
Appeal Decision

Site visit made on 29 June 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/B1740/W/21/3270416

42 Brockwood, Barton Common Lane, Barton-on-Sea, BH25 5PS

- 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 AJ Developments against the decision of New Forest District Council.
 - The application Ref 20/10994, dated 11 September 2020, was refused by notice dated 16 November 2020.
 - The development proposed is demolish existing dwelling and erect 4 no 3 bedroom houses with garages and parking.
-

Decision

1. The appeal is allowed and planning permission is granted for demolish existing dwelling and erect 4 no 3 bedroom houses with garages and parking at 42 Brockwood, Barton Common Lane, Barton-on-Sea, BH25 5PS in accordance with the terms of the application, Ref 20/10994, dated 11 September 2020, and the plans submitted with it, subject to the conditions in the annexe at the end of this decision.

Application for costs

2. An application for costs was made by AJ Developments against New Forest District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The site has previously been the subject of planning application 18/1146 for the demolition of the existing dwelling and erection of 4 no 3 bedroom houses with garages and parking and an appeal¹ in 2019. That appeal was dismissed on grounds of the effect of the proposal on biodiversity, however in response to other reasons for refusal the Inspector concluded in favour of the scheme. The submitted plans show that the differences with this subsequent proposal are only marginal. Accordingly, I have given this decision significant weight but also have had regard to the subsequent New Milton Neighbourhood Plan (NP).
4. Subsequent to the submission of statements, the revised National Planning Policy Framework (the Framework) was published on 20 July 2021. Both parties were given the opportunity to comment on its significance or otherwise.

¹ APP/B1740/W/19/3221006

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on trees within and immediately adjacent to the appeal site;
- the suitability of the existing access for the emergency services;
- the effect of the proposal on biodiversity including the New Forest Special Area of Conservation (SAC), the New Forest Special Protection Area (SPA), the New Forest Ramsar site (RS), the Dorset Heathlands SAC, SPA and RS, the River Avon SAC, SPA and RS, the Solent and Southampton Water SPA, the Solent and Southampton Water RS, the Solent Maritime SAC and Barton Common, a designated local wildlife site.

Reasons

Character and appearance

6. The appeal site lies on the edge of Barton-on-Sea and its adjoining neighbour New Milton, which form an extensive residential community with good facilities, on the edge of the New Forest National Park.
7. The appeal site is off a shared private gravel drive. It is also on the edge of Barton Common, which the submitted ecological appraisal remarks as an element of ancient semi-natural woodland. The surroundings are indeed characterised by groups of unmanaged mature deciduous woodland as noted in The New Milton Local Distinctiveness Supplementary Planning Document: Character Area 7 Beckton Bunny Valley. The sylvan environs of the appeal site also provide some partial screening from a very close public right of way but otherwise the site is largely inconspicuous and appears to stand alone.
8. The site itself includes a broadly 'L' shaped dwelling which occupies the majority of its frontage, shaped around a hard-surfaced forecourt. The dwelling has white rendered walls and has several arches, with a low-pitched pantile roof. The main garden is to the rear and well cultivated with a mixture of flower borders and grass lawn, with two notable trees on the rear boundary.
9. The submitted plans show the relative footprints of the new houses in relation to the existing. The four dwellings together would be longer than the existing house, 60m and 51m respectively, according to the Council's statement. However, there would be gaps between the dwellings which would allow filtered views to the rear of the site and the background trees. The dwellings would also be set further back into the site than the existing which would make them less conspicuous. Consequently, the dispersed nature of the proposed buildings and their siting would be in keeping with the area and reflect the spatial gaps between development.
10. The dwellings would also have hipped roofs which would accentuate the gaps in between and frame the filtered views to the rear of the site. Moreover, the hipped roofs together with gabled offshoots and dormers would create a broken roofscape. The roofs of the dwellings would begin just above the ground floor windows which would give the impression of being low in height. The windows particularly on the front and side elevations would be modestly sized in relation

to the walling. The dwellings would be simple in their massing and detailing which would have a rustic appearance, which would empathise with the adjacent Common.

11. I note the Council's concerns about overdevelopment, scale/form and loss of spatial gaps and to the importance of the character of the area, however I find that the design of the houses would respond appropriately to the context of the area and the characteristics of the site, more so than the existing building, which the planning officer's report describes in non-vernacular terms.
12. I therefore conclude that the proposal would not harm the character and appearance of the area.
13. Policy ENV3 of the New Forest District Council Local Plan Part One: Planning Strategy (LP) requires all development to contribute positively to local distinctiveness, respect the context and enhance the sense of place. The New Milton Local Distinctiveness SPD defines its character and also notes the layout of new housing, plot widths, building lines, gaps between buildings, wider views of the Common and garden margins. Policy NM4 of the NP requires development to address the character of the surrounding buildings and landscape, enhance local character, protect open spaces and gardens that contribute to the character of the area, consider the scale of the surrounding buildings and landscape, with planting to integrate with the existing.
14. Paragraph 126 of the Framework states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 130 requires development is sympathetic to local character and maintains a strong sense of place.
15. The proposal would not be in conflict with the above policies and guidance.

Loss of trees

16. There are numerous trees within the site and by its boundaries. None of them are covered by Tree Preservation Order(s) or are in a Conservation Area. The submitted Arboriculture Report (AR) denotes the trees and shows their root protection areas. Several trees are shown for removal, which include cypresses and a crab apple. These are small and not significant and acknowledged as such in the Council's statement. On the southern boundary an oak and Monterrey Pine are both notable for their stature, at 12m and 16m according to the AR. However, they would be sufficiently distanced from the new building to avoid root disturbance and similarly shadowing conflicts would also not be significant.
17. There are several mature trees close to the site access which are more publicly visible. However, I noted on my site visit that their main limbs stretch away from the access. The AR does not propose any works to these trees and shows that protective fencing can be arranged without impairing the access.
18. The Council stress the importance of trees to the character of the area. However, the trees proposed for removal are not prominent from public view and the most significant would be unaffected. There is potential space for several new specimen trees, and if allowed a condition would ensure suitable implementation. Consequently, with new planting the proposal could re-address the slight loss of vegetation and maintain the existing level of green

infrastructure particularly as the current frontage is dominated by a hard-surfaced courtyard.

19. I therefore conclude that the loss of trees would not be harmful, and the extent of green infrastructure can be maintained.
20. Policy ENV3 of the LP requires enhancement of green spaces and landscape features. Policy NM4 of the NP also highlights the need to protect trees. Paragraphs 131 and 174 of the Framework emphasises the importance of trees. The proposal would not be in conflict with these policies.

Access for emergency vehicles

21. The dwellings would be accessed by the existing private uncompacted gravel drive with several bends. One of the third parties quantifies the width as 2.8m. The Council note that it cannot be widened, and extra cars would be generated by the proposal. A public right of way (PROW) also crosses the access.
22. I noted on my site visit that the initial stretch of the drive is straight which allows good visibility and there are a couple of points whereby a vehicle could encroach onto grass surfaces to avoid an emergency vehicle. The remainder of the drive does have several bends, but this extent is not long so reversing back would not be overly difficult. Any walkers on the crossing PROW would be able to see the vehicles.
23. I note that the previous appeal decision comments on the 2018 submitted Transport Statement which envisaged the proposal would lead to about 15 trips over a 12-hour period, equating to 1.25 vehicles an hour, based on TRICS database, which was not disputed by the Council. Accordingly, the increase in vehicles would be modest and two vehicles meeting on the access would be very infrequent.
24. The submitted plans show that there would be manoeuvring within the site even for an emergency vehicle. I therefore conclude that the proposal would not have constrained access for the emergency services.
25. Policy ENV 3 of the LP requires accessible buildings. The proposal would not be in conflict with this policy.

Biodiversity

26. The site lies within the zone of influence of two European nature conservation designations, the New Forest SAC/SPA/RAMSAR and the Solent Coastal consisting of Southampton Water SPA/RAMSAR site, the Solent and Isle of Wight Lagoons SAC and Solent Maritime SAC as well as the River Avon SAC, SPA and Ramsar and Dorset Heathlands SAC, SPA and Ramsar. These areas include heathland habitat for birds, sheltered channel marginal wetland saline habitat and estuarine habitat. They are also noted for various scarce species and distinctive habitat, which are protected under The Conservation of Habitats and Species Regulations 2017.
27. Having regard to the evidence provided by the Council I consider that the development could, in combination with other development in the area, have a significant adverse effect on the above designations through added recreational pressure, particularly dog walking, causing disturbance to ground nesting birds, over wintering wildfowl and waders. Additionally, the discharge of drainage and

wastewater could lead to enriched nutrient levels, particularly nitrates leading to growth of weeds and impairing aquatic ecology. It is therefore necessary to assess whether the potential adverse impact could be adequately mitigated so as to avoid any significant adverse effect on the conservation objectives of the above designations.

28. The Council, in partnership with neighbouring councils and conservation bodies, including Natural England, has developed an approach to mitigation based on the provision of suitable alternative natural greenspace, enhancement of existing green space, enhancement of footpaths/rights of way, and access management including rangers to the designated areas and monitoring of impacts. Similarly, nutrient neutral water discharge can be achieved by land management, SUDs, tree planting and avoidance of fertilizers. Additionally, nitrogen air pollution from vehicles can affect vegetation so monitoring and mitigation is necessary. Residential development close to the designations can mitigate its potential adverse impact by making a financial contribution towards these initiatives. A Grampian style condition to promote water quality would be necessary to maintain nutrient neutral levels and counter balance the effects of the additional houses.
29. The appellant has provided a unilateral undertaking (UU) which commits to making a financial contribution to the above management. I consider that the undertaking meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and therefore carries weight. A separate contribution towards the provision of suitable alternative natural greenspace would be made as part of the Community Infrastructure Levy. I am satisfied that these contributions, together with the Grampian condition, would result in suitable mitigation such that the development would avoid having any significant adverse effect on the above designations. The Council confirmed that the UU resolved their concerns in relation to this reason for refusal.
30. The site and surroundings include mature indigenous trees, which could offer foraging, and roosting to a range of species including bats. A small stream on the edge of the site and pond within the garden also add to the biodiversity potential. One side of the site adjoins an extensive swarth of natural greenspace, including Barton Common North SINC, designated as priority habitat for its ancient semi-natural woodland.
31. The proposal would intensify the use of the access through the Common, demolish the existing building and involve tree removal/vegetation clearance, all of which would have ecological implications.
32. An ecological appraisal was submitted with the current application. This included a phase 1 survey and considered the site and its surroundings. I note the survey findings did not show the significant potential presence of notable species or their habitat, including bats, badgers and newts. The proposal does not involve works to the SINC and impacts from construction and the presence of increased dwellings would be mitigated by enhancements for particular species, including bat boxes, bricks with access for swifts, a new fruit tree, bee bricks and other indigenous trees and hedgehog friendly fencing and the removal of invasive species. Similarly impacts could be minimised by the timing of works, and the use of sensitive lighting. These could form the basis for conditions, in the event of the appeal being allowed. The Committee Report

confirms that the Council's specialist officer had no objection on this aspect, and I concur.

33. I conclude that, subject to the relevant financial contributions, the development would not harm the SPAs, SACs or RAMSARs and would therefore comply with Policies ENV1 and DM2 of the LP which seek to protect sites of nature conservation importance for the reasons set out above. It would also accord with the avoidance and mitigation strategies in the Mitigation Strategy SPD and The Conservation of Habitats and Species Regulations 2017 as well as paragraph 181 of the Framework which also requires protection of designated sites.
34. Policy NM4 of the NP and paragraph 180 of the Framework also seek to improve biodiversity. The proposal would not be in conflict.

Other matters

35. I note the comments from the third parties about the use of the access over the Common and similarly concern about the nature of the surface and its robustness. However, these are matters between the relative parties as this is a private road.

Planning Balance

36. The Council has confirmed by the e-mail of 26 July 2021 that it does not have a 5-year housing land supply. It would therefore be desirable to achieve an increase and these additional dwellings would be a contribution and relieve pressure on more sensitive sites elsewhere. Paragraph 11 of the Framework promotes sustainable development, and in any event, I have not found any conflict with the Development Plan policies. The development would accord with the economic, social and environmental objectives in paragraph 8 of the Framework.

Conditions

37. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The Council has suggested conditions and the appellant have confirmed their agreement. The removal of permitted development rights under Classes A, B and C was suggested due to the characteristics of the site and proposal. However, this would only be warranted in the most sensitive of locations with particularly constrained development which I have not found to be the case here. Some of the recommended conditions had pre-commencement wording for the submission of details and these have been changed for more precise and necessary triggers except for the Construction Management. The condition for implementation of tree protection measures has also been changed to require provision at the outset in the interests of their protection. The wording on the car charging points is adjusted to retain them as operational. The details in the Grampian style condition to promote water quality are capable of being met prior to development.
38. Conditions on the timing of the commencement of development and approved plans provide clarity. The Construction Management Plan protects the important ecology of the area and living standards. The landscaping, and fenestration details ensure a satisfactory appearance. The drainage conditions and refuse points are necessary to protect the wider environment and prevent

nuisance. The tree protection measures are required to ensure their retention in the interests of the character of the area. The water quality, electric charging points and implementation of the ecological report recommendations, ensure that the proposal is appropriate to the natural surroundings.

Conclusion

39. I therefore conclude that the appeal should be allowed subject to the conditions in the following conditions annexe.

John Longmuir

INSPECTOR

CONDITONS ANNEXE

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) The development permitted shall be carried out in accordance with the following approved plans:

100 Rev D - Site Location, Block and Proposed site plan.

101 Rev B - Plot 1 Proposed Plans and elevations.

102 Rev B - Plot 2 Proposed Plans and elevations.

103 Rev B - Plot 3 Proposed Plans and elevations.

104 Rev B - Plot 4 Proposed Plans and elevations.

105 Rev B - Proposed garaging.

106 Rev C- Contextual site plan.

107 Rev A- Existing floor plan.

GH1860A - Tree Constraints Plan.

GH1860B - Tree Protection Plan.

3) No development shall take place including any demolition and site clearance until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include the following details: (a) a programme and phasing of construction work; (b) the provision of facilities for contractor parking; (c) the arrangements for deliveries associated with all construction works; (d) methods and phasing of construction works; (e) access and egress for plant and machinery; (f) protection of pedestrian routes during construction; and (g) the location of temporary site buildings, compounds, construction materials and plant storage areas. (h) the specific hours and days of construction on the site so as to avoid Saturdays, Sundays and Bank Holidays. Development shall be implemented in accordance with the approved CMP. For the avoidance of doubt no work whatsoever shall take place to the access road leading to the site without the prior written approval of such works in writing from the Local Planning Authority.

4) No development above ground level shall take place until a detailed scheme of hard and soft landscaping and a tree planting schedule for the site have been submitted to the local planning authority for its written approval, including: (a) the existing trees and shrubs for retention together with their protection; (b) details of new planting (species, size, spacing and location); (c) details of the planting system to be used for trees within the hardstanding areas; (d) details of the areas for hard surfacing and the materials to be used; (e) details of the boundaries of the site and all other means of enclosure; (f) a method and programme for its implementation, and the means to provide for its future management, including a watering scheme and maintenance. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development hereby permitted or its completion, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development hereby permitted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species.

5) No development above ground shall take place until details of the means of disposal of foul water from the site have been submitted to the local planning authority for its written approval. No above ground construction shall take place until these details have been approved, and then only in accordance with the approved details.

6) No development above ground level shall take place until surface water drainage works have been submitted to the local planning authority for its written approval, and the development hereby permitted shall not thereafter be occupied until the approved surface water drainage works have been fully implemented. Before any details are submitted to the local planning authority an assessment shall have been carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall then be provided to the local planning authority with the proposed scheme of surface drainage works. Where a sustainable drainage scheme is to be provided, the submitted details shall: (a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; (b) include a timetable for its implementation; and, (c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

7) Prior to any works taking place above damp proof course level for each unit samples or exact details of the facing and roofing materials to be used, together with full details of all new windows and doors, including the means of opening for all windows and depth of reveals and make up of cills shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

8) The dwellings hereby permitted shall not be occupied until the car parking and garages together with a site turning area has been put in place and made available for use for each individual dwelling in accordance with the details on plan 9074/100 D. Such car parking, garaging and turning facilities shall be retained for that purpose and maintained in perpetuity thereafter to serve the approved dwellings.

9) Prior to any works taking place above damp proof course level of the first dwelling on the site hereby approved details of the provision to be made for refuse storage and collection points including plans and details of siting and appearance of the refuse stores shall be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided prior to occupation of the first dwelling on the site and thereafter be retained for this purpose.

10) The development hereby permitted shall not be occupied until: A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter; A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and the mitigation package shall include a time table for implementation and measures for retention and maintenance of that mitigation package, which shall thereafter be implemented.

11) The works hereby approved shall be undertaken in strict accordance with the Ecological Survey methodology and details (Ecology report Final Version 2.0 dated 24th August 2020) submitted with planning application 20/10994. The biodiversity conservation and enhancement plan shall be completed prior to its first occupation of the new dwellings. Such enhancement proposals shall be maintained in perpetuity thereafter.

12) Prior to the first occupation of the dwellings hereby approved provision shall be made within the site for the installation of operational charging points for electric vehicles, located in accordance with details first approved by the local planning authority, which shall thereafter be retained and operational for this purpose.

13) No development shall take place until the trees on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Gwydion Tree Consultancy Arboricultural Method Statement (GH1860) dated 17/08/2018 and Tree Protection Plan (GH1860b) dated 16/08/2018 while in accordance with the recommendations as set out in BS5837:2012.

14) No operations shall commence on site in connection with the development hereby approved (including demolition works, fires, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the detailed design and construction method statement of vehicular drives, parking area and other hard surfacing within the root protection area (as defined by BS5837:2012) has been submitted in writing and approved by the Local Planning Authority. The design and construction must: a) be accordance with the recommends of BS 5837:2012 b) include details

of existing ground levels, proposed levels and depth of excavation c) include details of the arrangements for the implementation, supervision and monitoring of works.

END OF CONDITONS