



Appeal Decision

Site visit made on 6 March 2023

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2023

Appeal Ref: APP/D1265/W/22/3298202

Land adjacent to Elmstead, Sandford Road, Wareham BH20 4DH

- 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 Mrs M Taylor (Wareham Therapy Clinic) against the decision of Dorset Council.
 - The application Ref P/FUL/2021/03293, dated 2 September 2021, was refused by notice dated 28 February 2022.
 - The development proposed is to sever land, demolish existing garage and erect a detached chalet bungalow with car parking and access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst not forming part of the Council's reasons for refusal, the effect of the development on the integrity of Poole Harbour Special Protection Area (the SPA) has been referred to within the Council's statement of case. Increased levels of nitrogen and phosphorus entering the harbour, as a result of new development, threatens the wildlife habitats for which the SPA was designated. It is incumbent upon me as the competent authority to consider the impact of the development on the SPA, so it is necessary to make that matter a main issue in this appeal.

Main Issues

3. The main issues are:
 - a) The effect of the development, including any likely impact on trees, on the character and appearance of the area;
 - b) Whether the proposal would be likely to increase the risk of flooding; and,
 - c) The impact of the development on the integrity of the SPA with regard to nitrogen and phosphorous loading within the harbour catchment.

Reasons

Character and appearance

4. Sandford Road is long and straight, with pavements and grass verges on either side. It is lined on both sides by fairly evenly spaced detached residential properties of varying forms and design. The buildings are set well back from

the road, in straight lines, behind front gardens that are enclosed by hedges, walls and fences. Many of the gardens contain trees and shrubs, and as a result the buildings are softened by greenery in views up and down the road. The width of the road, the set back of the buildings, and the prevalence of foliage gives the road a spacious suburban feel, where the buildings do not dominate the street scene.

5. Elmstead lies on the western side of the road, where the houses generally have long rear gardens that back onto the busy A351. Although the evidence indicates that it has recently been in use as a therapy clinic, it has the appearance of a residential bungalow. It lies at the southern end of a row of properties that, although not identical in design, show a distinct cohesion in their scale, form, spacing and alignment. These shared characteristics mean that there is a pleasing rhythm to the street scene at this end of the road.
6. The appeal site comprises the side garden of Elmstead, which tapers, as the A351 curves to flyover Sandford Road to the south. The A351 is at a higher level, and a steep tree-covered embankment rises from the site to meet it. A detached garage occupies part of the level area of the site, and is set a little further forward than the main building. It is proposed to demolish this garage and construct a detached dwelling in its place.
7. The line of the embankment dictates that the proposed dwelling would be set much closer to Sandford Road than Elmstead, or the other dwellings to the north. Whilst the building line of this row of dwellings is not absolutely rigid, the generous set back from the road is a distinctive feature in the street scene, which makes a significant contribution to its spacious character. The proposed dwelling would jut some six metres further forward than Elmstead, abruptly interrupting the rhythm of the buildings at this end of the road. Its uncharacteristic proximity to the frontage would make it an overly dominant feature in the street scene, and its disruptive impact on the linear pattern of buildings would not be reduced by its location at the end of the row.
8. The positioning of the dwelling would conflict with the advice at paragraph 25 of the Purbeck District Design Guide Supplementary Planning Document (2014), that says development should maintain established building lines. Although the dwelling would be of modest scale, and its design would be similar to others in the row, its location so far forward of the line of buildings means that it would not integrate well with the layout of surrounding development, and it would harm the spacious character of the street scene.
9. Its close proximity to the road, and the lack of a front garden would give it a cramped appearance. This would be exacerbated by the lack of space to the rear, which would be clearly evident when approaching from the south, and in views between the buildings from the road in front of the site. There would be some outdoor amenity space to the south side, but being so close to the road, a 1.8 metre close-boarded fence is proposed along the frontage to maintain privacy. This would be an unattractive and uncharacteristic feature in the street scene, where roadside boundaries largely comprise of low brick walls and hedges, with the front gardens visible beyond. The fence would, therefore, intrude into the open character of the area, and would serve to demonstrate the restricted size of the plot.
10. No policies have been drawn to my attention that set a minimum plot size, and I am conscious that there are houses occupying smaller sites on the opposite

side of the road at Ryan Close. However, these houses are set back from the highway, and arranged in open plan style around a central space with trees, thus maintaining the spacious character of the area. I also saw that, at the other end of Sandford Road, there is a bungalow that occupies a narrow plot, and is close to its front and rear boundaries, although I saw that it has a larger side garden. In any event, it is distant from the appeal site, and the topography of the road is such that the two sites are not intervisible. Furthermore, I am not aware of the planning history surrounding this dwelling, and whether the same policies and guidance were in place at the time. Consequently, it does not alter my conclusion that the proposal would be out of character with the surrounding pattern of development.

11. The trees on the embankment to the west and south of the site form an attractive backdrop to the buildings in views down Sandford Road from the north. They also perform a key role in screening the raised section of the A351 beyond. The tree canopy is accurately depicted on the submitted plans, which show that the entire rear part of the site and a substantial proportion of the main outdoor amenity area to the side would be under it. Whilst, at present, the occupants would have a satisfactory degree of sunlight during the morning, future growth of the trees would be likely to impact on the reasonable enjoyment of the proposed dwelling and its garden. This could conceivably lead to pressure to reduce or fell the trees, diminishing their amenity value.
12. It is contended that conditions could be imposed to ensure retention of the trees, however most of them lie outside the appeal site, so are not in the control of the appellant. A condition requiring their retention would, therefore, be unreasonable and unenforceable. The proximity of the dwelling to the trees, and the potential that future conflict with residential amenity may lead to their reduction or loss, contributes to my conclusion that the proposal would be harmful to the character and appearance of the area.
13. In coming to this conclusion, I am mindful that the North Wareham Character Appraisal Supplementary Planning Document (2012) identifies the potential to merge/redevelop plots at higher densities as an opportunity in this area. However, in the description of the character type it is also noted that houses are set back from their front boundaries with generous front gardens, and the Townscape Analysis highlights the road as having a visually engaging frontage. The cramped nature of the proposal, its projection beyond the line of buildings, and its overly prominent presence in the street scene would not preserve the defining features of this character type.
14. Policy H9 of the Wareham Neighbourhood Plan 2019 – 2034 (the Neighbourhood Plan) is also supportive of residential infilling within the settlement boundary, but only provided it complies with other policies in the Plan. In this case, I have found that the proposal would not respond to, or integrate well with, the site's context. It would, therefore, conflict with Policy LDP2.
15. For the above reasons, I conclude that the development would harm the character and appearance of the area. Consequently, it would be contrary to Policy D of the Purbeck Local Plan Part 1 (adopted 2012) (the Local Plan) and Policy LDP2 of the Neighbourhood Plan. Taken together, these policies seek to ensure that all development positively integrates with the surroundings of the

site. The proposal would also fail to meet the aims of the National Planning Policy Framework (the Framework) to achieve well-designed places.

Flooding

16. The evidence indicates that the site lies in Flood Zone 1, so is at low risk of fluvial flooding. It is, though, in an area that has a 1 in 1000-year risk of surface water flooding. The application form indicates that surface water drainage would be achieved via a soakaway. However, the Council contends that there is limited space within the site to provide a soakaway five metres away from the building, and that it has not been demonstrated that infiltration rates on the site would be suitable. There are no known watercourses or surface water sewers available for connection, so the only alternative would be connection to a foul sewer, which is unlikely to be supported by the Water Authority. Consequently, in the absence of a proven solution, it is argued that the proposal would lead to an increase in the likelihood of surface water flooding in the locality.
17. Much of the site is already hard surfaced, and it accommodates a garage building. The drawings show that the driveway and parking area for the dwelling would be gravel, so could be porous. It is unclear, therefore, whether there would be a net increase in the amount of the site that would be covered in buildings and impermeable materials, and if there is, what the additional volume of water would be. Whilst I understand the Council's concerns about the limited space within the site for a soakaway, it would be possible to provide one that would be more than five metres from the building. Furthermore, if there was insufficient land available for the infiltration area within the appeal site, there would be additional land available in the large rear garden of Elmstead, which the appellant also controls.
18. There is no clear evidence that soakaway drainage would not be feasible within the site and the adjoining land in the appellant's ownership. Consequently, I am satisfied that it would have been reasonable to impose a pre-commencement condition to secure details of surface water drainage had I been minded to allow the appeal. Such a condition would have prevented development from taking place until a satisfactory scheme had been approved, thus avoiding any likelihood of increased surface water flooding. In these circumstances there would be no conflict with Policy FR of the Local Plan, which seeks to manage the impact of flooding. This approach would also accord with the Framework's advice on planning and flood risk.

Integrity of the SPA

19. The evidence indicates that the appeal site lies within the catchment of the SPA, which is designated for its extensive tidal mudflats and saltmarshes, reedbeds, freshwater marshes, wet grasslands, and seagrass beds. Increased levels of nitrogen and phosphorus entering the harbour via surface water and groundwater threaten these habitats and species through eutrophication, leading to algal blooms which disrupt normal ecosystem function. These algal blooms result in reduced levels of oxygen within the water, which in turn can lead to the death of many aquatic organisms. Natural England advocates that any development that leads to an increase in nutrient loading within the harbour catchment, should be nutrient neutral for both phosphorus and nitrogen. This would result in no net increase in the levels of both nutrients,

arising from development, entering the harbour via wastewater recycling centres and via surface water flows.

20. The proposed dwelling would lead to an increase in nutrient loading within the harbour catchment, so would need to be nutrient neutral to avoid harm to the integrity of the SPA. The proposal does not include any details of how this would be achieved. Instead, it is suggested by the appellant that I should impose a condition preventing occupation of the dwelling until the enactment of the Levelling Up and Regeneration Bill (the LURB) or any subsequent legislation that requires upgrades to qualifying wastewater treatment works so that they attain the highest technically achievable limit for phosphorus reductions.
21. Recent amendments to the LURB mean that fewer wastewater treatment works will be required to make improvements to reduce phosphorus output into Poole Harbour. As a result, the improvements would not deliver sufficient reductions in phosphorus to enable the need for nutrient neutrality to be removed. There is uncertainty about the timescale for progress of the LURB, and also whether it will result in development within the catchment being able to commence without nutrient neutrality measures. Consequently, a planning condition preventing occupation would not provide me with the certainty that I need, as the competent authority under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), to conclude that mitigation would be delivered within the normal timescale of a planning permission.
22. The Habitats Regulations require me to consider whether there are any alternative solutions. However, no such solutions have been put forward for my consideration. I must also consider whether there are any imperative reasons of overriding public interest. The provision of a single dwelling is not sufficient to amount to such overriding public interest, given the modest scale of development proposed relative to the importance of protecting such significant natural habitat.
23. I therefore conclude that the proposal would have a harmful impact on the Poole Harbour SPA, through additional nutrient loading within the harbour catchment. As a result, the development would be contrary to Policies BIO and PH of the Local Plan which seek, amongst other matters, to protect Purbeck's biodiversity and to avoid and mitigate the potential adverse effects of nutrient loading on the ecological integrity of the Poole Harbour SPA. It would also conflict with the Framework's aims to conserve and enhance the natural environment.

Planning Balance

24. The appellant contends that, because the 2021 Housing Delivery Test figures show that the Council has only achieved 76% of the number of homes built against the number of homes needed over the three-year period, paragraph 11d) of the Framework is engaged, meaning that the Council's policies relating to housing delivery are out of date. However, footnote 8 to paragraph 11 says that the presumption in favour of development only becomes operative where the delivery of housing is less than 75% of the housing requirement. Furthermore, the Council's evidence indicates that there is currently a deliverable housing supply equivalent to 5.15 years, taking into account the application of a 20% buffer. Consequently, paragraph 11d) is not engaged. In any event, footnote 7 and paragraph 182 of the Framework, disapply the presumption in favour of development where the proposal is likely to have a

significant effect on a habitats site. In this case I have found that there would be harm to the integrity of the SPA.

25. Nevertheless, the proposal would bring benefits, which should be balanced against the harm that I have identified to the character and appearance of the area and the integrity of the SPA. Paragraph 60 of the Framework seeks to significantly boost the supply of homes. The development would provide an additional dwelling, which would assist with this aim. Paragraph 69 says great weight should be given to the benefits of using suitable sites within existing settlements for homes. The previously developed nature of the site, and its sustainable location would accord with the advice at paragraphs 105 and 120 of the Framework.
26. There would also be benefits to the economy associated with the construction phase of the development, and the future spend by occupants in the local area. However, due to the small scale of the development, these benefits would be modest, so the weight I give them is limited.
27. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. I have found that the proposal would conflict with policies of the development plan that protect the character and appearance of the area and biodiversity. The relatively small scale of the benefits does not outweigh this conflict.

Conclusion

28. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR