegetation give the Area an attractive spacious and verdant 'village' character and appearance.
11. The appeal site previously formed part of the garden to No 25 but it is now severed from that property by a fence. The site is otherwise bounded by hedges and a wall. The site is not an important or significant feature of the Area but it does contribute positively, albeit modestly, to its low-density character.
12. The site also forms part of the setting of No 25. Views across the site from the east and south-east allow an appreciation of the historical form and appearance

² APP/20/00897/F

- of No 25, although this has been compromised by a large 2 storey flat-roofed extension to the rear. The proposed dwellings would obscure the characteristic gable of No 25 and the extension in views from the east, although the gable could still be appreciated from the south-east through the shared access.
13. The proposed development would result in the subdivision of the site into two plots. The appellant has provided a survey which demonstrates that the sizes of the rear garden areas and of that retained by No 25 would exceed or be commensurate with the sizes of several of the other rear gardens in the Area. However, in overall plot size, the proposed plots would be smaller than the predominantly generous plots characteristic of the Area.
 14. The proposals include parking and turning space to the front and sides of the proposed dwellings. Frontage parking is not uncommon in the Area. However, the properties identified by the appellant along Oakley Lane with frontage parking are all set further back from the road than the proposed dwellings would be, with consequently more spacious frontages. Moreover, there is significant space around the pairs of dwellings of Nos 2 & 4 and 6 & 8 Oakley Lane. Consequently, these retain a spacious feel.
 15. In contrast, a large proportion of both plots in the proposal would be taken up by provision for parking and turning, with virtually the entire frontage and spaces to the sides of the proposed dwellings under some form of hard surfacing. The parking spaces to the front would leave very little room for soft landscaping. Furthermore, the western side elevation of the proposed dwellings would be close to No 25, particularly with the orientation of the two at an angle to each other. The provision of an access and parking space in this limited space would further diminish the gap between the existing and proposed buildings as perceived from Oakley Lane.
 16. As a consequence of these factors, the proposed development would appear cramped in relation to the front and side boundaries. It would therefore be at odds with the predominantly spacious character and appearance of the Area.
 17. Although not fully following the form or detailing of the Lady Wimborne houses, the proposed dwellings take some design cues from these distinctive properties, including gables and front elevation window proportions. Sympathetic materials could be secured by a planning condition if planning permission were to be granted. I therefore consider the appearance of the proposed dwellings to be acceptable.
 18. Nevertheless, for the reasons set out above, I conclude that the proposed development would be harmful to the character and the appearance of the Oakley Lane Conservation Area. However, in terms of the Framework, this harm would be less than substantial. The principle of residential development on the site is acceptable but this itself is not a benefit of the proposal. The Planning Practice Guidance makes it clear that 'optimum viable use' relates to the heritage asset. Securing the optimum viable use of an area-based asset such as a conservation area as a whole is not a relevant consideration in assessing the public benefits of development proposals affecting such assets.
 19. There would be very limited public social and economic benefits from the addition of 2 homes to the local housing supply and a minimal visual benefit from obscuring the flat-roofed extension to No 25. However, these cumulative benefits do not outweigh the harm I have found to the Conservation Area. The

proposal would conflict with Policy PP30 of the Poole Local Plan 2018 (the Local Plan) which seeks to protect the significance of heritage assets and with the Framework's policies on the historic environment. I have not found Policy PP2 of the Local Plan to be determinative in respect of this issue as it sets out the amount and broad locations of development.

Highways

20. The proposal includes a new access that would serve 2 parking spaces for the eastern dwelling. Although the highway authority did not raise concerns about the parking layout, I am not satisfied that there would be sufficient space for a vehicle to manoeuvre and exit the site in a forward gear if the other parking space was occupied. The development could therefore lead to vehicles reversing onto the highway close to a bend, junction and the point where the speed limit along Oakley Lane changes from 30 mph to 40 mph. The proposal would therefore fail to provide safe access to the highway.
21. The land to the north and north-east of the appeal site is allocated in the Local Plan as North of Merley, a strategic urban extension for a minimum of 500 homes. The requirements for the implementation of this development include facilitating cycling and walking. Appendix 3 of the Poole Local Plan Transport Mitigation Plan sets out that site specific mitigation measures may include the provision of a toucan crossing on Oakley Lane east of Oakley Straight.
22. An outline planning application for this urban extension was submitted in July 2019³. A toucan crossing is proposed as a means of encouraging walking and cycling by providing a suitable connection between the proposed strategic development and Merley First School, Merley Community Centre and the wider community.
23. The highway authority considers that the optimum location for this crossing is at the most westerly point where the North of Merley site could connect with Oakley Lane. This would be on the desire line for pedestrians between the development and the First School. It would also be at the termination of a proposed wide shared cycle footway.
24. The highway authority has therefore objected to the proposed access to the easternmost dwelling as it would be directly adjacent to a crossing in this location. The use of this access would interfere with and compromise the safe use of the crossing. A new access in the location proposed would thus be unacceptable. It would prejudice the delivery of infrastructure to serve a major development for which a proposal is currently under active consideration.
25. Positioning the crossing further to the west would result in conflict from the junction of Oakley Lane with Oakley Straight. Providing it further east would require additional highway works and would result in the crossing not aligning with the pedestrian and cycle desire line. Either alternative would therefore be unacceptable to the highway authority and I see no reason to reach a different view.
26. I therefore conclude that the proposed new access would be prejudicial to the safe and convenient use of the highway. Furthermore, its location would directly conflict with the location of a pedestrian crossing required to serve the proposed major urban extension. It would therefore conflict with Policy PP35 of

³ APP/19/00955/P

the Local Plan which requires development to provide a safe access to the highway. It would also prejudice the implementation of the urban extension identified in Policy PP10 of the Local Plan by conflicting with a facility proposed to improve access to local services and facilities by safe and convenient pedestrian and cycling routes as required by Policy PP35.

Other Matters

Designated habitats sites

27. The Dorset Heathlands comprise the Dorset Heathlands Special Protection Area (SPA) and Ramsar site, the Dorset Heaths Special Area of Conservation (SAC) and the Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC. The Dorset Heathlands SPA is an extensive and complex network of lowland heaths used by Hen harrier, Merlin, European nightjar and Dartford warbler. The SACs comprise a range of important habitats with populations of Southern damselfly and Great crested newt.
28. Poole Harbour is a large natural harbour comprising extensive tidal mudflats and saltmarshes together with associated reedbeds, freshwater marshes and wet grasslands supporting a waterbird assemblage including Little egret, Eurasian spoonbill, Common shelduck, Sandwich tern and Common tern. It is a SPA and Ramsar site.
29. It is known that the habitats and species of these sites are vulnerable to disturbance from human activities. Any net increase in residential development within 5 km of the Dorset Heathlands or within the Poole Harbour Recreation Zone is considered by Natural England to have an adverse effect on the integrity of the designated sites. The proposal would result in 2 additional dwellings within these zones of influence. I therefore conclude that, in combination with other residential development projects, the proposal would have a likely significant effect on the integrity of these designated sites.
30. 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 a designated site, either alone or in combination with other plans and projects. I return to this matter below.

Other considerations

31. In coming to my conclusions above, I have had regard to the approved scheme for a single dwelling on the appeal site. The approved scheme would be significantly less harmful to the character and the appearance of the Area and to highway safety. Consequently, the approved scheme does not diminish the harm that would arise from the appeal proposal.
32. I have had regard in my assessment to all the evidence submitted, including representations from interested parties, and my site visit. However, the pre-application discussions between the appellant and the Council and the representations from interested parties have not been a determinative factor in that assessment.

Planning Balance

33. The delivery of housing in Poole is substantially below its housing requirement. Consequently, paragraph 11 d) of the Framework is engaged. Paragraph 11 d) i. sets out that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Policies for designated heritage assets are included in the list in footnote 6.
34. As I have found harm to the Oakley Lane Conservation Area, this alone provides a clear reason for refusing planning permission. Even if paragraph 11 d) ii. of the Framework had been applicable in this case, the adverse effects on highway safety would significantly and demonstrably outweigh the benefits associated with the provision of 2 dwellings. In these circumstances, it is not necessary for me to undertake an AA, notwithstanding the fact that the appellant has submitted a S111 undertaking.

Conclusion

35. I have found that the proposed development conflicts with the development plan taken as a whole. There are no considerations, including the policies of the Framework, that outweigh that conflict. Accordingly, the appeal is dismissed.

Martin Small

INSPECTOR