
Appeal Decision

Hearing Held on 14 July 2021

Site visit made on 15 July 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2021

Appeal Ref: APP/V1260/W/20/3264947

The Sloop, 5 Commercial Road, Poole BH14 0HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by AJ Developments against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/19/01401/P, dated 23 October 2019, was refused by notice dated 13 November 2020.
 - The development proposed is to demolish the existing public house, outbuilding and 2no. flats and erect a block of 4no. studio flats, 60no. 1 bedroom flats, 9no. 2 bedroom flats and 1no. 3 bedroom flat with parking, cycle and refuse storage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing public house, outbuilding and 2no. flats and erection of a block of 4no. studio flats, 60no. 1 bedroom flats, 9no. 2 bedroom flats and 1no. 3 bedroom flat with parking, cycle and refuse storage at The Sloop, 5 Commercial Road, Poole BH14 0HU in accordance with the terms of the application, Ref APP/19/01401/P, dated 23 October 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal is made in outline with access, appearance, layout and scale to be determined at this stage. This would leave only landscaping as the single reserved matter. As such, it is only in relation to landscaping that the drawings are illustrative.
3. The appellants requested that four revised plans¹ replace their previous versions as part of the appeal. The revisions relate to an alteration in the size of an inset window to four of the proposed units to improve the level of daylighting to the respective living rooms. The alterations are minor in nature and would not introduce new fenestration. The Council raised no objection to the revised plans being considered. On that basis, I am satisfied that no one would be seriously disadvantaged by my determining the appeal based on the revised plans and I have determined the appeal accordingly.
4. Drawings numbered 9156/204 Rev D and 9156/206 Rev C have also been supplied to show the proposed development in the context of recently

¹ Drawing Nos. 9156/201 Rev F Ground and 1st Floor Plans; 9156/202 Rev B Second and Third Floor Plans; 9156/203 Rev B Fourth and Fifth Floor Plans and 9156/204 Rev C Proposed Elevations Sheet 1.

permitted development at Park Place². These plans respond to changes in the context rather than the development proposed. Therefore, I have considered these drawings as illustrative rather than as revisions to the submitted plans.

5. The Appellants submitted a Daylight Study³ as part of the appeal. The Council confirmed⁴ that they accepted the findings of the study and no longer wished to defend references to the lack of natural daylight, single aspect outlook and overshadowing in refusal reason 4 on the decision notice. I have reflected this in my identification of the main issues below.
6. The appellants have provided a signed Unilateral Undertaking (UU) dated 29 June 2021. This includes obligations to provide 9 dwellings as discounted market sales housing and financial contributions towards Strategic Access Management and Monitoring (SAMM) in Poole Harbour and the Dorset Heathlands. It also provides a financial contribution towards the provision of NHS health services in accordance with Poole's Infrastructure Plan. I shall consider the UU later in this decision.
7. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021 following the close of the hearing. The views of the parties were sought in relation to the bearing of the revisions on the case. I have taken these into account as part of my determination.

Main Issues

8. The main issues are:

- The effect of the proposal on the character and appearance of the area, including having regard to the heritage significance of The Sloop public house, a locally listed building.
- Whether the proposal would create satisfactory living conditions for future occupiers having regard to the provision of internal space.
- Whether the proposal would make suitable provision for on-site parking.
- The effect of the proposal on international and nationally designated sites of importance for biodiversity.
- If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance, including impact on locally listed building

9. The appeal site comprises approximately half of a small island of land surrounded by roads which include the major A35 east-west transport corridor. To the north are two storey dwellings and large campus buildings associated with Bournemouth and Poole College. To the south are a concentration of civic buildings of a commensurate scale, which include the grade II listed Civic Centre. There are also a variety of other commercial sites nearby including retail and office uses. Construction is underway on residential flatted development at the adjacent site, 1-3 Commercial Road. Overall, the area has

² Planning reference APP/21/00008/P permitted on 25.5.21

³ Appendix J, Appellants' Appeal Statement, prepared by HDS Greentech Ltd

⁴ Paragraph 6.3 Council's Appeal Statement and Statement of Common Ground

- a busy, urban, mixed character in which buildings reflect an assortment of uses, scale and design, with no single character prevailing.
10. The Sloop public house occupies the appeal site and is used as a public house and two flats. It is predominantly a two storey traditional building of red brick under a hipped slate roof with a single storey component on the western side. It presents its principal southern elevation directly onto Commercial Road with a large car park and pub garden area to the rear. Given the position of the site relative to surrounding roads, it is easily visible from several directions.
 11. Although not deemed worthy for national listing⁵, The Sloop is included on the list of Local Heritage Assets. The Heritage Assets, Supplementary Planning Document, April 2013 sets out five criteria used to determine whether an asset has local importance such that it should be included on the local list. This indicates that The Sloop has historic social interest and architectural interest. The evidence⁶ shows that the building has undergone remodelling and physical alterations over time. Nevertheless, it remains a good quality, albeit typical example of an early 20th Century public house. I observed that it possesses some limited architectural merit because it reflects a building form and detailing consistent with the period. However, a greater part of the building's heritage significance derives from its longstanding use as a public house. In this regard it has social interest as a link with the past.
 12. The historic mapping and photograph⁷ provided show that significant changes to the fabric of the setting of the building have taken place over time. Whilst formerly there was a tighter knit grain of surrounding development, the building now appears as a historic remnant somewhat disconnected from the surrounding mixed townscape. This is partly due to the physical isolation of the small island on which it is situated, but also because many of the buildings nearby are of a markedly larger scale. This includes the adjacent development for residential units at 1-3 Commercial Road that was under construction at the time of my visit. I note that an earlier but similar observation was made by the Inspector⁸ for that development.
 13. These factors dilute the historic value of the building and make its role as part of the community much less legible. Therefore, although an attractive building, it retains a low degree of historic significance and overall, makes a modest positive contribution to the mixed character of the area.
 14. The proposal would demolish the existing building and erect a block of 74 flats. Policy PP30 of the Poole Local Plan, November 2018 (PLP) expects development to preserve or enhance Poole's heritage assets in a manner that is proportionate with their significance. Any harm or loss affecting the asset should be justified early in the application process.
 15. The evidence provided suggests that the public house has been unviable for some time and this is not disputed by the Council. Some consideration was given to alternative approaches to developing the site that incorporated the locally listed building as part of a redevelopment⁹ either as a residential conversion or as a facade. These were discounted as it was considered that the

⁵ Letter and initial assessment from Historic England dated 5.2.20

⁶ Heritage Impact Assessment prepared by Cotswold Archaeology, July 2020, section 5

⁷ Attached to comments of Council's Conservation Officer, dated 7.4.20

⁸ Appeal reference APP/Q1255/W/17/3180900, paragraph 10.

⁹ Appendix F, Appellants' Appeal Statement, Letter from Pure Town Planning dated 25.8.20

resulting development was not feasible, nor the most effective use of the land. Whilst the adjacent development at 1-3 Commercial Road incorporated the Art Deco façade of the locally listed bank building into the redevelopment, that concerned a very different style of historic building to The Sloop. The more traditional form of The Sloop does not possess similar streamlined geometric characteristics and consequently, would not be easily amalgamated as part of a larger, modern building, which would considerably restrict options for redevelopment.

16. More significantly, the balance of evidence indicates that even if the existing building were retained as part of any redevelopment, there is little prospect that it would continue to be used as a public house. As more significance is derived from its longstanding public house use than its fabric, there would be limited value secured in retaining the physical elements of the building in a different use. Such an approach would be likely to result in a convoluted redevelopment scheme that made less effective use of the land. This would be disproportionate to the low significance of the building.
17. Nevertheless, policy PP30(b)(i) of the PLP also requires development that affects locally listed buildings to enhance or better reveal the significance and value of the site within the street scene. Both parties accepted at the hearing that the total loss of the locally listed building would not fulfil that requirement and so, would partly conflict with policy PP30. This is reinforced by the representations received from Historic England, the Victorian Society, the Council for British Archaeology, Society for Poole and local residents, the majority of whom consider that the demolition of the heritage asset would be regrettable.
18. In line with paragraph 205 of the Framework, I do not accept that a planning condition to record the locally listed building prior to any loss has any merit in determining whether the loss should be permitted. However, having regard to paragraph 204 of the Framework, I am reasonably assured by the appellant's recent track record¹⁰ that the development would proceed in the event of the appeal being allowed.
19. Paragraph 203 of the Framework indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. It does not specify that this balance should be confined to the design merits of the proposal. Moreover, unlike designated heritage assets it does not stipulate the level of weight that ought to be attributed to the harm. In this case, I find that the significance of the heritage asset is low, but as the loss would be total, the degree of harm would be substantial. Overall, I attach moderate weight to the resulting harm. Therefore, this is a matter to which I shall return when balancing the merits of the proposal towards the end of my determination.
20. The Council consider that the proposed building would result in an incongruous form that would also be harmful to the character and appearance of the area. Policy PP27 of the PLP requires a good standard of design in all new development, and policy PP28 of the PLP permits flatted development that,

¹⁰ Letter dated 29 June 2021, AJC Homes

amongst other things, has a scale, massing and plot coverage in keeping with neighbouring buildings and the established pattern of development.

21. The proposed flats would be accommodated over six storeys in a building form that would curve around the frontage of the site addressing the road to the north, south and east. The use, density, scale, form and layout of the proposed building would broadly accord with that established at 1-3 Commercial Road¹¹ on the adjacent site. The proposed building would provide a better balance to that building than the present juxtaposition of scale and form with the public house. Furthermore, as the illustrative proposed elevations show¹², the scale of the building would also be in keeping with the recently approved development for a substantial extra care development to the east of the site¹³ at Park Place. As such, the proposed design would respond well to the changing context.
22. The proposal would significantly increase the amount of built form at the site. However, its position on a visually prominent island, separated by arterial road infrastructure calls for a design with greater massing, and the proposal would sit comfortably within the plot. Furthermore, the employment of regularly spaced fenestration, render and reconstituted stone panels and detailing, bronze effect cladding, and recessed upper storeys would combine to articulate the bulk of the building. Taking these factors together, the proposed building would suitably integrate into its context and make a positive contribution to local character and distinctiveness¹⁴.
23. Therefore, I find that the proposed building would be in keeping having regards to the scale and form established by larger buildings in the surrounding context. This would fulfil the requirements of policy PP28 of the PLP and be sufficient to meet the good standard of design required in new development by policy PP27 of the PLP. Consequently, the proposed design would be policy compliant and would not in itself, cause harm to the character and appearance of the area. Nevertheless, harm would arise from the loss of the locally listed building. Therefore, although the proposal would not conflict with policies PP27 and PP28, there would be some conflict with policy PP30 of the PLP in this regard. This is a factor I shall consider further in the overall planning balance.

Living conditions

24. Amongst other things, policy PP27(d) of the PLP stipulates that development should provide satisfactory internal amenity space for future occupiers. Similarly, paragraph 126 of the National Design Guide describes well-designed homes as providing a good standard and quality of internal space and makes particular reference to the need for careful consideration in the case of higher-density developments, particularly for family accommodation. It does not however, specify an internal space standard.
25. Paragraph 130(f) of the Framework states, amongst other things, that planning decisions should ensure that developments create places with a high standard of amenity for future users. The Framework does not quantify what is meant by a high standard in terms of performance measures or technical standards. Neither does it pertain specifically to internal space standards but is generic in nature, made in relation to achieving well-designed places.

¹¹ Planning reference APP/16/01862/F, appeal reference APP/Q1255/W/17/3180900

¹² Drawings reference 9156/204 Rev D & 9156/206 Rev C

¹³ Planning reference APP/21/00008/P

¹⁴ Paragraph 197 c) National Planning Policy Framework

26. Planning Practice Guidance (PPG)¹⁵ confirms that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan to the nationally described space standard¹⁶ (NDSS). Such a policy would need to undergo the rigour of examination, and requires specific justification based on evidence of need and consideration of the likely wider impact on viability.
27. The NDSS expressly states that the requirements set out for bedrooms, storage and internal areas are relevant only in determining compliance with the standard and have no other statutory meaning or use. Moreover, it is made explicit that minimum floor areas are an integral part of the wider more complex space standard and they cannot be used in isolation from other parts of the design standard or removed from it. Therefore, national guidance clearly does not support informal mechanisms that attempt to apply the NDSS, and this is reflected by the approach of the Inspector in a recent decision highlighted by the appellants¹⁷.
28. Policy PP27(d) of the PLP does not adopt the NDSS, rather it states that a satisfactory provision of internal amenity space should be made. This allows for a greater degree of flexibility and ultimately, calls for the exercise of judgement. Some limited guidance is provided in the explanatory text for the policy. Paragraph 9.5 of the PLP states that it will be important to ensure that the right balance is struck between delivering urban intensification, whilst maintaining high standards of amenity for existing and future occupants. It encourages applicants to comply with the NDSS and states that "*Schemes that are significantly below these standards eg more than 20% of floor space will need to demonstrate how the development will achieve an acceptable standard of living for future occupants*".
29. This suggests that a floor space below the NDSS would not necessarily conflict with policy PP27(d) in considering whether satisfactory internal space is provided. At the hearing the parties accepted that save for the 4 studio flats, the size of the proposed units would either meet the NDSS, or fall within the 20% buffer referred to in the explanatory text of the local plan.
30. The schedule giving the gross internal floor space figure for each unit indicates that the four studio flats measure 30m², with the majority of units between 34-46m². The appellants confirmed at the hearing that the studio flats were designed to accommodate one person, although it was acknowledged that two occupants could not be prevented. The floor layout for the studio flats shows the main living space as partially divided between the living area/kitchen and bedroom with a separate bathroom. A reasonable number of kitchen unit spaces are denoted to accommodate appliances common to dwellings. The illustrative furniture arrangement shows a double bed, bedside cabinets, wardrobe, a two seater sofa and small table and chairs for two people whilst retaining sufficient circulation space. Therefore, the living conditions of the occupants would not be unduly compromised.
31. Furthermore, whilst the majority of units would be small and with limited storage, as they would fulfil basic furniture requirements generally necessary

¹⁵ Paragraph: 018 Reference ID:56-018-20150327

¹⁶ March 2015, Published by Department for Communities and Local Government

¹⁷ Reference APP/G1250/W/17/3191922, Appendix I, Appellants' Appeal Statement

for everyday purposes, they would meet the satisfactory threshold referred to in policy PP27.

32. The Council highlight recent changes to permitted development rights whereby in broad terms new dwellings created under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) must comply with the NDSS. Nevertheless, the proposal in this case would not fall within the remit of permitted development in that statutory instrument, rather specific permission is required which allows for the careful consideration of the merits of the proposal against the policies of the development plan, including the nature of the internal living space that would be provided. Moreover, the more relevant PPG advice to which I have already referred remains. As such, the recent changes to permitted development are of limited weight.
33. I acknowledge that one of the consequences of the Covid 19 pandemic has been that many people have been mandated to spend significant periods of time at home. In such extreme circumstances, this has for some people resulted in a particular appreciation of internal and external domestic space. It seems likely that the pandemic will influence longer term behavioural changes, perhaps including increased working from home for some economic sectors. However, this is only one aspect of a changing picture where evidence is still emerging, which makes it difficult to quantify and justify specific spatial implications for an individual development. Accordingly, such complex matters are more appropriately addressed and balanced through policies that have been examined and evidenced as part of the development plan. This resonates with the existing PPG advice regarding the NDSS.
34. For the reasons outlined, given the absence of the adoption of the NDSS as part of the local plan, I cannot agree with the Council that compliance or otherwise with the NDSS should attract great weight in this instance. Rather, the satisfactory threshold referred to in policy PP27(d) of the PLP applies. Furthermore, the proposed 1, 2 and 3 bedroom units would provide internal space of a similar order to corresponding units recently approved at the adjacent site, 1-3 Commercial Road¹⁸. In that case, the Council did not raise concerns regarding the standard of living conditions, which reinforces my finding in this regard.
35. Accordingly, it is not shown that the proposal would conflict with applicable national policy or guidance, and I find that the proposal would create satisfactory living conditions for future occupiers having regard to the provision of internal space. As such, it would meet the relevant design requirement of policy PP27 of the PLP.

Parking provision

36. Policy PP27(g) of the PLP requires new development to provide convenient and practical parking in accordance with the relevant standards. Policy PP35(1)(e) states that new development should accord with the Parking and Highway Layout in New Development, Supplementary Planning Document. However, since the submission of the appeal, the Council has adopted a new Parking Standards, Supplementary Planning Document, January 2021 (SPD) which replaces the former 2011 guidance.

¹⁸ Floor layout plans for 1-3 Commercial Road, Appendix B, Appellants' Appeal Statement

37. The development would provide 48 spaces, five of which would be disabled appropriate. Other than these, the spaces would be unallocated. It is also proposed to operate a car club for the development that would provide two shared car club vehicles. The Council made its decision on the basis that there was a shortfall against the optimum standard then in force.
38. The new SPD has a hierarchical zonal approach and suggests optimum car parking standards broadly reflective of the degree of accessibility and corresponding car ownership levels likely to be present in the respective zone. Figure 28 maps the car parking zones and shows the appeal site within Zone D for suburban/rural locations, but directly bordering Zone A, designated as main centre. These represent the two extremes of the four possible zones. The Council stated at the hearing that applying the standard for Zone D to the development would suggest an optimum standard of 75 unallocated spaces. This amounts to more spaces than the 2011 SPD standard. By comparison, a similar development in Zone A would have an expectation of two car club bays.
39. In setting out optimum standards the SPD indicates the general expectation for levels of parking but does allow for some flexibility. Paragraph 4.3.2 confirms that where an applicant can provide justification, it could be appropriate to depart from the standards. Relevant factors might include the location of the development and where there is greater public transport accessibility such as high frequency bus routes.
40. As table 1 of the transport statement¹⁹ submitted illustrates, the appeal site is within short walking and cycling distance of a good range of local facilities and shops. There is also close and easy access to frequent bus and train services. This is recognised in the PLP, as the appeal site is within a sustainable transport corridor as defined on the policies map. Accordingly, it is highly accessible and future residents of the proposal would have a genuine choice of travel modes without needing to travel by car. Given these characteristics, the evidence shows the location of the appeal site has more in common with Zone A in the SPD, described as having a high degree of accessibility to public transport, services, shops and other facilities, rather than the lowest level associated with Zone D. The SPD states that car ownership in main centre locations is far lower than the average across the Council area.
41. Access to two car club vehicles for future residents would also provide the option to travel by car but without the need for all residents to individually own a vehicle. In turn, this is likely to encourage other modes of transport, make more efficient use of the club vehicles and consequently, require less overall parking space. It is stated to be an innovative approach to travel demand that the Council intends to explore in the transport strategy outlined in policy PP34 of the PLP. Moreover, unallocated spaces are encouraged in the SPD as making more efficient use of space. As such, the proposed parking layout would provide an efficient parking solution.
42. The Council's decision notice refers to drivers trawling the area looking for on-street parking leading to, amongst other things, highway safety danger. The immediate highway network close to the site is generally covered by parking restrictions, such as double yellow lines which, in the event there were overspill vehicles, would prevent parking in unsafe locations. Whilst there is some on-street parking available further afield, this tends to be for resident permit

¹⁹ Page 5, Transport Statement prepared by Paul Basham Associates Ltd, dated December 2019

holders or restricted to short parking periods. Nevertheless, there are some public car parks within a 500m distance of the site²⁰ which could accommodate visitors and overspill parking if required. There was no substantive evidence provided to support concerns that the development would cause harm through a notable increase in pollution or congestion.

43. Drawing these factors together, the evidence provides justification that the amount of car parking provided would be at a suitable level to adequately serve the development whilst giving priority to pedestrian and cycle movements. My view on this is reinforced by that of the Highway Authority, who subject to conditions are supportive of the proposal²¹. Given their expertise and local knowledge, this attracts considerable weight. Furthermore, my approach would be broadly consistent with the level of car parking provided for the 80 residential units under construction at the adjacent site²², where it was acknowledged that the provision fell short of the Council's standards.
44. The recently adopted SPD would require a minimum of 94 cycle parking spaces. An illustrative ground floor plan²³ shows that it would be possible to accommodate the new minimum standard and could be made the subject of a planning condition.
45. Accordingly, I find that the proposal would make suitable provision for on-site parking, and therefore, in this regard I find no conflict with policies PP27 and PP35 of the PLP.

International and nationally designated sites of importance for biodiversity

46. The appeal site is located within 5km of the lowland heaths in South East Dorset recognised for their national and international importance for nature conservation. These are covered by a number of international, European and national designations collectively referred to as the Dorset Heathlands. They host protected priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other typical species of lowland heathland, wetlands and dunes.
47. Evidence shows that the Dorset Heathlands are under significant pressure from an increasing number of people living nearby. As the population grows, urbanising impacts from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
48. The appeal site is also relatively near to Poole Harbour, a natural harbour that is designated as a Site of Special Scientific Interest, Special Protection Area and Ramsar site for its nature conservation importance to rare, vulnerable and migratory species of birds. Increasing recreational activities around the harbour are causing disturbance to these bird species.
49. Recent caselaw²⁴ requires the decision maker, when considering the effect that a proposal may have on European Sites, to consider mitigation within an Appropriate Assessment. In the absence of mitigation measures and using a precautionary approach, given the proximity of the site to both the Dorset

²⁰ Appendix B, Appellants' Highways Rebuttal prepared by Paul Basham Associates, dated June 2021

²¹ Emails, Appendix H, Appellants' Appeal Statement

²² Appeal reference APP/Q1255/W/17/3180900, paragraph 17

²³ Appendix A, Appellants' Highways Rebuttal prepared by Paul Basham Associates, dated June 2021

²⁴ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

Heathlands and Poole Harbour, it is reasonable to suppose that future residents of the development would potentially visit the Sites for recreational purposes, that may include dog-walking. In both cases, intensification of such activities would be likely to cause disturbance to the vulnerable protected species and their habitats. I am required to consider the effect of the proposal both individually and in combination with other projects. As such, there is a risk of a significant effect on the internationally important interest features of both the Dorset Heathlands and Poole Harbour.

50. In relation to the Dorset Heathlands, the Dorset Heathlands Planning Framework 2020-2025, Supplementary Planning Document, April 2020 (DHPF) sets out the Council's approach to mitigating the adverse effects of new housing development. This includes two main avoidance measures, they are SAMM and Heathland Infrastructure Projects (HIPs).
51. SAMMs include projects to help alter harmful behaviour through raising awareness of the issues and value of the protected sites, the employment of wardens to manage visitor pressures on the heathland and delivering education programmes in local schools. It also monitors samples of heathlands in relation to the effects of new development. SAMM is funded by contributions from new development with rates for houses and flats set out in the DHPF. The appellants have submitted a UU that would provide a financial contribution (£19,512 plus administration fee) towards the costs of providing SAMM as required by the DHPF and policy PP32 of the PLP.
52. I am satisfied that the obligation would be necessary to make the development acceptable in planning terms, is directly related to the development and would be fairly and reasonably related in scale and kind to the development. Therefore, it meets the 3 tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations).
53. HIPs are physical infrastructure works, such as the provision of Suitable Alternative Natural Greenspace (SANGs) or enhancement of existing greenspaces to increase the attractiveness for visitors that would otherwise visit the Dorset Heathlands. The Council uses Community Infrastructure Levy (CIL) payments to deliver HIPs and indicates that CIL provision will support the ongoing expansion and improvements at the Upton Country Park SANG which is approximately 3 miles to the west of the appeal site. There is no dispute between the parties that the proposed development would be CIL liable. Policy PP39 of the PLP states that when spending development contributions, the Council will give priority to the mitigation of internationally protected species to ensure development can proceed in accordance with the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations).
54. In relation to Poole Harbour, the Poole Harbour Recreation 2019-2024, Supplementary Planning Document, April 2020 (PHR) sets out the Council's mitigation strategy to counter the adverse effects of increased recreational activities in and around the harbour causing direct or indirect disturbance to protected birds. The mitigation is twofold, comprising of SAMM and Poole Harbour Infrastructure Projects (PHIPs).
55. SAMM in relation to Poole Harbour coordinate wardens to manage visitor pressures and provide information as well as monitoring. This is funded through contributions from new development with rates for houses and flats set out in the PHR. The UU would provide a financial contribution (£6984 plus

administrative fee) towards the costs of providing SAMM as required by the PHR and policy PP32 of the PLP. I am equally satisfied that this obligation meets the requisite statutory tests in the CIL Regulations.

56. PHIPs are physical infrastructure works, such as the provision of better marked routes around the Harbour edge or planting to provide protection to vulnerable birds. These projects are funded from CIL receipts.
57. In addition, increasing nitrogen levels from sewage associated with population growth is contributing to the growth of algal mats in Poole Harbour, restricting the growth, distribution and variety of important food available for protected wading birds. The proposed development would be within the catchment area which, in the absence of mitigation, would generate waste water thereby exacerbating this harmful effect.
58. The Nitrogen Reduction in Poole Harbour, Supplementary Planning Document, April 2017 outlines a strategic mitigation solution. This includes offsetting of nitrogen generated from new development by taking land out of nitrogen intensive uses and is secured by using CIL monies. At the hearing the Council confirmed that it had recently bought 160 hectares of land which would be taken out of agricultural use and managed as rewilding projects. The offsetting provided has capacity to address the nitrogen impact arising from the development.
59. Natural England were consulted under Regulation 63(3) of the Habitat Regulations but made no response. In the absence of this I have given considerable weight to their comments²⁵ made as part of the planning application, in which they raise no objections subject to mitigation being secured.
60. Taking these factors together, I find that the mitigation measures identified are sufficient to avoid the likely impact of the increased residential development proposed on the Dorset Heathlands and Poole Harbour, and they can be appropriately secured. As a consequence, I am satisfied that the proposal would not result in a significant effect to these Habitat sites. I therefore find no conflict with policies PP32 or PP39 of the PLP, which amongst other things, seek to protect against such harm.

Planning Obligations

61. A completed UU under Section 106 of the Town and Country Planning Act 1990 dated 29 June 2021 has been submitted by the appellants. In addition to the mitigation measures relating to habitat sites already mentioned, this contains measures to provide 9 units as discounted market sales housing to be sold at a discount of at least 20% below open market value in perpetuity. The parties agree that this provides a suitable benefit to outweigh the loss of the public house as a community facility and is necessary to meet the provisions of policy PP26(3) of the PLP.
62. A financial contribution of £5760 is included towards providing additional clinical rooms to deliver primary care proportionate to the likely number of patients arising from the development. The broad basis for the calculation is outlined in a letter from the Dorset Clinical Commissioning Group²⁶. Appendix

²⁵ Dated 14.1.20 and 9.11.20

²⁶ Letter dated 12.12.19

B5 of Poole's Infrastructure Plan, July 2017 covers Health Facilities. It refers to extensions to existing GP surgeries as one of the possible measures necessary to deal with the planned growth in the local plan, and policy PP39 of the PLP indicates that planning obligations are one of the means by which funding for required infrastructure will be secured.

63. On the evidence provided, I am satisfied that these obligations are necessary to make the development acceptable in planning terms, that they are directly related to the development and are fairly and reasonably related in scale and kind to the development.
64. I have also taken account of the representation received from the Royal Bournemouth and Christchurch Hospitals NHS Trust²⁷. It requests a financial contribution of £71,742 which it considers represents the likely impact of the development on the provision of acute and planned healthcare services. It goes on to state that there would be a funding gap due to the way funding for the trust is established, as this is partly based on the previous year's activity and known growth. It states that it is unable to plan for unanticipated additional growth in the short to medium term. The funding arrangements for public healthcare provision are undoubtedly complex and the Trust had a turnover in 2017/18 of £295 million employing around 4,500 staff. In that context, I am not persuaded that the complex funding model and consequent provision of services would be so sensitive as to be markedly affected by the scale of the development proposed. The relevant healthcare needs arising from residents of the proposed 74 flats in their first year of occupancy would be unlikely to significantly risk the ability of the Trust to provide healthcare services overall. Therefore, it is not demonstrated that a planning obligation to gap fund services would be necessary to make the proposal acceptable in planning terms. As such, the absence of such an obligation does not count against the proposal.

Other Matters

65. The Council clarified at the hearing that it was not part of its case that the proposal would harm the setting of any designated heritage assets. I observed that some distance separates the site from the grade II listed Former Borough of Poole Municipal Buildings, Poole Park Conservation Area and Poole Park, Grade II registered historic park. This generally allows for intervening townscape including the more prominent 1-3 Commercial Road development. As such, I concur that the proposal would not adversely affect the setting of designated heritage assets in the vicinity.
66. The appellants highlight that the proposal would make efficient use of previously developed land. Policy PP2 of the PLP indicates that housing development should optimise the potential of a site with the aim of meeting or exceeding the minimum indicative densities specified. This accords with the support given in the Framework for making effective use of land. Paragraph 120 c) indicates that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. Therefore, this is a factor that is relevant to the overall planning balance.
67. In reaching my views I have had regard to the representations raising objections to the proposal. Most of the points have been considered as part of

²⁷ Letter dated 3.2.20

the main issues already outlined. However, reference is also made to the cumulative disturbance caused to nearby residents arising from the number of large building developments taking place in the vicinity. I acknowledge that successive building projects could prove irksome to those living nearby. Nevertheless, they are temporary in nature and would not represent a sufficient reason of itself, to prevent otherwise acceptable development.

68. Concerns are also raised that the proposed units may be used as holiday accommodation. Be that as it may, the appeal site is in an area with a mixed character and is unlikely to offer occupants particularly scenic views. The evidence does not suggest that there would be an increased risk of a higher proportion of holiday use for the proposed units than other residential development in Poole. Neither is it shown that policies in the development plan would seek to restrict this. Accordingly, this matter attracts little weight, and would not lead me to conclude otherwise.

Planning balance

69. The 2020 Housing Delivery Test (HDT) results were published by the Government in January 2021. Bournemouth, Christchurch and Poole Council has its HDT scored according to its predecessor authority boundaries. The appeal site is within the former Borough of Poole Council and the HDT result is 73%. Footnote 8 to the Framework sets out that paragraph 11 d) is triggered in circumstances where the HDT indicates that the delivery of housing was substantially below (less than 75%) the housing requirement over the previous 3 years. In these circumstances, it is deemed that the policies which are most important for determining the application are out-of-date. On this basis, it is not necessary for me to consider the housing land supply position further as it would not lead to a different outcome.
70. Following an Appropriate Assessment, I have found that the proposal would not adversely affect the integrity of habitat sites. There is nothing otherwise before me to show that the Framework policies in footnote 7 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
71. The main benefit of the proposal would be the provision of 74 flats, which would represent a net gain of 72 dwellings, towards the overall housing supply in an area where there is a shortfall in delivery amounting to 499 dwellings²⁸. As such, it would make a sizeable reduction to the shortfall. Furthermore, nine of the units would be discounted market sales units which would diversify the provision of homes. There would be economic benefits associated with the construction of the proposal as well as the longer term activity of future occupants. The site is located in a highly accessible location such that future occupants would be close to facilities and public transport provision, thereby benefitting from having a genuine choice of travel modes in accordance with paragraph 105 of the Framework. I attribute significant weight to these benefits.
72. In addition, the proposal represents a higher density development that would make more efficient use of previously developed land which is encouraged by

²⁸ BCP Letter dated 30.6.21

paragraphs 120 and 124 of the Framework. In line with paragraph 120 c), this attracts substantial weight in favour of the proposal.

73. However, harm would arise to the character and appearance of the area due to the loss of the locally listed public house which would conflict with part of policy PP30 of the PLP as it would not enhance or better reveal the significance and value of the heritage asset within the street scene. For the reasons already outlined, I attach moderate weight to the resulting harm.
74. The proposal would be policy compliant in terms of the quality of the proposed new design, the living conditions created and parking provision. However, as these are requirements of the development plan, they are neutral factors rather than benefits in the overall balance.
75. Drawing these factors together, the harm arising from the loss of the non-designated heritage asset and the consequent limited conflict with the development plan taken as a whole attracts moderate weight. Therefore, applying the balanced judgement referred to in paragraph 203 of the Framework, I find that the benefits of the proposal weigh in favour of the development proceeding.
76. It further follows that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies in this case and furthermore, represents a material consideration of considerable weight.
77. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the significant benefits of the proposal and presumption in favour of sustainable development outweigh the limited conflict with the development plan.

Conditions

78. Conditions to specify that landscaping is a reserved matter and the requisite time limits are statutory requirements. In addition, a condition to require the development to be carried out in accordance with the approved plans is needed to ensure certainty.
79. To comply with paragraph 205 of the Framework it is necessary to require the recording of the locally listed building prior to its loss. Logic dictates that this must be done prior to the commencement of demolition works. The provision of an interpretative panel at the site represents a method of making some of the historic evidence publicly accessible in accordance with policy PP30(a)(iii) of the PLP. In the interests of maintaining the overall quality of the design a condition to agree the finish of external materials is imposed.
80. It is also necessary to secure alterations to highway arrangements and signage, and to ensure adequate visibility splays in the interests of highway safety. For the same reason, a condition to deal with temporary parking during construction is required. A condition dealing with the provision of car parking to include an appropriate number of Electric Vehicle (EV) charging connections, turning space and the allocation of parking spaces is needed in the interests of highway safety, the promotion of travel other than by car and to prepare for EV. A condition to require the provision of cycle parking spaces is necessary to

meet the recently adopted minimum standard. As I gave the proposed car-club scheme weight as part of the justification for the number of car parking spaces, it is necessary to secure its provision. In addition, a condition in respect of bin storage would ensure that refuse is stored in an appropriate manner.

81. A condition to secure the appropriate provision of accessible and adaptable dwellings is required to make the proposal policy compliant in the interests of meeting the needs of an ageing population. A condition relating to on-site renewable energy is justified to comply with development plan provisions aimed at reducing greenhouse gas emissions. In the interests of biodiversity, a condition to secure the recommendation regarding bees in the ecology assessment²⁹ submitted is required.
82. The submission of a scheme for sustainable drainage is necessary to ensure that the site is satisfactorily drained. In order to be effective, it should be agreed at an early stage in the development and therefore, requiring such agreement prior to the commencement of development would be justified.
83. Finally, given the records showing the possible previous use of the site for fuel storage, a condition to deal with potential ground contamination is needed in the interests of the health and safety of the intended occupiers.

Conclusion

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

Helen O'Connor

Inspector

²⁹ Report on Biodiversity, prepared by Philip Smith dated 9.10.20

APPEARANCES

FOR THE APPELLANT

Ziyad Thomas MRTPI

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Duncan Coe CIfA

Principal Heritage Consultant at Cotswold Archaeology

Natalie Fellows MRTPI

Director of Fellows Planning Ltd.

Mark Smith CIHT

Director at Pal Basham Associates

FOR THE LOCAL PLANNING AUTHORITY

Kate Robson BSc(hons) MSc MRTPI

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Margo Teasdale MSc, Dip Pl, MIHBC, MRTPI

Senior Conservation Officer, BCP Council

Steve Dring

Planning Research GIS & Information Manager, BCP Council

INTERESTED PARTIES

Councillor Steve Baron

Cabinet and Lead Member Ecology, Biodiversity and Poole Regeneration, Ward Councillor for Parkstone, BCP Council

Schedule of conditions

- 1) Details of the landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development shall be carried out in accordance with the following approved plans: 9156/200 Rev C - Proposed site plan; 9156/201 Rev F - Ground and first floor plans; 9156/202 Rev B - Second and third floor plans; 9156/203 Rev B - Fourth and fifth floor plans; 9156/204 Rev C - Proposed elevations sheet 1; 9156/206 Rev A - Proposed elevations sheet 2 and 9156/208 - Block and location plans.
- 4) Prior to the demolition/removal of any building or parts as approved, a specification shall be submitted to, and approved in writing by, the local planning authority for the recording of the buildings by way of measured drawings and/or photographs. The recording works shall be carried out in accordance with the time-scale and details set out in the agreed specification and a copy of the results shall be submitted to the local planning authority prior to the commencement of development hereby approved.
- 5) Prior to first occupation of the development, details of an interpretive panel, explaining the history of the site, in a location to be agreed, shall be submitted to and approved in writing by the local planning authority. The panel shall be installed before any residential occupation is brought into use and maintained and retained thereafter.
- 6) Details and samples of all external facing and roofing materials to be used shall be submitted to and approved in writing by the local planning authority prior to their use on site. The development shall thereafter be carried out in accordance with the approved details.
- 7) Prior to first occupation of the development the access, turning space and vehicle parking shown on the approved plans shall be provided and these shall thereafter be retained and kept available for residents and visitors to the residential units. The parking shall remain as unallocated parking at all times with no parking space allocated to any individual residential unit except for any parking bay demarcated as Disabled Parking, which may be allocated to Registered Disabled Users only. No parking barrier shall be placed to restrict access to the car parking area.
- 8) Details of the provision of Electric Vehicle Charging Points and associated infrastructure shall be submitted to and approved in writing by the local planning authority. The submitted details shall be in accordance with the BCP Council Parking Standards, Supplementary Planning Document Adopted 5 January 2021. The approved details shall be implemented prior to first occupation of the development and subsequently retained and maintained.

- 9) Prior to first occupation of the development, secure cycle parking shall be provided in accordance with a scheme that has been submitted to and approved in writing by the local planning authority, and thereafter retained.
- 10) Prior to first occupation of the development and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any subsequent re-enactment thereof, the land designated as visibility splays as indicated on drawing number 9156/200 Revision C 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.
- 11) Prior to commencement of works on site, a scheme of parking for building operatives must be submitted to and approved in writing by the local planning authority. The scheme must thereafter be complied with for the whole construction period.
- 12) Prior to first occupation of the development, details of a scheme to support a car club to serve the development, to include the provision of two shared car club vehicles (which may be located either on the site or off the site) and a scheme for its management and operation shall be submitted to and approved in writing by the local planning authority. The scheme shall include provision for not charging membership fees or joining fees for any occupants of the development for the first two years of the scheme. The car club shall be brought into operation prior to first residential occupation of the development and shall thereafter be retained, unless, after a period of at least 3 years, the local planning authority agrees in writing that it can be discontinued.
- 13) Prior to first occupation of the development, a scheme of signage and ground markings encouraging motorists to turn right when exiting the site shall be submitted to and approved in writing by the local planning authority. All works shall be completed in accordance with the approved scheme prior to first residential occupation of the development and shall thereafter be retained.
- 14) Prior to first occupation of the development, further details of the schemes to construct buildouts from the footway and realign the kerb line to narrow the road widths at the North Road junction to the north east of the site and the Commercial Road/North Road Junction, as indicated on drawing number 9156/200 Revision C, shall be submitted to and approved in writing by the local planning authority. These schemes must then be constructed in full before any residential occupation is brought into use.
- 15) Prior to first occupation of the development, the underground bins as detailed on drawing number 9156/200 Revision C shall be installed, made available for use and retained and thereafter maintained in accordance with the manufacturer's instructions.
- 16) In advance of securing Building Regulation Compliance, a schedule identifying 20% (15) of the dwellings to be built in accordance with the requirements of Approved Document Part M4(2) Category 2 of the Building Regulations (2015) (as amended) shall be submitted to and

- approved in writing by the local planning authority. The identified units shall thereafter be constructed in accordance with that Document (or any equivalent regulation replacing it with or without modification).
- 17) Prior to first occupation of the development, details of measures to provide 20% of the predicted future energy use of the residential development from on-site renewable sources, shall be submitted to and approved in writing by the local planning authority. These measures must then be implemented before any residential occupation is brought into use and maintained and retained thereafter.
 - 18) Details of the number, specification, design and location of bee bricks (or agreed alternative) to be installed in retaining walls shall be submitted to and approved in writing by the local planning authority. The bricks (or agreed alternative) shall be installed in accordance with the approved details prior to first residential occupation of the development and thereafter retained.
 - 19) Prior to the commencement of development, a scheme for the provision of sustainable urban drainage shall be submitted to and approved in writing by the local planning authority. The drainage works shall be implemented in accordance with the approved scheme and thereafter retained.
 - 20) In the event that contamination is found at any time when carrying out the approved development, works should cease, and it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site in relation to the proposed use of the site and documenting the actual ground conditions found on site, an appropriate quantitative assessment of risk to identified receptors and whether remediation is required. The site investigation and risk assessment must be undertaken by a competent person(s) and submitted to and approved in writing by the local planning authority prior to works continuing on site, except to any extent agreed in writing by the local planning authority. Where remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and controlled waters must be prepared and shall be submitted to and approved in writing by the local planning authority prior to works continuing on site. Development shall thereafter be implemented in accordance with the approved scheme except to any extent agreed in writing with the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the local planning authority within one month of completion of remediation. The development shall not be occupied for residential use until the verification report has been approved in writing by the local planning authority.