



Appeal Decision

Site visit made on 21 February 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/D1265/W/22/3297717

Land rear of 7 Ashley Drive North, Ashley Heath BH24 2JL

- 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 T Wolfenden against the decision of Dorset Council.
 - The application Ref 3/21/1584/FUL, dated 10 August 2021, was refused by notice dated 23 February 2022.
 - The development proposed is the erection of a detached chalet bungalow and garage with associated access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached chalet bungalow and garage with associated access and parking at Land rear of 7 Ashley Drive North, Ashley Heath, BH24 2JL in accordance with the terms of the application, Ref 3/21/1584/FUL, dated 10 August 2021, subject to the attached schedule of conditions.

Preliminary Matters

2. I have amended the description of development in the banner heading and decision above to remove those elements of the appeal scheme which are not acts of development.
3. The site is located within 5km and beyond 400m of the Lions Hill Site of Special Scientific Interest which is part of the Dorset Heathlands Special Protection Area and the Dorset Heaths Special Area of Conservation and Ramsar. These are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017. I collectively refer to them as the Dorset Heathlands. Although not an issue raised by the Council, it is incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the Dorset Heathlands. Both main parties have made comments on the Dorset Heathlands within their respective statements, and Natural England has been consulted during the determination of the planning application and the appeal. Therefore, the main parties would not be prejudiced by this matter being dealt with as a main issue.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, with particular reference to the Ashley Drive/St Ives Park Special Character Area (SCA); and

- whether the proposed development would be likely to have a significant effect on the integrity of the Dorset Heathlands.

Reasons

Character and appearance

5. The appeal site is located within the Ashley Drive/St Ives Park SCA, a local designation which, although not of sufficient historic or architectural interest to be designated as a Conservation Area, is afforded protection, in accordance with paragraph 203 of the National Planning Policy Framework (the Framework) due to its intrinsic quality and local importance. As a result, it is necessary for me to take into account the effect of the proposed development on the significance of this non-designated heritage asset.
6. I consider the significance of the SCA to derive from the generous residential plots off three distinct road loops in the area and against the backdrop of substantial Scots pine trees which form the dominant unifying theme and a key characteristic of the area's identity. Additionally, high evergreen hedging extends as continuous green walls along wide frontages, broken only by narrow driveways, partially screening dwellings, and car parking areas. This affords occupiers a high degree of privacy and seclusion within a verdant streetscape.
7. The appeal site includes part of the substantial garden area of 7 Ashley Drive North (No 7), a recently constructed detached two storey dwelling. The proposed development comprises a detached chalet bungalow set within a generously sized plot, reflecting the scale of plots in the surrounding area. Nearby dwellings are generally set away from Ashley Drive North (the Drive) and sited at a variety of angles, further emphasising the verdant features within the streetscene and the siting of properties within the trees. Therefore, although not fronting onto the Drive, the orientation of the proposed dwelling would not disrupt the spatial relationship of buildings in the surrounding area, nor represent a contrived plot arrangement.
8. The scale, massing and height of the proposed chalet bungalow, combined with the generous distances between it and the nearby dwellings, ensures it would not dominate the surrounding built form or plots, nor be dominated by the existing properties. It would also complement the variety of dwelling proportions from more compact bungalows to substantial detached two storey dwellings nearby. In addition, combined with the distance of the appeal site from the Drive, the siting of the proposed bungalow relative to the proposed fencing along the driveway would limit its visibility from the highway. Consequently, the proposed development would not be an intrusive feature in the streetscene or the wider setting of the area.
9. The proposed development would remove part of the hedge along the frontage of No 7 to provide a narrow driveway access. Whilst it would result in a break in the existing landscape features, this arrangement is reflective of the significance of the SCA. Despite the hedge having been recently planted as part of the development at No 7, the removal of a short section of hedge would not, therefore, cause harm or punctuate the established character of the Drive and of the wider SCA.
10. Aside from the tree referred to as T028 within the application documents, no trees would be felled as part of the proposed development. In respect of T028,

the Arboricultural Impact Assessment confirms that this tree has advanced canker and would need to be removed, irrespective of my decision. Given the area Tree Protection Order (TPO) which covers the appeal site, the proposed development incorporates measures to protect the retained trees. As a result, combined with the imposition of appropriately worded conditions, I am satisfied that the appeal scheme would protect the existing trees on and surrounding the site, thereby preserving this key unifying characteristic of the SCA.

11. In the words of the Framework, a balanced judgement is required having regard to the scale of any harm or loss, and the significance of the non-designated heritage asset. Based on the reasons set out above, in my view, the proposed development would preserve the significance of the non-designated heritage asset. Consequently, I conclude that the proposed development would not harm the character and appearance of the area, with particular reference to the SCA, and would comply with Policy HE2 of the Christchurch and East Dorset Local Plan: Part 1 – Core Strategy (2014) (the Core Strategy). This policy is supported by the broad brush design guidance contained within the Special Character Areas Supplementary Planning Guidance No.27 (2005) and requires new development to respect the identified features and characteristics of the SCA. I also find it accords with the Framework as a whole and, in particular, paragraph 203 of the Framework in terms of its status as a non-designated heritage asset and paragraph 174b regarding the intrinsic character and benefits of the natural environment.

Dorset Heathlands

12. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (the SPD) states that the special interest of the Dorset Heathlands results from its extensive network of lowland heaths of international importance for nature conservation. It hosts protected priority habitats including various species of birds, lizards and snakes, as well as other typical species of lowland heathland, wetlands and dunes.
13. The overarching conservation objective for the Dorset Heathlands is to protect its existing habitats. One of the main challenges to achieving this objective relates to the significant pressure from the increasing number of people living in close proximity to the heathlands. Public access to the Dorset Heathlands leads to an increase in wildfires and damaging recreational uses. In addition, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets has an adverse effect on the heathland ecology.
14. As the proposed development comprises residential development, it would add to the number of people living in the vicinity of the Dorset Heathlands. It is therefore likely that the proposed development, taken both in isolation and cumulatively, would have a significant adverse effect on the integrity of the Dorset Heathlands. Consequently, it is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the proposed development on the integrity of the Dorset Heathlands.
15. The SPD sets out the approach to avoiding or mitigating significant effects on the Dorset Heathlands by securing contributions towards the Council's Strategic Access Management and Monitoring (SAMMs) through the Community Infrastructure Levy (CIL). The contributions taken from the CIL will be determined by the costs of funding SAMMs needed to mitigate the effects from

the number of homes the Council expects to deliver. The appellant has confirmed the CIL will be paid once the Council has issued a CIL Liability Notice following receipt of this decision. Having regard to all the evidence before me, I am satisfied that the appropriate contributions can be secured.

16. I therefore find that, subject to the proposed mitigation, the development would not result in an adverse effect on the integrity of the Dorset Heathlands, in accordance with the Habitat Regulations. It would also accord with Policy ME2 of the Core Strategy, and supported by the SPD, which sets out a strategy for the avoidance and mitigation of impacts from new residential development upon the Dorset Heathlands.

Other Matters

17. Representations have been made by several interested parties relating to concerns about the potential disturbance from the construction of the proposed development. Whilst I acknowledge that any disturbance during the construction period would be frustrating, given the scale of the appeal scheme it would be short-term. Furthermore, concerns relating to noise, parking and damage to the highway could be addressed by careful construction management which would be controlled via a condition.
18. Interested parties have highlighted concerns that the proposed access would not be able to provide emergency access, accommodate large vehicles or sufficient visibility splays. Although the Council's Building Control Team comments on the appeal application refer to non-compliance of the access for the fire brigade, no specific details as to how it would be deficient have been provided. In the absence of such information and given the similar nature of the proposed driveway to nearby accesses, there is no substantive reason to conclude that emergency access would be compromised. Given the existing pavement on this side of the Drive, the proposed boundary treatment alongside the driveway would provide a sufficient set back to permit visibility for drivers exiting the access to a single dwelling. I am therefore not persuaded that the proposed access would cause harm to the safety of users of the highway.
19. Whilst the proposed dwelling would be orientated towards the rear elevation of 9a Ashley Drive North (No 9a), the distance between the properties is significant and, although young, new trees have been planted alongside the boundary between the site and No 9a. In relation to 5 Ashley Drive North (No 5), the proposed dwelling would be sited a significant distance from the existing property and with substantial existing screening landscape features on the boundary between them. As a result, the proposed development would not cause harm to the living conditions, in respect to privacy, to occupiers of No 9a or No 5. Additionally, any noise from vehicles travelling along the proposed drive or the light from vehicle headlights would not be uncharacteristic of a residential area, nor lead to unacceptable harm to the living conditions of surrounding occupiers.
20. Whilst concerns have been raised relating to existing ground water levels and anecdotal evidence of waterlogging in the area, I have no substantive evidence before me to conclude the proposed development would be unacceptable in this respect.
21. Other interested party representations have been made, including those which relate to issues which are not a matter for me to consider as part of this

appeal, such as: buying a home based on not wanting to live opposite multiple dwellings; potential planning breaches during the construction of No 7; existing ground water levels and local waterlogging; the approved boundary treatment associated with No 7; and any wildlife displaced as a result of the construction of No 7. Similarly, the fact that representations have been made on the appeal application but were not submitted during the determination period of the application for the recently constructed property at No 7, or the address of objectors, do not alter my determination of the appeal.

Conditions

22. I have considered the Council's suggested conditions in light of advice contained within the Framework and the National Planning Practice Guidance (PPG). I have undertaken some minor editing, rationalisation and reordering, in the interests of precision and clarity. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
23. I have imposed three conditions to safeguard the existing trees on and close to the site, and to preserve the character and appearance of the area. These require a pre-commencement site meeting between key representatives of both parties to be held in order to agree the contents of an Arboricultural Supervision Statement (ASS) that will accord with the Arboricultural Method Statement and approved Tree Protection Plan. Samples of cellular material to be used as part of the confinement system need to be approved by the Council to ensure the protection of retained trees. Given the importance of trees in the area and concerns from interested parties regarding tree works already implemented, I have imposed a condition requiring any further works to the retained trees to be agreed with the Council in writing.
24. To protect the existing landscape features on and around the site, in the interests of living conditions of existing and future residents, and highways safety, a condition requiring a Construction Management Statement (CMS) to be submitted and approved by the Council has been imposed. I have included specific contents I consider necessary for the CMS to include as a minimum.
25. I have imposed a condition requiring details of the surface water drainage works to be approved by the Council to avoid drainage problems, including pollution or flood risk. To ensure a suitably surfaced and constructed access to the site is provided and in the interests of highway safety, I have imposed a condition requiring the construction specification of the access to be approved by the Council. This condition also stipulates the timescale of implementing the access, driveway and turning head for the dwelling, in the interest of future occupiers.
26. To safeguard the character and appearance of the area, with particular regard to the SCA, it is necessary to impose a condition requiring the proposed external materials to be approved by the Council. To ensure the long-term establishment, maintenance and landscaping of the site has been implemented in accordance with the approved details, I have imposed conditions relating to hard and soft landscape works, including species, materials, planting seasons and retention periods. These conditions require submission to and approval by the Council to reflect local distinctiveness and landscape character, in accordance with policies HE2 and HE3 of the Local Plan and the Framework.

27. Finally, I have imposed a condition that secures the necessary biodiversity enhancement measures, in accordance with paragraph 170 of the Framework, requiring the implementation of the certified Biodiversity Plan.
28. Although not included within the Council's suggested conditions, reference is made in the Officer Report that a condition would be required to remove permitted development rights given the TPO on the site. Paragraph 54 of the Framework states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. Furthermore, the PPG advises that such conditions may not be reasonable or necessary. Notwithstanding the TPO on the site, I am not persuaded that exceptional circumstances exist that would justify the removal of permitted development rights in this case. Accordingly, I do not consider that such a condition is necessary in order to make the development acceptable in planning terms.

Conclusion

29. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 9484/100 rev B – Site, Block and Location Plans
 - 9484/101 – Floor Plans and Elevations
 - 9484/102 rev A – Site Section and Garage
 - 9484/103 rev A – Indicative Drainage
 - 00-TEC-V1-XX-DR-S 1001 rev P1 – Ground Floor Plan Showing Foundation
 - RNapc/198/TCP/2 – Tree Constraints Plan
 - RNapc/198/TPP/2 – Tree Protection Plan
- 3) No site clearance, preparatory work or development shall commence, until an Arboricultural Supervision Statement is submitted to and approved in writing by the local planning authority confirming the protection of the retained trees on and adjacent to the site. The contents of the statement shall be agreed during a pre-commencement site meeting to be attended by the Tree Officer, Arboricultural Consultant and Site Manager, and accord with the Arboricultural Method Statement prepared by RNapc ref 198/AMS/1 dated 6 August 2021 and the approved Tree Protection Plan ref RNapc/198/TPP/2 dated August 2021.

All elements of the Arboricultural Supervision Statement shall be implemented and maintained in accordance with the approved details and timetable unless otherwise agreed in writing with the local planning authority.
- 4) No development shall commence until samples of the cellular confinement system, including the cell infill aggregate, are submitted to and approved in writing by the local planning authority. The cell infill aggregate shall be a 4-20mm clean angular granite or flint. The relevant works shall be carried out in accordance with the approved sample details, unless otherwise agreed in writing with the local planning authority.
- 5) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the occupation of the dwelling, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.
- 6) No development shall commence, including any preparatory works, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for the following and in accordance with the Arboricultural Supervision Statement required by condition [3]:
 - access and driveway construction details;
 - implementation of service routes;

- final foundation design for the car port;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No development shall commence until details of the surface water drainage works shall be submitted to and approved in writing by the local planning authority. The approved drainage works shall be completed prior to the occupation of the development and retained thereafter.
- 8) No development shall commence until the construction specification for the first 5 metres of the vehicle access, measured from the edge of the highway, is submitted to and approved in writing by the local planning authority. Prior to the occupation of the dwelling, the vehicle access, driveway, turning and parking areas shall be constructed in accordance with the approved details and thereafter retained.
- 9) No development above damp proof course shall commence until details of all external facing and roofing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out strictly in accordance with the approved sample details, unless otherwise agreed in writing with the local planning authority.
- 10) No development above damp proof course level shall commence until a scheme of hard and soft landscape works is submitted to and approved in writing by the local planning authority. Details shall include:
 - means of enclosure;
 - boundary planting; and
 - schedules of plants (noting species, plant sizes and proposed numbers/densities, where appropriate).

The development shall be carried out in accordance with the approved details and prior to the occupation of the dwelling and shall thereafter be retained.

- 11) All planting, seeding or turfing comprising the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings, or the completion of the development, whichever is sooner. Any planting found damaged, dead or dying within a period of 5 years following planting or seeding shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority agrees any variation in writing.
- 12) The detailed biodiversity mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Plan, as certified by

Dorset Council on 4 November 2021 shall be implemented in accordance with the approved details, unless otherwise agreed in writing with the local planning authority. All work shall be completed in full and in accordance with any specified timetable. Prior to the occupation of the dwelling or completion of the development, whichever is sooner, evidence of compliance in accordance with section J of the Biodiversity Plan shall be submitted to the local planning authority. Thereafter, the measures implemented shall be retained and maintained for the lifetime of the development, replaced on a like for like basis as necessary.

End of Schedule