



Appeal Decision

Site visit made on 4 October 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/D1265/W/21/3288438

74 Wareham Road, Corfe Mullen, DORSET, BH21 3LG

- 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 Blacklane Developments Ltd. against Dorset Council.
 - The application Ref 3/21/0534/FUL, is dated 10 March 2021.
 - The development proposed is to demolish no 74 Wareham Road and sever land to the rear of Nos 74, 76 and 78 Wareham Road and construct 9 new dwellings with associated garaging and access.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs is made by Backlane Development Limited against Dorset Council. This costs application is set out with a separate decision.

Preliminary Matters

3. The planning application was appealed prior to its determination. As such, there is no Notice of Decision from the Council. The main issues have been derived from the evidence submitted, including the Statement of Case from the Council for this appeal.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the area, including through tree loss
 - The effect of the development on the living conditions of neighbours to the site
 - The effect of the development on ecology and biodiversity, being both local ecology and sites of international ecological importance.

Reasons

Character and Appearance

5. The site is within a residential area of Corfe Mullen, with the proposed houses on what is three separate long rear gardens (with the replacement of No 74

- Wareham Road). Access would be off Wareham Road with the proposals being for a small cul-de-sac.
6. The density as proposed would not be out of character with the area, which has a variety of differing density residential areas. The dwellings proposed are generally quite large, often with separate detached garages. However, each property would also be served by good sized gardens. As such, the proposed layout of dwellings within their plots does not appear overdeveloped or cramped.
 7. There has been a series of planning decisions relating to tree loss. It is apparent that there was a number of trees in the garden of No 74, though many have been lost. There have been proposals to remove the Tulip and Liquid Amber trees, to the rear of no. 74 Wareham Road, which was refused by the Council on the grounds of their contribution to amenity. These trees are subject to a Tree Preservation Order (TPO).
 8. The remaining trees within the site do have some amenity value, contributing to the verdant character of the area. I also note that the trees are adjacent to a Special Character Area, to which they contribute positively. There are some views from public areas of on site trees. For the Tulip and Liquidamber trees the appellant has provided some evidence that the trees are not now of good quality and likely to fail in the near future. The Council state that this evidence is not sufficient justification.
 9. It is my view, from what I observed at my site visit, the trees that are set to be removed are not now of a quality or location to have a significant contribution to the wider public realm. Most are not currently prominent from public vantage points. Furthermore, the proposals include plans for landscaping and more planting at the site. There is some issue with the proposed tree planting scheme, though this can be agreed with a planning condition which would require details to be agreed by the Council. There is, from the evidence provided, sufficient room for adequate tree and hedgerow planting to compensate for tree loss.
 10. Some of the dwellings are proposed close to trees which are set to remain. Some of the larger trees will cover portions of the gardens of Units 6 and 8, for example, but there still remains a sufficient separation distance from the houses. There will be some overshadowing of the gardens from the trees but there is no substantive evidence that there would be significant pressure to fell more trees in the future as a consequence. A condition can also be imposed to require suitable tree protection during the construction process.
 11. Overall, the loss of some further trees is unfortunate, but the proposal includes sufficient mitigation to make up for this loss and overall the landscape character of the area would be preserved and potentially enhanced with a suitable landscaping scheme. The layout, house design and scale are also considered appropriate. The proposal is in accordance with policies HE2, HE3 and LN2 of the Christchurch and East Dorset Core Strategy (CS). These policies require that development maximise density to an acceptable level and protects the landscape character, amongst other things.

Living Conditions

12. To the northern boundary of the site is a recently built chalet bungalow (No 70 Wareham Road) with two storeys. This includes what appears to be a rear first floor balcony with significant amounts of glazing to the rear elevation.
13. The proposals include the two storey house at Plot 8, which is to the southwest of No 70, near the boundary with this property. At first floor level is a bedroom window which would have views over the boundary fence towards the rear of No 70. There would not be a separation distance to sufficiently mitigate potential overlooking. The views from this bedroom would overlook the rear of No 70 and the rear garden space nearest this neighbouring house.
14. It is noted that the window serves a bedroom, but though this may not be a room which occupants spend as much daytime hours in as a living room for example, it is still a habitable room which would afford views into currently private areas of a neighbouring dwelling. Overall, I am not satisfied from the submitted evidence that the proposal would avoid unacceptable levels of overlooking of this neighbouring house and consequential erosion of privacy levels.
15. For this reason, the proposal is contrary to policy HE2 of the CS, which requires that development has a compatible relationship with other nearby properties.
16. Due primarily to the separation distances involved, there would be no significant adverse impacts to the living conditions of any other neighbouring dwellings.

Ecology and Biodiversity

17. The proposal includes some tree loss, but many of the trees have already been felled separate to this appeal proposal. The proposal includes a Biodiversity Plan but the Council state that there is insufficient space within the proposed layout to accommodate replacement trees sufficient to mitigate the loss of existing trees, which currently contribute to the biodiversity on the site.
18. From the layout plan proposed there does seem to be a good level of external space available for planting of new trees and other forms of planting. The proposal could result in a good level of tree cover, which would have biodiversity benefits. The submitted Biodiversity Plan sets out that trees to be retained shall be protected and that there will be many native trees planted along with native hedgerows. This could be managed with the appellant potentially being required to do so with a planning condition. Biodiversity Net Gain measures also include, for example, integrated bat tubes, swift bricks and also bee bricks incorporated.
19. Overall, it is sufficiently demonstrated that there could be biodiversity mitigation and enhancement measures to compensate for the loss of trees, thereby being in accordance with policy ME1 of the Christchurch and East Dorset Local Plan: Part 1: Core Strategy. This policy seeks to maintain, protect and enhance habitats and species, with their ecological networks, amongst other things.

20. As set out by the Council, the site is within 400m but within 1km of Dorset Heathlands Special Protection Area (SPA), Dorset Heathlands Ramsar and Dorset Heathlands Special Area of Conservation (SAC). It also lies within 1km of the Corfe Mullen Pastures Site of Special Scientific Interest (SSSI), Corfe & Barrow Hills SSSI, Corfe & Barrow Hills Local Nature Reserve (LNR) and Corfe Hills LNR.
21. The proposed development would likely result in increased number of people living in this area and could therefore contribute to recreational pressures on these important ecological sites. The Council set out that the Community Infrastructure Levy can be used to take contributions used for mitigation, as set out in the e Dorset Heathlands Planning Framework 2020-25.
22. The appellant has not stated that they would not be prepared to make the contribution. If I was set to allow the proposed development then I would have consulted the appellant, Council and Natural England for further comment, which may have led to the contribution being made towards the necessary mitigation and therefore could accord with policies ME1 and ME2 of the Councils Core Strategy.

Planning Balance

23. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am required to determine appeals in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
24. In this case the proposal would provide a net increase of eight new dwellings towards housing land supply for the area, in an accessible location. There would be economic benefits from the construction of the dwellings, together with the financial boost from future occupiers using local businesses. The proposal could include biodiversity enhancement and the proposal could be considered an efficient use of the site, amongst other potential benefits. I would give the benefits modest weight overall, limited by the scale of the development.
25. However, the harm I have identified above with regards to the impact to neighbour living conditions and the conflict with the associated development plan policy would be significant. The harm is such that it clearly outweighs the benefits. All things considered, the other material considerations are not sufficient to conclude that my determination of this appeal should be made other than in accordance with the development plan.

Conclusion

26. For the reasons given above I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR