



Appeal Decision

Site Visit made on 19 July 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/D1265/W/21/3269189

Former Council Depot, Redbridge Lane, Crossways, DT8 8DU

- 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 LPC Construction against the decision of Dorset Council.
 - The application Ref WD/D/19/002574, dated 10 October 2019, was refused by notice dated 19 January 2021.
 - The development proposed is the erection of 9 new residential homes of four house types in the former quarry site.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 9 new residential homes of four house types in the former quarry site at the Former Council Depot, Redbridge Lane, Crossways DT8 8DU, in accordance with the terms of the application, Ref: WD/D/19/002574, dated 10 October 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development is in a suitable location for housing, with particular reference to the accessibility of services and facilities and to the reliance on motor vehicles,
 - Whether the proposed development would represent an efficient use of land with regards to National and Local Planning Policy,
 - The effect of the proposed development on biodiversity; and,
 - Whether the proposed development would be likely to increase the likelihood of flooding in the area.

Reasons

Location of Development

4. The appeal site comprises land situated on the southern side of Redbridge Lane. The site is a former Council depot with extensive areas of hardstanding

and which includes a perimeter security fence. At the date of my visit, I observed that there were a number of shipping containers and vehicles within the site. The appeal site is located outside of the nearest settlement at Crossways and is predominately surrounded by mature trees and thick vegetation.

5. Policy INT1 of the West Dorset, Weymouth & Portland Local Plan (2015) (the Local Plan) sets out the presumption in favour of sustainable development. Policy SUS2 of the Local Plan establishes a settlement hierarchy which guides development to the largest and best serviced locations. The Policy provides that, in rural areas, housing must meet local needs and be within specified settlements, the extents of which are established by defined development boundaries (the DDB). Outside of the DDB, housing is restricted to that which meets one or more of a number of circumstances set out within the policy. The site is located outside of the settlement and is located outside of the DDB. The planning application is for nine open market dwellings that would not satisfy any of the exceptions to development outside of the DDB as provided under Policy SUS2 of the Local Plan.
6. In order to cycle or walk to the services and facilities contained within Crossways, future occupants of the proposed dwellings would have to travel along a short section of narrow highway which does not benefit from pedestrian footways or street lighting. As such it cannot be said that access to Crossways on foot or by bicycle would be an attractive or suitable option for all, especially during hours of darkness and during adverse weather conditions. Whilst the distance between the site and nearby services is not significant, the conditions are such that I find that future residents would be likely to be reliant on private motor vehicles for a proportion of journeys. In light of these factors, the proposed development would not be in a location that is supported by Policy SUS2 of the Local Plan.

Efficient Use of Land

7. Policy ENV15 of the Local Plan concerns the efficient and appropriate use of land and provides that development should optimise the potential of the site and make efficient use of land, subject to the limitations inherent in the site and impact on local character.
8. The evidence before me indicates that the Appellant considered a number of different housing densities at the site for the planning application and, as part of a pre-application response, the Council indicated that the proposed provision of nine units would represent the best use of the site. Whilst I acknowledge the Council's submissions regarding provision of affordable housing, the appeal proposal before me is for open market dwellings. The proposal would provide nine units in line with the pre-application advice and it appears that the Council considered that different numbers of units would not be acceptable in terms of the impact on the character and appearance of the area or would be of a density that would not provide sufficient amenity space for future occupiers.
9. In light of the above, there is no evidence before me which indicates that nine residential units at the site would not make efficient use of the land. Accordingly, I find no conflict with Policy ENV15 of the Local Plan, nor would the appeal proposal fail to accord with paragraph 125 of the Framework.

Biodiversity

10. By reason of the size and ecological interest of the site, Natural England confirmed that a Biodiversity Mitigation and Enhancement Plan (BMEP) should be submitted in support of the planning application. The Appellant, whilst acknowledging that there was confusion regarding the submission of the BMEP, submitted the BMEP to the Natural Environment Team.
11. The submitted BMEP has been constructed and produced by a suitably qualified professional and which provides details of the site and the potential effects of development. The submitted BMEP further confirms that, subject to proposed mitigation measures, the development would result in an improvement to biodiversity.
12. As noted above, the BMEP was submitted to the Natural Environment Team. The submissions in this appeal indicate that the Council's officer was not aware of the submission. However, it is clear from the evidence before me that if the Council had not been aware of the existence of the BMEP prior to the commencement of the appeal, the Council would have been made aware of the document's prior submission given its inclusion and description as provided in the Appellant's statement of case.
13. The Council therefore have had the opportunity, since the submission of the Appellant's statement of case, to raise any issues or concerns regarding the contents of the submitted BMEP. The Council's statement of case raises no specific concerns or issues. Consequently, I find that, subject to a condition that requires the implementation proposed mitigation measures, the submission of the BMEP would satisfy the requirements of Policy ENV2 of the Local Plan which provides that proposals which conserve and enhance biodiversity should be supported. For the same reasons I find no conflict with paragraphs 179 and 180 of the Framework.

Flooding

14. Policy ENV5 of the Local Plan concerns flood risk and provides that, amongst other matters, the risk of flooding will be minimised by ensuring that development will not generate flooding through surface water run-off and/or exacerbate flooding elsewhere.
15. The evidence before me indicates that the site is located within Flood Zone 1 with the submissions of the Appellant providing details obtained from the Environment Agency website indicating that the site is not at risk from flooding. Whilst the Council considers that there would be no risk to the site from a fluvial source, it has been put to me that the proposal could result in flooding elsewhere.
16. In this respect, whilst I acknowledge the Appellant's submissions with regards to the reduction in hardstanding at the site and in respect of the information contained within the design and access statement that accompanied the planning application, confirmation as to how surface water generated from the site would be dealt with, would be required. However, the submission of the required confirmation and details in this respect can be secured by condition in the event that the appeal was allowed.
17. I therefore find that, subject to the inclusion of a condition that requires the submission of a detailed surface water management scheme for the site and

which has been approved by the Council, the proposed development would accord with the provisions of Policy ENV5 of the Local Plan and would accord with paragraph 167 of the Framework.

Other Matters

18. The appeal site is located within the Poole Harbour Site of Special Scientific Interest (SSI) and within 5km of the Winfrith Heath SSI which is also part of the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation and Ramsar. As set out in the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (The DHPF), recreational impacts associated with increases in population can lead to likely significant effects on these protected sites. Natural England have further advised that there would be likely significant effects on the Poole Harbour Special Protection Area and Ramsar arising from the increase in residential units and hence increase in nitrogen based nutrients which affect wetland and marine habitats and species.
19. The DHPF provides that the Dorset Heathlands are an extensive network of lowland heath that are recognised for their national and international importance for nature conservation, and which 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. Increases in population are likely to place increased pressure on the protected area by, amongst other things, disturbance by humans and their pets and damaging recreational uses.
20. The DHPF sets out that mitigation to avoid significant adverse effects on the integrity of the protected sites can be achieved through the delivery of Heathland Infrastructure Projects and Strategic Access Management and Monitoring Measures. At the appeal site, such mitigation would be funded through the Community Infrastructure Levy (the CIL).
21. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document 2017 (the NRPH) provides that increased nitrogen levels from sewage and agriculture are contributing to the growth of algal mats in Poole Harbour through eutrophication, restricting the growth, distribution and variety of food available for wading birds.
22. The NRPH sets out a package of mitigation measures to ensure nutrient neutrality, such as improving nitrogen stripping at Sewage Treatment Works and offsetting the increase through converting high nitrogen input land uses to low input uses. The NRPH indicates that individual Councils have the responsibility to ensure that sufficient mitigation is in place prior to occupation of the development. The Council has confirmed that the measures would be funded by the CIL.
23. Natural England have confirmed that it is up to the Council to secure the appropriate level of contributions in accordance with the NRPH and the DHPF to ensure that the identified adverse effects on the identified protected sites are mitigated. As noted above, the Council has confirmed that the required measures would be funded by the CIL and that contributions would be used in relation to infrastructure. Consequently, following Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (as

amended), I conclude that the development would not give rise to significant adverse effects upon the identified protected sites.

Planning Balance

24. Whilst I have found that there would be conflict with Policy SUS2 of the Local Plan, the appeal scheme would not have a harmful effect with regards to efficient use of land, flooding or biodiversity. The Council have confirmed that it cannot currently demonstrate a five year supply of deliverable housing sites.
25. In the absence of a five year supply of deliverable housing sites, paragraph 11d) of the Framework provides that relevant policies for the supply of housing should not be considered up to date, and further states that where the development plan is out of date, 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.
26. In terms of the location of development outside of the DDB, some future occupants of the proposed dwellings would be likely to be reliant on private motor vehicles for most of their trips.
27. However, the distance to the services and facilities including bus stops within Crossways is not significant and access to those services would be achievable on foot or bicycle for some residents. Furthermore, Crossways provides access to a range of services and facilities and includes convenient access to wider public transport links. While future occupants may be dependant on private motor vehicles for a proportion of trips, the proposal is for nine units and given that some residents are likely to choose to walk or cycle to the nearest services or would be likely to only take short trips to access the facilities contained within Crossways, the adverse impact of the proposal in this regard would be low. Given these considerations, I attribute only limited weight to the conflict with Policy SUS2 of the Local Plan.
28. In the context of assessing the three objectives of sustainable development identified in the Framework, the economic benefits of the proposal would be limited in terms of employment during the construction phase and limited in terms of the additional spend of future occupants within local businesses.
29. In terms of social benefits associated with the appeal scheme, the proposal would provide an additional nine units towards housing supply. The evidence before me indicates that the shortfall in housing supply is marginal and, consequently, I attach only limited weight to the provision of open market dwellings at the site.
30. With regards to environmental benefits, the scheme would make use of previously developed land and by the removal of significant areas of hardstanding and the provision of mitigation measures, the scheme would provide significant enhancement to biodiversity at the site.
31. In summary of the above considerations, I find that the cumulative benefits associated with the proposal would be significant, and the harm arising from the proposal's conflict with Policy SUS2 of the Local Plan would not significantly or demonstratively outweigh the benefits of the appeal scheme when assessed against the provisions of the Framework when taken as a whole. As such, I conclude that there are material considerations which indicate that a decision

should be taken otherwise in accordance with the development plan and permission should be granted.

Conditions

32. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. In the interests of public health and the environment, it is reasonable to include conditions requiring investigation of potential contaminated land.
33. Furthermore, in the interests of highway safety and the living conditions of residents, it is reasonable and necessary to include conditions which require the approval of a construction traffic management plan prior to commencement of the appeal scheme and that the proposed access arrangements are provided prior to occupation of the new dwelling. Furthermore, conditions that require details of the proposed use of external materials and landscaping are reasonable to ensure that the scheme does not adversely affect the character and appearance of the area.
34. In the interests of the environment and to prevent increased risk from flooding, I find it reasonable to apply conditions regarding details of surface water drainage to be approved by the Council prior to commencement of development. In the interests of highway safety, conditions are required to secure appropriate surfacing for the first part of the access, visibility splays and signage. In the interests of biodiversity, it is necessary for the mitigation measures set out in the appellant's Biodiversity Mitigation and Enhancement Plan to be delivered and retained within the development.
35. Where necessary, and in the interests of clarity and precision, I have altered the wording of the conditions suggested by the Council in order to better reflect the relevant guidance. The Appellant has been provided with the opportunity to comment on the wording of the Council's suggested pre-commencement conditions and these have been agreed by the Appellant.

Conclusion

36. For the reasons given I conclude that the appeal should be allowed.

Mr A Spencer-Peet

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall in all respects accord strictly with drawing numbers: Site & Ground Floor Plans VSA18/10-003, Proposed Site & Roof Plan VSA18/10-004, Proposed Section VSA18/10-005, Proposed Elevations House Type 3 VSA18/10-011, Proposed Elevations Waste & Recycling Cabinet VSA18/10-013, Proposed Floor Plan House Type 2 VSA18/10-008, Proposed Floor Plan House Type 1 VSA18/10-006 and Proposed Floor Plan House Type 4 VSA18/10-012 received by the Local Planning Authority on 16 October 2019 and drawing numbers: Proposed Elevations House Type 1 VSA18/10-007, Proposed Elevations House Type 2 VSA18/10-009, Proposed Floor Plan House Type 3 VSA18/10-010 and Proposed Elevations House Type 4 VSA18/10-014 received by the Local Planning Authority on 18 November 2019.
3. No development above the damp proof course level shall be commenced until details of all external facing materials for the walls and roofs shall have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall proceed in strict accordance with such materials as have been agreed.
4. No development above the damp proof course level shall be commenced until a landscaping and tree planting scheme shall have been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in full during the planting season November-March inclusive, immediately following commencement of the development. The scheme shall include planting to the front of the dwellings hereby approved, details of species, provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years and thereafter the maintenance and replacement shall be carried out on accordance with the approved scheme.
5. No development shall take place until all existing trees, shrubs and other natural features not scheduled for removal have been fully safeguarded and fenced in accordance with a scheme to be first approved in writing by the Local Planning Authority. Such fencing shall be maintained during the course of the works on site. No unauthorised access or placement of goods, fuels and chemicals, soil or other materials shall take place inside this fenced area. The soil levels within the fenced area shall not be raised or lowered and no trenching or excavation shall take place. In the event that protected trees (or their roots) become damaged, are lost or become otherwise defective in any way during such period, the Local Planning Authority shall be notified immediately and a programme of remedial action as directed by the Local Planning Authority shall be carried out within a timescale to be specified by the Local Planning Authority.

6. No development shall take place above damp proof course level until full details of hard landscape proposals have been submitted to and approved in writing by the Local Planning Authority. These details shall include: proposed finished levels or contours, means of enclosure, car parking layout, other vehicular and pedestrian access and circulation areas and hard surfacing materials. The development shall be carried out in accordance with the approved details.
7. No development shall take place until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
 - (i) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risk arising from contamination at the site.
 - (ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk of all receptors that may be affected, including those off-site.
 - (iii) The results of the site investigation and the detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.
8. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved by the Local Planning Authority. Remediation work shall then be carried out in accordance with the remediation scheme. On completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.
9. Measures shall be taken to ensure the re-use on-site of all suitable sands or gravels raised during construction wherever viable, environmentally feasible

and practicable to re-use them. Within 3 months of the substantial completion of groundworks a report setting out the quantum (or evidenced estimate) of material re-used on site shall be submitted to the Local Planning Authority.

10. Before the development commences a scheme showing precise details for the provision of visibility splays at the proposed accesses to the site must be submitted to and approved by the Planning Authority. The approved scheme must be constructed before any part of the development hereby permitted is occupied or is brought into use and will require the visibility splays to be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway and must thereafter be maintained and kept free from all obstructions.
11. No development shall take place until details of the access, gradients, geometric highway layout, turning and parking areas have been submitted to and agreed in writing by the Planning Authority.
12. Prior to the occupation of any dwelling hereby permitted, the first 10.00 metres of the vehicle access, measured from the rear edge of the highway excluding the vehicle crossing, must be laid out and constructed to a specification that shall previously have been submitted to and approved in writing by the Local Planning Authority.
13. Prior to commencement of work a scheme must be submitted to the Planning Authority to show how the accesses shown on the submitted plans will be signed and marked to ensure the western access is used for the purpose of Entry Only and the northern access for Exit Only. Any such scheme requires approval to be obtained in writing from the Planning Authority. The approved scheme must be provided before the development is occupied or utilised and, thereafter, must be permanently maintained for the purpose specified.
14. The development shall be carried out in accordance with the recommendations of the Biodiversity Management and Enhancement Plan dated 4th January 2020 unless otherwise agreed in writing by the Local Planning Authority. Thereafter approved mitigation measures shall be permanently maintained and retained.
15. No development shall take place until a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and including clarification of how surface water is to be managed during construction and a timetable for the implementation of the scheme, has been submitted to, and approved in writing by the Local Planning Authority. The surface water scheme shall be fully implemented in accordance with the submitted details and timetable for implementation.