



Appeal Decision

Site visit made on 3 August 2022

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2022

Appeal Ref: APP/V1260/W/21/3280912
2, 3 & 4, Leicester Road, Poole BH13 6BY

- 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 Nylo Homes Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/20/00276/F, dated 28 February 2020, was refused by notice dated 4 June 2021.
 - The development proposed is for the demolition of existing dwellings and erection of a 35 unit residential development with associated access and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An application for costs is referred to in the evidence on behalf of Nylo Homes Ltd against the Council. However, in the lead up to the appeal the appellant has subsequently confirmed a costs application is not pursued as the corrected and up to date position.
3. I note that a range of plans and technical information has been submitted in the appellant's bundle which was not considered during the planning application determination period. The information is linked to the reasons for refusal contested and there has been opportunity for parties to comment on it. Therefore, I am satisfied its consideration does not disadvantage other relevant parties involved in the appeal.
4. The main parties acknowledge an independent viability assessment has been undertaken, following the Council's decision, in relation to the local affordable housing requirements triggered. As a result of that assessment, the Council have confirmed that they no longer contend that the scheme should contribute towards local affordable housing needs, as a reason to refuse the development. That is on the basis the scheme would not be viable if any standard affordable housing requirements were to be applied. I have no reason to take a different view and therefore my decision focuses on the remaining issues in dispute.

Main Issues

5. The main issues are: the effect to the character and appearance of the area having regard to the Branksome Park and Chine Gardens Conservation Area (CA) it falls within; the impact to highway safety; and the overall effects of the proposed development on biodiversity and ecological interests.

Reasons

Character and appearance

6. At my site visit I could see that the appeal site and the immediate area around it was heavily treed and that low density housing within an otherwise dominant sylvan setting was an important component of the area's substantial attractiveness. The existing properties on the appeal site are modest in footprint and low rise with tall trees on elevated land in the background prominent above their respective roof ridges. Properties in the vicinity vary in architectural styles and are significantly set back from the highway, within large plots as further noticeable and attractive shared characteristics of the locality.
7. The Council highlight that the CA's special architectural and historic interest is set out in its Character Appraisal and Management Plan (CAMP). The historic interest applicable relates to the way the Branksome Park area was originally planned and laid out.
8. Although the CAMP identifies a number of buildings that contribute positively to the area's special character and appearance, and some of those are evidenced as being locally listed, few individually are argued to have any special interest.
9. Rather, the CA's architectural interest is evidenced to relate to the variety of different building styles and periods, and the informality of their siting, spacing and orientation, which collectively contribute to the CA's most special qualities. Indeed, the landscape greenery of the CA rather than the buildings it contains is noted as a leading component of the areas unique character and appearance.
10. There is no dispute between the main parties to the appeal that the architectural merits of the existing properties on the site warrant retention. Moreover, the architectural style of the appeal buildings proposed is also not contested. I have no reason to disagree with the position taken on those particular points. I also accept that high quality finishes would be applied to the external elevations of the new buildings proposed.
11. However, matters related to the appropriateness of the position, scale, bulk and mass of the proposal relative to the existing form and character of the area are contended.
12. In that respect, there are generous gaps between existing dwellings evident along Leicester Road taken as a whole. Existing gaps are indicated by the Council to be in the order of 15 metres (m). In contrast, the appellant highlights no's 2, 3, 4 only have separation gaps ranging from 1.5m to 4.9m. The appellant's position is supported by the plan information before me. Nevertheless, the measurements include the position of smaller domestic outbuildings, and the distance between no. 5 and no.4 is not annotated on the main plan drawings.
13. I appreciate that the appeal scheme would entail gaps ranging between 7.3m and 9.8m, accounting for variations in footprint. Even so, the replacement buildings have a far greater overall bulk and mass than the existing properties they would replace. The scheme would take up most of the open non-treed land available within the site confines, and would be positioned closer to the highway.

14. The combined grouping of the three appeal buildings would be a noticeable visual change when stood within the confines of the application site, from neighbouring residential land within the CA, as well as from roadside views along Leicester Road close to the access provision.
15. The elevated woodland to the rear of the appeal site provides a striking and overriding context to the existing low rise properties it contains. The taller replacement buildings would alter that relationship by being the main leading features from existing vantages available at the front of the appeal site and neighbouring residential land.
16. Although the replacement buildings proposed would be set back from the highway, and their overall height could be dictated by any approved slab level, they would still be central built features occupying this part of the CA. The scope available for additional landscaping would not alleviate my concerns.
17. My attention is brought by the appellant to the allowed appeal reference APP/Q1255/W/17/3189976 at 1, 3 and 5 Lindsay Road entailing the erection of a 37 unit development. But that scheme is arranged into two blocks rather than three and therefore entails different form and character impacts than the current appeal scheme. Therefore, I give direct comparisons to that decision little weight.
18. Nonetheless, drawing on other related broader conclusions in that appeal decision I agree that atypical development may not necessarily result in harm. However, the combined scale and mass of the replacement buildings presently appealed would still erode from the CA's most positive qualities in terms of spacing between buildings relative to their overall size. It would also diminish the prominence of tall trees and landscaping.
19. Applying the terms of the National Planning Policy Framework (the Framework) I accept that the change would amount to less than substantial harm to the value of the CA given it would only affect a small proportion of its overall size.
20. The scheme would give rise to far taller and larger closely grouped buildings being an overly dominant physical feature of the front part of the appeal land. I find that issue to be a specific local form and character sensitivity shortfall which is not appropriately addressed by the appellant's design rationale.
21. Accordingly, I find that the development would harm the character and appearance of the Branksome Park and Chine Gardens CA. There would be conflict with the provisions of Policies PP01, PP02, PP27 and PP28 of the Poole Local Plan (2018) which combined aim to protect heritage assets and local character from harm as well as encouraging good design principles. It would also be in conflict with the provisions of the Framework replicating those aims.

Highway safety impacts

22. I acknowledge there is good accessibility to public transport and services available in the immediate area. That said, the level of individual car ownership, visitor and delivery provision associated to the development would be difficult to control.
23. In that context, there would be a significant uplift in the number of vehicle movements into, and out, of the site from that attributed to three dwellings

- each with independent driveways, to that associated with thirty five dwellings using a shared access arrangement.
24. The proximity of the existing signalised junctions either side of the access provision which would serve the appeal scheme is an important factor. I have considerable reservations that the appeal development would disrupt the free flow of traffic on Leicester Road. Disruption would occur from increased vehicle braking given the numbers of vehicles and cyclists intending to turn into, and out of the site.
 25. Equally, motorists exiting onto Leicester Road would also be compromised by the signal controlled junctions where queuing traffic has a strong likelihood to occur, especially at peak travel times.
 26. I disagree with the appellant's Transport Statement that the effects of the development would be safe. Representations from the Highway Authority and residents in the local area support the conclusion that the road network is already subject to congestion pressures near to the junctions.
 27. Left 'in' turn and left 'out' turn driver options and other alternatives are evidenced by the appellant as mitigation. However, I am unconvinced such mechanisms would ensure the safe management of traffic on the road network given the number of units proposed. The additional braking and turning movements on the highway itself would still lead to increased road user danger. Particularly when drivers accelerate, following stopping or queuing at the junctions, in line with changes to the traffic lights.
 28. Ensuring live driver, motorcyclist and cyclist choices in line with any signage, highway alterations or road markings which could be applied, would be difficult to enforce on a daily basis.
 29. Furthermore, driver anticipation of the number of vehicles or cyclists already manoeuvring within the site boundary at any given time would be extremely difficult. Including the presence of any larger delivery or refuse vehicles. All of which, could impact on any 'in' and 'out' vehicle movements using the access provision through additional unexpected driver braking and waiting.
 30. There is no convincing evidence demonstrating the application of highway yellow 'keep clear' box grid markings or other highway related alterations would offer successful solutions if sought by planning condition. The difficulty in enforcing driver, motorcyclist and cyclist movements also leads me away from accepting such an approach in any event.
 31. Moreover, I am mindful changes to the front boundary landscaping not detailed by the appellant would also trigger additional character, appearance and tree impacts when assessing all of the main issues in the round.
 32. Overall, the use of the site access provision is likely to exacerbate disruptions to the free flow of traffic along the highway by an unacceptable degree. The effect would be hazardous.
 33. Accordingly, I find that the scheme would significantly erode from existing highway safety levels. The proposal would conflict with Policy PP35 of the Poole Local Plan (2018) which seeks to improve the safety of travel and places. It would also conflict with the provisions within Sections 9 and 12 of the

Framework which seek to protect public safety and to secure new development that functions well.

Biodiversity and ecological impacts

34. The main parties acknowledge that the application site is within 5km of a Site of Special Scientific Interest (SSSI). The SSSI is also part of the designated Dorset Heathlands Special Protection Area (SPA) and Ramsar site, as well as part of the Dorset Heaths Special Area of Conservation (SAC).
35. Therefore, under the Conservation of Habitats and Species Regulations 2017 if the development is likely to have a significant effect on a qualifying European site an Appropriate Assessment must be carried out.
36. To that end, I acknowledge that new residential development would result in increased amounts of nutrient discharge, vehicle trips and attract additional visitors to the area. All of those factors suggest there would be significant ecological effects to the European sites designated features and conservation objectives.
37. A signed Unilateral Undertaking (UU) secures £8,936 as well as a separate administrative fee towards the 'Dorset Heathlands Mitigation Strategic Access Management and Monitoring Contributions'. It also secures a further £3,184 and a separate administrative fee to the 'Poole Harbour Recreation Strategic Access and Monitoring' initiative in accordance with Policy PP32 of the Poole Local Plan and the Interim Scheme for Poole Harbour Recreation Mitigation 2018.
38. The UU complies with the statutory and policy tests advised in the Community Infrastructure Levy Regulations 2010 as amended, the Framework and National Planning Practice Guidance.
39. Thus, I am content that the completed agreement secured alongside established Community Infrastructure Levy Charging Schedule mechanisms applicable combined would sufficiently mitigate against any harm to the European sites should the development proceed.

Other considerations

40. The Council highlight the significance of the Housing Delivery Test (HDT), January 2021. The HDT shows that the total number of homes delivered in Poole compared to those required over a defined 3 year period was marginally below the government's formal threshold of 75% (at 73%). The shortfall being some 499 dwellings for that particular period.
41. In accordance with Footnote 7 of the Framework, the Council accept that paragraph 11(d) is triggered by failure to meet 75% of a local plan housing target over a defined 3 year period. That is regardless of whether Poole can presently demonstrate a 5 year housing land supply or not.
42. In that context, the appellant specifically points me to: growth to the local economy and job creation; boosting housing delivery to meet current local and future needs in a sustainable location; the effective use of land; and that the new buildings would be energy efficient when considering the wider economic, environmental and social objectives referred to in the Framework as reasons to allow the development.

43. I have carefully considered the range of benefits put forward alongside the separate public comments supporting the scheme on similar grounds. I agree those elements are all positive factors weighing in favour of the scheme.
44. Additionally, there is broad consensus between the main parties that the proposal does not harm the trees intended to be retained. Indeed, alleged harm to trees is not a reason for refusal before me and I accept the layout of the scheme would enable tree health to be respected alongside the incorporation of new landscaping.

Planning Balance and Conclusion

45. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
46. There would be conflict with the Council's development plan arising from the main issues of the case. Outside of my findings on the main issues, there would also be some significant benefits as a result of the development encouraged by other elements of the Council's development plan and the content of the Framework.
47. Nonetheless, all of those benefits would come at a cost of demonstrable harm to the special character and appearance of the CA. I attribute substantial weight to that particular harm. The level of public benefits on offer does not provide me with adequate justification to set aside the harm I have identified.
48. That is because there is no substantive evidence to discount that other forms of new residential development could not take place without resulting in damage to the CA, or in other suitable locations outside of it, offering similar benefits. Consequently, the harm I have identified to the special qualities of the CA taken alone provides me with a clear reason to dismiss the appeal when applying 11 (d) (i) or (ii) of the Framework.
49. Indeed, the highway safety harm which the scheme would lead to also carries substantial weight relative to the other planning considerations in play. Even without CA impacts weighing against the scheme, the erosion of public safety from the use of the site access is a strong enough standalone reason not to allow the development when applying the terms of 11 d (ii) of the Framework.
50. Accordingly, having regard to both the heritage and highway safety grounds in dispute the scheme would not amount to a sustainable form of development, when assessed against the policies of the Framework taken as a whole.
51. In conclusion, taking all matters raised in the round I do not find the overall benefits of the development would outweigh the harm to the character and appearance of the CA or that arising from the erosion of public safety associated to the use of the site access.
52. For the reasons given above the appeal does not succeed.

M Shrigley

INSPECTOR