

# Appeal Decision

Site visit made on 8 September 2021

**by Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021

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**Appeal Ref: APP/V1260/W/21/3274054**

**Land adjacent 154 Iford Lane, Bournemouth BH6 5NE**

- 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 Iford 154 Limited against Bournemouth Christchurch Poole Council.
  - The application Ref 7-2020-5712-I is dated 1 October 2020.
  - The development proposed is 2 x new build 3no bedroom detached houses.
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## Decision

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

## Procedural Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). The parties have had the opportunity to provide comments on the revisions therein and I have therefore had regard to the new Framework without prejudice to the parties.
3. There is no dispute between the parties that the Council cannot demonstrate a 5-year supply of deliverable housing sites. The appellant's figure of a 2.9-year supply is also not disputed. As such, I considered the appeal on that basis.

## Background and Main Issues

4. The Council failed to give notice of its decision within the prescribed period. Nonetheless, a number of concerns were raised within the Council's appeal statement, which I have interpreted into the following main issues:
  - whether or not the site would be suitable for the proposal, having regard to the development plan's approach to the provision of open space and the character and appearance of the area; and,
  - whether or not the site represents an appropriate location for housing having regard to flood risk.

## Reasons

### *Character and appearance*

5. The site is a plot of overgrown, private open space fronting Iford Lane aside a railway embankment. Along its south boundary is a path which allows access to a public open space called The Rookery directly to the west. To the east, on the other side of Iford Lane, is a large area of public open space which lines the west bank of the River Stour. Though inaccessible to the public, the site is part

- of the designated open space at The Rookery pursuant to the Proposals Map of the Bournemouth Local Plan Core Strategy (adopted 2012) (CS).
6. Policy CS31 of the CS states, in part, that the Council will refuse permission for development that results in the loss of designated private or public open space that contributes to the recreational, visual, ecological or environmental value of an area or contributes to a network of green infrastructure, except where it is demonstrated to be underused and surplus to requirements and the benefits arising from development outweigh the loss of the space.
  7. The Rookery is largely obscured behind housing and the embankment. This leads the appeal site, through its open and verdant appearance, to have a visual and a functional role in providing a legible link between The Rookery and the larger area of public open space on the other side of Ilford Road. The site also likely inherently provides a modicum of environmental and ecological value as habitat. It is therefore a small area of important green infrastructure.
  8. Public access to The Rookery would remain. However, the development of the site with two quite austere buildings, the new access and areas of hardstanding with associated standing vehicles would reduce its habitat offer, its luxuriant appearance and compromise the legibility of the linkage between the discrete public open spaces. As the site is not surplus to requirements, I have not gone on to consider this harm against the benefits of the proposal within the context of Policy CS31. It follows that the scheme would conflict with Policy CS31.
  9. As identified by the Council's 'Residential Development: A Design Guide' (2008) (Design Guide) this section of Ilford Road draws its character from its semi-detached houses. The houses are set in a row and are brought together by their close alignment, uniform building line, their aspect towards the Stour and by their common, repetitive detailing. The Design Guide notes the importance that developments integrate with established character by retaining building lines, respecting the spacing between buildings and adjoining building heights.
  10. The new houses would break from this recognised housing pattern in terms of their siting, building lines and more inward outlook. It appears that the need to protect future users from the noise of the railway whilst also avoiding harmful overlooking of neighbouring properties has led the houses to have a contrived, stark and somewhat utilitarian aesthetic. This design would not be a logical or sympathetic progression of the linear street scene in my opinion, and this would be readily discernible from Ilford Road and the path aside the site.
  11. Whilst the site is not within a Conservation Area, and there can be no in principle objection to contemporary forms, this does not negate the need for the scheme to respond well to its context. Moreover, that the existing houses could potentially be altered through their Permitted Development Rights is not a persuasive argument, as substantial changes to their frontages would not be possible, and there is already of mixture of finish materials present here.
  12. As such, I conclude on this issue that the site would not be suitable for the proposal, having regard to the development plan's approach to the provision of open space and the character and appearance of the area. It would conflict with the relevant aims of saved Policy 6.8 of the Bournemouth District Wide Local Plan (BDWLP), Policies CS6, CS20, CS21, CS22, CS30, CS31 and CS41 of the CS, the Design Guide and the Framework.

### *Flood risk*

13. Whilst there is conflicting information about the specific flood zone within which the appeal site falls, I attach significant weight to the expert evidence of the Environment Agency (the EA). The EA identifies that the site is in flood zone 2 and close to the edge of Flood Zone 3 with flood risk expected to increase over the lifetime of the development due to the effects of climate change.
14. Paragraph 159 of the Framework provides that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, now and in the future. The first step to this approach is the Sequential Test. Paragraph 162 of the Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding. The strategic flood risk assessment (SFRA) will provide the basis for applying the test.
15. My attention is also drawn to Paragraph 163 of the Framework, which states that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the Exception Test may have to be applied. By my reading, this is not intended to suggest that one can disapply the requirement to carry out a Sequential Test if a 5-year supply of deliverable housing sites is not demonstrated. Rather, it refers to the need for the Sequential Test itself to consider the prospect of preferable sites within the context of wider sustainability objectives.
16. The appellant considers there to be no sequentially preferable sites. However, no reference has been made to the Council's SFRA in reaching this view. Whilst a Strategic Housing Land Availability Assessment is mentioned, this document has not been provided. A further reference to the Council's planning record is unsubstantiated. As such, the evidence before me does not allow for the conclusion that there are no sequentially preferable sites in the area reasonably available for the proposal. Consequently, the Sequential Test is not passed. In these circumstances, it is not necessary for me to go on to consider the detailed site-specific flooding issues in relation to the proposal.
17. Accordingly, I conclude on this issue that the site does not represent an appropriate location for housing, having regard to flood risk. Policy CS4 of the CS and saved Policy 3.28 of the BDWLP do not address the requirement for the Sequential Test and as such there would be no conflict with them in this regard. However, the proposal would conflict with the relevant aims of the Framework.

### **Other Matters**

18. The Council has concerns about the highway safety implications of vehicles associated with Unit 2 being obliged by its restricted turning area to reverse out of the site. Whilst these concerns are valid, the turning space could be sufficiently enlarged, with only a modest loss of recreational space, to prevent this from happening. This is a matter that could be addressed by a condition.
19. The site is within influence of the European Sites that comprise the Dorset Heathlands<sup>1</sup>. I cannot rule out that, in combination with other projects, the scheme would cause likely significant effects on the integrity of these sites through increased recreation. Whilst the appellant has accepted the need for mitigation to be secured, no method to do so is before me. If I had been

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<sup>1</sup> Identified by the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (2021)

minded to allow the appeal, it would have been necessary for me to consider this matter within an Appropriate Assessment. However, as I am dismissing it for other reasons, I have not considered this matter further.

### **Planning Balance**

20. The unsuitability of the site for the proposal, having regard to the development plan's approach to the provision of open space and the character and appearance of the area, draws the scheme into conflict with the development plan when read as a whole.
21. The land supply situation engages Paragraph 11d) of the Framework. It states that in such circumstances permission should be granted unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. Pursuant to footnote 7, this includes policies relating to areas at risk of flooding. Given my findings, it follows that the Framework provides a clear reason for refusing the scheme and the presumption in favour of sustainable development does not apply.
22. Nonetheless, the government is seeking to significantly boost housing supply and the shortage in the area, particularly small family homes, is significant and, on the basis of the Housing Delivery Test results, may well continue to be so. The scheme would contribute to addressing this specific shortfall and in an urban area with adequate access to services. However, given the very small quantum of housing that would be delivered, the scheme's social benefits attract moderate weight. The economic benefits accrued during construction and thereafter are of modest weight. I also apportion limited weight to the safety benefits of the scheme, as I agree that increased supervision of the footpath from the houses would likely deter crime and the fear of crime.
23. These benefits do not outweigh the significant weight I attach to the unsuitability of the site for the scheme, having regard to the development plan's approach to the provision of open space and the character and appearance of the area.
24. Drawing my findings together, there are no other considerations, including the Framework, that outweigh the conflict with the development plan in this case.

### **Conclusion**

25. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

*Matthew Jones*

INSPECTOR