



Appeal Decision

Site visit made on 6 December 2021

by E Symmons BSc (Hons) MSc MArborA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2022

Appeal Ref: APP/V1260/W/20/3259851

Land south east of 22 Cliff Drive, Poole BH13 7JD

- 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 J Munday, Flagcliff Management Ltd against the decision of BCP Council.
 - The application Ref APP/19/01265/P, dated 18 September 2019, was refused by notice dated 6 April 2020.
 - The development proposed is erection of 12 beach huts.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal seeks outline planning permission, with matters of access, appearance, layout and scale reserved. I have proceeded on this basis and treated any plans in relation to the reserved matters as illustrative.
3. The original application was for 15 beach huts. However, revised plans decreased this to 12 beach huts. I have used the amended description in the heading above and as the basis for my decision.
4. Policy PP25 appears within a list of relevant policies at the start of the officer report. However, it does not feature in the reasons for refusal within the report or in the Decision Notice. I have therefore, not considered this policy further within my decision.
5. The Appellant contends that the Tree Preservation Order (TPO) 28/2000¹ which protects trees at the appeal site is an area order, however, it is a woodland order. Similarly, TPO 47/1999² which protects both nearby and adjacent trees, has woodland, group and individual tree protection shown. Although the Council has presented no evidence that these TPOs have been recently reviewed, there is nothing before me to suggest that they are not valid. I have proceeded on this basis.

Main Issues

6. The main issue is the effect of the proposal on the character and appearance of the area, including potential loss of trees protected by a TPO.

¹ Land South of 22 Flaghead and 24 Cliff Drive, TPO 28/2000.

² 1-8 Chaddesley Pines, 2 Flaghead Road and 2-8 (evens), 10a, 10b, 12, 12a, 14-24 (evens) and Flaghead, Cliff Drive Tree Preservation Order TPO 47/1999.

Reasons

7. The steeply sloping appeal site sits above a well-used promenade. This road runs for a considerable distance northeast from the more urban character of Shore Road toward and beyond the appeal site. The character and appearance of the promenade varies along its length and there are two aspects of this which are relevant to the proposal. Firstly, the character of the built environment and secondly, the wooded character of the site itself.
8. In the vicinity of the appeal site, development is less dense. There are beach huts and associated structures on either side comprising mainly two-storey buildings towards Shore Road and single storey structures on the other side. These existing buildings show a consistency of design approach with regular spacing, common window and door design features and presentation of an active frontage to the promenade.
9. To the southwest of the appeal site is Flaghead Chine Road which is a pedestrian link leading up from the promenade to Flaghead Road. This Public Right of Way has a wooded character with trees on either side protected by TPO 47/1999. The appeal site has woodland cover, protected by TPO 28/2000. It comprises low scrub holm oak with individual pine seen above the holm oak canopy cover. This woodland links with trees on Flaghead Chine Road and to those in the wider area which adds to the impact of the area's sylvan character. The trees on the appeal site are a prominent feature of the area and can be seen from the promenade, beach and when looking landward from the sea.
10. The proposed beach huts (pods), with a maximum pod height of around 3.3m, would have an innovative and contemporary design being placed upon supporting concrete piles. Their height above the promenade is cited by the Council as around 6-7 metres. Notwithstanding the outline nature of the application, the materials and positioning of the pods would aim to blend them with the surrounding woodland by use of muted colours, timber cladding and timber construction for access stairs and walkways.
11. Within the context of the buildings on either side of the site, there is less of a design link. The CGI image submitted shows the pods above the height of the adjacent two-storey building. This suggests that, they would be higher than the height of the two-storey beach huts to the southwest. This elevated position, combined with their predominantly natural timber appearance and large glass frontage would be incongruous within the adjacent built environment. Their height above the promenade would be further highlighted by their scale which would lead to them protruding beyond the slope.
12. Retention of the wooded appearance of the slope, and the sylvan character and appearance of the area, would be dependent upon retention of tree cover. Trees would be removed to accommodate the supporting piles and allow construction of and access to steps and rear walkways. Others within the physical footprint of the pods would be coppiced and allowed to regenerate following construction work.
13. The submitted arboricultural assessment and method statement³ provides guidance and information on tree protection during construction. It includes general data on piling operations and how retention of the majority of the trees

³ Barrell Tree Consultancy. Arboricultural assessment and method statement. The promenade, Flaghead Chine, Canford Cliffs, Poole. 4 October 2019. 18310-AA2-DC.

could be ensured. However, this specification is not site specific and it is not clear whether further trees would need to be removed to allow access for the pile construction. Furthermore, although the tree schedule refers to part of G1 being felled/coppiced, it is not clear how large this area would be. Reference made within the report to installation of services raises further uncertainty as the D&A states that no externally sourced services are proposed.

14. The extent to which the proposal would blend into the woodland landscape would rely upon re-growth from coppiced trees to fill gaps. However, although future site maintenance following construction has been considered, it is not clear whether this would require removal of additional trees. This may be required to facilitate ongoing access and maintenance of the steps and walkways; clearance from debris and branch encroachment; for maintenance of the pods or clearance for solar panels which may be affected by growth of taller tree species such as pine. Works of this nature could affect the visual impact of the pods have by decreasing their screening.
15. I acknowledge that the proposal is in outline and that detailed design would be a reserved matter. However, uncertainty regarding construction techniques and subsequent maintenance requirements casts doubt on the degree of tree retention possible in the immediate vicinity of these structures. This goes to the very heart of the acceptability of the proposal with respect to its impact upon the character and appearance of the area.
16. The appeal site's wooded character gives visual relief from surrounding developments and links with the quiet wooded character of Flaghead Chine. The proposal would introduce structures and increase the density of development into an area which has a more natural character. It would also be likely that use of the outdoor porch areas would introduce noise and activity which would further highlight their presence. The pods and walkways would not reflect the predominant building design features and would remove/coppice an unspecified number of protected trees. This would harm the character and appearance of the area.
17. The site has ecological value for badger, commuting and foraging bats, breeding birds and as woodland habitat. Enhancement proposals for the adjacent SNCI have been set out along with installation of bat and bird boxes and increasing bare ground to benefit reptiles and ground flora. However, although the enhancement could be a clear benefit of the scheme, it would not be of a magnitude so great as to negate the harm to the character and appearance of the area which I have identified.
18. The intention to blend the pods into the woodland positively responds to one part of Policy PP27. However, it would conflict more generally with this policy and with Policy PP31 of the Poole Local Plan 2018 (Local Plan). These policies, together and amongst other matters, seek a good standard of design which reflects and enhances local patterns of development and neighbouring buildings, would not detract from views and not result in the loss of trees important to the character and appearance of the area. It would also conflict with Policy PP24 of the Local Plan which seeks to protect and strengthen green infrastructure.

Other Matters

19. The appeal site is located 0.5km from Poole Harbour Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI); 2.5km from Dorset Heathlands SPA and Ramsar site; 2.6km from Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC; 2.9km from Studland and Godlingston Heath National Nature Reserve (NNR) and SSSI; 2.9km from the Dorset Heaths Special Area of Conservation (SAC) several other SSSIs, Local Nature Reserves and Sites of Nature Conservation Interest (SNCI).
20. The SAC, SPA and Ramsar sites are habitat sites which are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the protected sites. I am the competent authority for the purposes of this appeal. If I were minded to allow the appeal, I would need to undertake an appropriate assessment to confirm that the proposal would not adversely affect the integrity of the sites. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.
21. Previous pre-application advice supported the principle of the proposal. However, this pre-dated adoption of Sustaining Poole's Seafront Supplementary Planning Document 2015 (SPD). Within this, Flaghead Chine is described as a quiet route. Within the area of Flaghead Beach, a modest increase in the number of beach huts of around 12 is suggested. However, 14 have already been consented and I have been given no evidence to suggest that an increase in development beyond this level is desired.
22. The appellant further states that the proposal would support Policy PP26 of the Local Plan which is concerned with provision of sport, recreation and community facilities. However, no detailed evidence to support this view or quantify the benefit has been advanced. I therefore give this little weight within my decision.
23. The appellant suggests that the development could deliver several potential benefits. Firstly, the new beach huts could contribute to the vitality of the area, act as a catalyst for investment and support the local economy supporting the aims of the SPD. However, this has not been clearly quantified and conflicts with assertions made within the ecological report which suggests that only existing beach users would be attracted. The proposal has therefore not been shown to accord with Policy PP23 which supports growth of the tourism sector.

Conclusion

24. The proposal would harm the character and appearance of the woodland and of the wider area and conflict with policies within the Local Plan. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

E Symmons

INSPECTOR