



Appeal Decision

Site visit made on 8 November 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/V1260/W/22/3295070

1 High Street, Christchurch BH23 1AE

- 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 Mr C Boulton of Axis 51 Developments against the decision of BCP Council.
 - The application Ref 8/21/0437/FUL, dated 16 April 2021, was refused by notice dated 22 December 2021.
 - The development proposed is described as a block of 8no. flats, a commercial unit and integral cycle store; and a detached block of 3no. terraced houses with integral car ports, with associated car parking and vehicular access off Sopers Lane.
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Decision

1. The appeal is allowed, and planning permission is granted for a block of 8no. flats, a commercial unit and integral cycle store; and a detached block of 3no. terraced houses with integral car ports, with associated car parking and vehicular access off Sopers Lane at 1 High Street, Christchurch BH23 1AE, in accordance with the terms of the application Ref 8/21/0437/FUL, dated 16 April 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Amended plans were submitted with the appeal. As the Council has raised no objection to their acceptance, and given the minor nature of the changes shown, I am satisfied that no prejudice would arise to any party by taking them into account.
3. In view of the above amendments the Council has withdrawn its third reason for refusal, which related to highways safety. I shall therefore consider it no further within this decision.
4. A Unilateral Undertaking (UU) was provided by the appellant in relation to habitats sites and affordable housing contributions late in the appeal process. The Council has confirmed that the UU is acceptable. I shall return to this further below.
5. An application for costs was made by Mr C Boulton of Axis 51 Developments against BCP Council. This application is the subject of a separate decision.

Main Issues

6. The main issues are:

- the effect of the development on the integrity of habitats sites;
- whether the development would make adequate provision for affordable housing;
- the effect of the development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of Christchurch Central Conservation Area (the Conservation Area); and
- the effect of the development on the living conditions of future occupants in relation to privacy and outlook.

Reasons

Habitats sites

7. The site lies within a zone 400m-5km from the Dorset Heathlands Special Protection Area, and the Dorset Heaths Special Area of Conservation and Ramsar sites (the habitats sites), which in turn overlap a number of SSSIs. Considered in combination with other plans or projects the development would have a likely significant effect on the integrity of the habitats sites due to the increased population that the additional dwellings would support, and the associated generation of recreational activity. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) an Appropriate Assessment is therefore required.
8. The designation of the habitats sites relates to the range of protected priority habitats and species that they support. Where available, their conservation objectives seek to maintain or restore integrity, including that of qualifying features. Harm arising from increased recreational use of the heathland they contain would be at odds with these objectives.
9. The Council's strategy for delivering mitigation of increased recreational pressure is currently set out within the Dorset Heathlands Planning Framework 2020-2025 (DHPF). Mitigation comprises funding for heathland infrastructure projects funded through the Community Infrastructure Levy, and strategic access management and monitoring measures (SAMM) funded by developer contributions.
10. The DHPF was prepared in coordination with Natural England (NE). Thus, whilst NE has provided no specific advice in relation to the appeal scheme, I am satisfied that its advice in relation to the 400m – 5km zone is clearly set out within the DHPF.
11. Contributions towards SAMM need to be secured by planning obligations, and the submitted UU contains such an obligation. In light of both the DHPF and my findings above I am satisfied that this passes the tests set out in the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the National Planning Policy Framework (the Framework) (the tests). Whilst the Council is not a party to the UU, I have no reason to believe that it would use the contribution for purposes other than those set out within the DHPF. The development would therefore mitigate its likely significant effect on the integrity of the habitats sites.

12. For the reasons set out above, I conclude that in the development would not adversely affect the integrity of the habitats sites. The development would therefore comply with Policy ME2 of the Core Strategy 2014 (the CS) which seeks to require mitigation in line with the DHPF.

Affordable housing

13. Policy LN3 of the CS sets out the requirement for all residential development in locations of the type in question to provide 40% affordable housing. Despite such a blanket approach being at odds with the Framework, no conflict would arise in this case given that the development would exceed the 10-unit threshold the Framework sets.
14. Policy LN3 otherwise broadly reflects the Framework's expectation of on-site provision, whilst also allowing scope for payment of a contribution towards off-site provision, or reduced contributions. In this case no on-site provision of affordable housing is proposed, and the application was made on the basis that the development would be unviable if a contribution was paid. A £61,924 surplus above Benchmark Site Value was however identified when the scheme was assessed by the District Valuer.
15. In light of this assessment the appellant no longer disputes the matter, and an obligation securing payment of the contribution has been included within the UU. On the basis of the above evidence I am satisfied that this passes the tests. Again, though the Council is not a party to the UU, I have no reason to believe that it would use the contribution for anything other than its intended purpose.
16. For the reasons outlined above I conclude that the development would make adequate provision for affordable housing. It would therefore comply with Policy LN3 of the Core Strategy as set out above.

Character and appearance

17. The site is located within the Conservation Area which is a designated heritage asset. Whilst the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the desirability of preserving or enhancing the character or appearance of conservation areas, paragraph 199 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets.
18. Insofar as it is relevant to this appeal the special interest and significance of the Conservation Area resides the historic layout of the town centre, the historic buildings and spaces that this contains, and the interrelationship between the two.
19. Within this context the site is prominently located at a 'gateway' to the High Street which is given dubious definition and emphasis by a large modern roundabout. The site itself is made up of a car park, and an area of paving. Whilst forming an incongruous gap in the frontage, the car park also serves to open up views of the visually unattractive modern commercial building to its rear. Clear scope thus exists for enhancement.
20. Development of the site has been previously approved (the previous scheme), and the permission remains extant. The appeal scheme would involve a development of similar 'traditional' design, including in terms of form and layout, albeit providing a different mix of commercial and residential

accommodation. The Council's assessment involved comparison of the 2 schemes, with some identified minor differences drawing objection.

21. Insofar as these differences would include windows featuring lesser vertical emphasis, and the provision of one less dummy chimney stack on the block of flats, in neither regard would the ability of the development to blend with the immediate streetscene be significantly affected. Indeed, given that the latter is characterised by buildings of differing style, with differing numbers of chimney stacks and windows of varied form, the proposed design would be readily absorbed. The same is true in relation to the proposed dormers, despite their awkward roof forms.
22. Within both schemes the fascia of the proposed shop unit would appear to extend around all 4 elevations of the block of flats. This would be a somewhat unusual feature, and its minor truncation on the rear elevation of the block as proposed would make it appear slightly more so. Nonetheless, this would again have no significant effect on ability of the scheme to integrate.
23. It is likely that the proposed use of artificial clay tiles would be readily discernible and conspicuous given the large surface area they would cover, and the contrast which would arise with adjacent buildings. As clay tiles are an important feature within the broader townscape within the Conservation Area, use of artificial tiles would detract from its character and appearance. To resolve the matter the appellant has proposed the imposition of a condition. Given that the development would not be significantly changed by use of a different tiling material, this would be an appropriate mechanism.
24. The scheme would not represent a faithful or accurate execution of historic architectural style, however, neither would the previous scheme. More crucially, given my findings above, the proposed building designs would not appear unacceptable either in themselves or relative to the surrounding context.
25. The previous scheme provided a narrow band of planting across the frontage of the block of flats. In practice it is likely that this would have been largely hidden by the wall to its front. Frontage vegetation is not otherwise a feature of buildings within the established streetscene, and in this regard the existence of a small park opposite has no direct relevance. Whilst some token provision of green space has been proposed on the amended plans, its absence from the frontage would not have given rise to any obvious harm. Indeed, though the proposed scheme has been described as 'harsh and sterile', it remains the case that the site is at present largely devoid of vegetation.
26. The appeal scheme omits the car port previously proposed along the side of the site. Consequently, parked cars would be more visible than in the previous scheme. They would not however be any more visible than cars which currently park in the same location. Furthermore, the overall visibility of cars would decrease given that most of the car park would be built on. The effect would not therefore be unacceptable.
27. In common with the previous scheme the appeal scheme would see the current gap in the streetscene filled, in turn helping to screen the modern commercial building to the rear. For this reason, and view of my findings above, some overall enhancement of the Conservation Area would be delivered.

28. Though the Council placed emphasis on paragraph 135 of the Framework, which states that local authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, this is not relevant. Indeed, notwithstanding similarities between the 2 schemes, the previous scheme is not subject of amendment.
29. For the reasons outlined above, I conclude that the effect of the development on the character and appearance of the area, including Conservation Area, would be acceptable. The development would therefore comply with Policy HE1 of the CS, which supports the application of national policy in relation to heritage; Policy HE2 of the CS which seeks to secure development that is compatible with or improves its surroundings; Policy LN2 of the CS which allows for high density development in town centres where this would not have an adverse effect on character; saved Policy BE4 of the Local Plan 2001 (the LP) which sets out criteria for development in conservation areas, all of which would be met; and saved Policy H12 of the LP which again seeks to secure development appropriate to the locality.

Living conditions

30. Windows serving bedrooms and main living spaces in the terrace of 3 2-storey dwellings proposed to the rear of the site would be provided in the front elevation only. The latter would face northwest towards the taller block of flats. Aside from providing a limited outlook, the windows would provide low levels of light to the interior. The orientation of the terrace would however be the same as that of the similar building containing 2 dwellings within the previous scheme. Though that additionally featured 4 first floor windows in the rear elevation, only one served a main living space, and the rest served corridors. All otherwise faced across a narrow service yard towards the side wall of the modern commercial building to the rear. Notably the latter contains a number of first floor windows which provide scope for direct overlooking. In practice therefore the additional windows in the previous scheme would not provide any meaningful or private outlook, and only one would provide a necessary source of additional light.
31. The amended plans propose 3 additional rooflights across the rear roof slope, each serving a main living space. These would provide reasonable access to light and ventilation, and though they would not provide the same type of outlook as conventional windows, little scope for overlooking would arise. Though first and ground floor bedrooms would remain single aspect, light and outlook are of lesser importance in relation to such spaces whose principal use normally occurs at night. That and the above being so, the arrangement would provide acceptable living conditions for future occupants.
32. The proximity of the terrace to the block of flats would again be much the same as that between the block of flats and the 2 dwellings in the previous scheme. As is the case in the latter, windows rooms within each building would obliquely face one another across the gap separating them. The relative orientation of the buildings would thus limit the extent to which direct views from one property into another would be possible.
33. Though the Council has objected on the basis that views would be between single aspect dwellings, it is unclear how the effects of overlooking would be addressed by providing additional source of outlook in another direction. More so if considered in context, given the potential for intervisibility with windows in

other buildings adjacent to the site, including Exchange House. Given the nature of the location the provision of a wholly private outlook from any dwelling would indeed be difficult to achieve, and mitigation could be simply achieved as required through the ordinary use of window hangings. The proposed arrangement is not therefore unacceptable.

34. For the reasons outlined above I conclude that the development would provide acceptable living conditions for future occupants in relation to privacy and outlook. It would therefore comply with saved Policy H12 of the LP which seeks to ensure that residential amenities are not adversely affected by loss of light or privacy. Though Policy HE2 of the CS was again cited in the decision notice, this is not relevant given that it relates to the relationship of a development with its surroundings, rather than the interrelationship of different parts of a development.

Other matters

35. The site lies near to a Scheduled Ancient Monument described as the 'site of town walls in, and east of, Druitt Gardens'. Historic England considers that its setting would not be harmed, and I have no reason to reach a different view. The potential for the site to contain archaeological remains of interest has been highlighted both with reference to other sites in the vicinity, and in relation to an investigation undertaken in 2014. The matter can be appropriately addressed by condition.
36. Interested parties have raised additional concerns including loss of parking and adverse impacts on the amenity of occupants of adjacent dwellings, including those at Exchange House. However, it remains the case that much the same effects would arise were the previous scheme to be implemented. Though the appeal scheme would see the terrace stand closer to the boundary with Exchange House, the car port previously approved along the boundary would be omitted. The overall proximity of built form to Exchange House would therefore be reduced, and given relative orientation and the lack of first floor windows in the gable of the terrace, there would be no greater scope for overlooking or shading.

Conditions

37. I have imposed standard conditions specifying the time period for commencement of the development and identifying the approved plans for sake of certainty. The wording used allows limited departure from the plans in order to meet the requirements of other conditions.
38. Condition (3) requires the implementation of a programme of archaeological investigation given the identified potential of the site. This is in line with the recommendations of consultees including Historic England.
39. Condition (4) covers the provision of an evidence-based surface water drainage scheme, in relation to which only indicative details have been provided. The requirement partly arises from sewer flooding, and a need to avoid disposal by this means. Here the statutory undertaker indicates that good potential exists for infiltration. For sake of clarity, I have used a standard wording rather than that proposed by the Council.
40. Condition (5) requires approval of all facing and roofing materials. This is necessary in order to ensure that the development complements the character

and appearance of the Conservation Area. Given the wording of the plans condition necessary scope exists for approval of roofing materials other than those specified on the plans.

41. Condition (6) requires implementation of the proposed hard and soft landscaping scheme, and maintenance of the latter for 5 years. This is in order to ensure that the development is completed to a satisfactory standard, and that planting becomes established, each in the interests of general amenity.
42. Condition (7) requires completion of the car parking, cycle storage, and turning spaces in order to ensure the ongoing capacity of the development to cater for parking demand, provide safe access and to encourage sustainable modes of travel.
43. Condition (8) requires the implementation of a scheme of biodiversity enhancements in line with national policy. This is notwithstanding the enhancements proposed given that these relate to the previous scheme.
44. Condition (9) requires the provision of waste management plans as requested by the Waste Collection Authority. Though some details are provided on the plans, further clarification is required in relation to where different users will store waste, and on-going management arrangements. Given that separate legislation applies to commercial uses, some details, such as collection arrangements need not be sought. The condition is necessary in order to ensure the appropriate management of waste on site in the interests of amenity.
45. I have not imposed a requirement to provide a construction method statement given the small size of both the site and the development. Each would limit scope for undue disturbance or disruption and limit the extent to which meaningful control could be exercised in relation to many of the standard clauses proposed. Most of the latter are more applicable to larger schemes.

Conclusion

46. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the conditions below the development hereby permitted shall be carried out in accordance with the following approved plans: 9435/100 Rev. G; 9435/101 Rev. D; 9435/102 Rev. C; 9435/103 Rev. F; 9435/105 Rev. C; 284-1.
- 3) No works other than above ground clearance shall take place in relation to the development hereby permitted until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has first been submitted to and approved by the local planning authority. This

scheme shall cover archaeological fieldwork, together with post-excavation work and publication of the results.

- 4) The development hereby permitted shall not be occupied until a scheme of surface water drainage has been implemented in accordance with details which have first been submitted to and approved in writing by the local planning authority. The scheme shall be informed by an assessment of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment shall be provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - 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;
 - include a timetable for its implementation; and,
 - 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.
- 5) The development hereby permitted shall not proceed above slab level until details of all external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 6) The development hereby permitted shall not be occupied until all hard landscaping shown on the approved plans has been completed. All soft landscaping shown on the approved plans shall then be carried out in the first planting season following completion of the development hereby permitted, or its first occupation, whichever is the sooner. Any planting found to be damaged, dead or dying in the first five years following planting shall be replaced with matching species.
- 7) The development hereby permitted shall not be occupied until the car parking, cycle storage, and turning spaces shown on the approved plans have been constructed and made available for such use. The car parking, cycle storage, and turning spaces shall be retained thereafter and kept available for such use at all times.
- 8) The development hereby permitted shall not be occupied until a scheme of biodiversity enhancements have been implemented in accordance with details which have first been submitted to and agreed in writing by the local planning authority.
- 9) The development hereby permitted shall not be occupied until a Waste Management Plan relating to the dwellings, and a Commercial Waste Management Plan relating to the shop unit has been submitted to and approved in writing by the local planning authority. The plans shall provide details of how and where future occupants/users will store waste and recycling, identify the location of presentation points, and detail arrangements for the long-term maintenance of any waste storage facilities. The development shall then be carried out and managed thereafter in accordance with the approved plans.