The Planning Inspectorate

Appeal Decision

Site visit made on 31 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/V1260/W/22/3306958
80 Glenville Road, Christchurch BH23 5PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mrs, Mr and Mr Bates, Bates and Ayres against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref 8/22/0354/OUT, dated 19 April 2022, was refused by notice dated 18 August 2022.
- The development proposed is sever the land to the rear of Nos. 80 & 82. Demolition of existing property No.84 and construction of 5 x 3 bed dwellings and 1 x 4 bed dwelling with associated access and parking.

Decision

1. The appeal is allowed and outline planning permission is granted for sever the land to the rear of Nos. 80 & 82. Demolition of existing property No.84 and construction of 5 x 3 bed dwellings and 1 x 4 bed dwelling with associated access and parking at 80 Glenville Road, Christchurch, BH23 5PY in accordance with the terms of the application, Ref 8/22/0354/OUT dated 19 April 2022, subject to the conditions set out in the Annex attached to this decision.

Applications for costs

2. An application for costs has been made by Mrs, Mr and Mr Bates, Bates and Ayres against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application was made in outline with landscaping reserved for future determination. I have dealt with the appeal on that basis, treating any details of landscaping, as being illustrative only.

4. The appeal site has been subject to a previous appeal decision[1] for a similar development to that currently proposed, which was dismissed due to an unacceptable effect on the integrity of habitats sites. I have taken the previous Inspector's findings into account in my decision. Nonetheless, I have reached my own findings based on the circumstances of the present case.

5. Since the date of the decision and following submission of the appeal the Highcliffe & Walkford Neighbourhood Plan (NP) has been made and now forms part of the development plan. I have taken this into account in my consideration of the appeal.

[1] APP/V/1260/21/3280096

Main Issues

6. The main issues are:

    - The effect of the proposed development on protected species, with regards slowworms and bats; and
    - Whether the proposed development provides adequate vehicular parking.

Reasons

Protected species

7. A Preliminary Ecological Appraisal (PEA) has identified that the appeal site hosts a 'good' population of slowworms, and while there is a low potential for roosting bats, the site supports moderate levels of general bat activity, including commuting and foraging bats. Slowworms are protected under Schedule 5 of the Wildlife and Countryside Act (1981) (as amended) while bats are also legally protected under Annex IV of the EC Habitats and Species Directive (1992). Furthermore, there is potential for nesting birds within the site.

8. Given the presence of protected species, a mitigation and compensation strategy is proposed which involves a new permanent reptile habitat to the northwest corner of the site, translocation of reptiles to the new area, installation of reptile exclusion fencing, and the dismantling of existing log, brash and rubber piles under ecologist supervision between mid-March to mid-October. As well as reptile mitigation a number of ecological enhancements are proposed.

9. The PEA also identifies that the appeal site is situated adjacent to an ecological network, the railway line to the north. This provides a connective habitat for wildlife. To support the network, ecological enhancements and provision of a reptile receptor site will contribute to the overall site ecological enhancement.

10. The Council's reason for refusal only states that the Council is not satisfied that the PEA addresses the impacts of the development on the biodiversity interest within the site. However, the Council's appeal statement has expanded further, citing concerns with the size of the new reptile habitat, and the potential reduction of insects that bats forage for due to loss of garden and replacement built form, as well as hard standing and additional lighting.

11. The Council's Biodiversity Project Officer (BPO) is satisfied that the proposed mitigation strategy is sufficient to protect and replace the reptile habitat on site, addressing the scope for bats to use trees to be removed as part of the proposed development, vegetation removal in respect of nesting birds, future planting, hedgehog gaps and installation of bat and bird boxes. I also find that the PEA is a thorough appraisal that has been prepared by an appropriately qualified authority. Furthermore, in the absence of an equivalent report on the part of the Council, I have given the PEA significant weight.

12. In the absence of any substantiated evidence to the contrary, and given the contents of the PEA, I find no good reason to conclude that the PEA is insufficient in regards the proposed mitigation and enhancement measures therein. Although the BPO has noted additional detail would be required in

relation to lighting, a bat sensitive external lighting scheme as well as mitigation and enhancement measures outlined within the PEA, can reasonably be secured by the imposition of conditions.

13. Consequently, subject to the imposition of appropriate planning conditions, the proposed development would provide adequate mitigation for protected species, and therefore accords with Policy ME1 of the Christchurch and East Dorset Core Strategy (2014) (CS), which seeks, amongst other things to protect, maintain and enhance the condition of all types of habitats and species within their ecological networks.

Vehicular parking

14. The appeal site is within Zone D of the Council Parking Map as incorporated within the Parking Standards (January 2021) Supplementary Planning Document (PSSPD). The proposed development provides for 12 vehicular parking spaces to serve the proposed 6 dwellings which accords with the guidance within the PSSPD.

15. The NP identifies Glenville Road as an area with on-street parking problems and NP Policy HWNP8 states that within such areas, parking provision should meet, and may need to exceed, the standard parking demand requirements to avoid exacerbating the existing known problems, unless on-street parking restrictions to address the potential increased negative impacts of anti-social on-street parking have been agreed.

16. The proposed development meets the Council's own guidance for parking as detailed within the PSSPD. Although I note anecdotal comments from interested parties, I have no substantive evidence before me to indicate that this amount of parking proposed is insufficient for this site or that it would result in significant additional on-road parking and associated significant highway safety concerns.

17. Furthermore, I note the response from the Highway Authority which does not raise any objections to parking subject to the imposition of conditions. Nothing before me, including my observations at my site visit, leads me to a differing conclusion.

18. Consequently, I find the proposed development provides adequate vehicular parking. It therefore accords with CS policies KS11 and KS12, and NP Policy HWNP8 which amongst other things, require that development provides safe access onto the existing transport network and adequate vehicle parking facilities to serve the needs of the proposed development.

Other Matters

19. I have given careful consideration to a number of concerns from neighbouring occupiers, some of which are similar to those raised and considered by the Inspector within the previous appeal. These include concerns relating to the impact on living conditions and people's mental health and wellbeing; overdevelopment; light pollution; noise from trains; condition of the water and drainage infrastructure; wider highway safety including the ability of the access road to accommodate emergency vehicles and refuse collection; disturbance during the construction period; loss of security; impact on domestic ponds and fish; effect on neighbouring properties foundations; and the impact on property value.

20. Furthermore, my attention has also been drawn to future planning reform and the Levelling Up and Regeneration Bill, as well as interested parties questioning the requirement for the development, due to a large development of new homes near the site.

21. With regard to the effect of the proposal on living conditions, including concerns on health and wellbeing and the layout, scale, form and design of the proposed development, the Council in their committee report has given detailed reasons to demonstrate why harm would not arise to neighbours living conditions or that the development would appear cramped. Given the spatial relationship and separation distances between the proposed development and existing dwellings I have no compelling reason to come to a different conclusion.

22. Given that the appeal site is adjacent to existing residential built form and the modest scale of the development, it would not result in significant additional light pollution. However, due to ecological implications discussed above, a bat sensitive external lighting scheme will be required.

23. I note the potential frequency of trains as illustrated in the timetables provided to me. However, despite the potential frequency, I agree with the previous Inspector's consideration on this matter and having witnessed a train pass during my visit, find that the noise caused is brief and predictable and that the development would provide acceptable living conditions for future occupants.

24. Concerns are raised that the water and drainage infrastructure does not have sufficient provision for the proposed development. The proposed development would utilise soakaways for surface water drainage, and a condition can be imposed to ensure full details are submitted to the Council of the proposed water drainage infrastructure. Statutory water and sewerage undertakers deal with water supply and sewerage within their statutory areas. Notwithstanding residents' comments, I have not been provided with any substantive evidence, or concerns from statutory undertakers to indicate that capacity (including water pressure) is not available to serve the proposed development.

25. The proposed development would not result in a significant number of vehicle movements. Even if it is the case that vehicular movements on the surrounding highway network have or are likely to increase due to nearby developments including any expansion of a nearby burial ground, sufficient visibility splays are provided. Given the evidence before me including tracking diagrams indicating large vehicles such as refuse vehicles could enter and exit the site in forward gear, I see no compelling reason to disagree with the Council's Highway Officer who raised no objections, or indeed any evidence that the associated movements would result in noise nuisance to residents.

26. Any disturbance during the construction period would be short-term and could be mitigated by careful construction management. This is capable of being controlled by condition.

27. Although landscaping is a reserved matter, I note the proposed boundary treatments as indicated on the proposed plans and nothing before me leads me to the view that the proposed development would result in any additional security concerns.

28. Likewise, having regard to the separation distances, there is no substantive evidence before me to indicate that the proposal would effect neighbouring properties foundations, or affect a domestic pond and fish. Furthermore, it is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.

29. While I note interested parties' comments relating to a large nearby residential development thereby negating the need for any additional dwellings in the area, the main parties agree that the Council cannot demonstrate a five year supply of deliverable housing, being only able to demonstrate a housing land supply of 2.7 years which I will discuss further in the planning balance below.

30. Comments from the Secretary of State for Levelling Up and The Levelling Up and Regeneration Bill (the Bill) have been brought to my attention. Although the Bill is currently progressing through parliament, S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions must be made in accordance with the development plan unless material considerations indicate otherwise. Given the existing stage of the Bill, only very limited weight can be afforded to it.

Habitats Sites

31. The site lies within 5km of the Dorset Heathlands Special Protection Area, and the Dorset Heaths Special Area of Conservation and Ramsar sites (the habitats sites). These designations overlap that of a designated Site of Special Scientific Interest. The Habitats Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the habitats sites.

32. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning document (April 2020) (SPD) advises that the Dorset Heathlands is designated for protected and priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other typical species of lowland heathland, wetlands and dunes.

33. The habitats sites are an important recreational resource and it is likely that occupants of the proposed development would visit. On this basis, it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the habitats sites due to increased recreational use.

34. To mitigate against such effects, financial contributions of the amounts set out in the SPD have been secured in accordance with the Council's approach to strategic mitigation, which will contribute towards the delivery of Strategic Access Management and Monitoring.

35. I am satisfied, on the basis of the specific evidence before me, that the planning obligation provides a sufficient mechanism to enable the delivery of proportionate strategy to mitigate the effects of development which could affect the habitats sites.

36. I therefore find following Appropriate Assessment under the Habitats Regulations, that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the habitats sites. It would accord with CS Policy ME2 and the provisions of the Habitats Regulations insofar as they seek

to secure the long-term protection of such sites and mitigate any adverse effects on their integrity.

Planning Balance

37. Paragraph 11 of the National Planning Policy Framework (Framework) sets out that decisions should apply a presumption in favour of sustainable development, and that, under criterion 11d), where the policies that are most important for determining the application are out of date, planning permission should be granted unless: i) the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

38. Although the appeal site lies in proximity to the habitats sites, application of the associated policies within the Framework do not provide a clear reason for refusing the development. Given the lack of a demonstrable five year housing land supply, paragraph 11d)ii of the Framework applies.

39. The appeal site is situated within a location with easy access to a range of services and facilities by a range of modes of transport including walking and public transport. The Council has a shortfall in housing land supply and although the contribution of an additional 5 dwellings is relatively modest, paragraph 69 of the Framework indicates that small and medium sized sites can make an important contribution in delivering homes and that the development of windfall sites should be supported, especially within existing settlements.

40. Furthermore, there would also be short term economic benefits during the construction phase and a further long-term benefit from future occupiers contributing to the local economy and utilising and supporting local services and facilities. Future occupiers would also participate in the community, thus contributing to the social objective of sustainable development.

41. There are clear benefits arising from the proposal. I have identified no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. I have found that the proposal complies with the development plan and the relevant policies are broadly consistent with the Framework.

42. The proposed development would fulfil the economic, social and environmental dimensions of sustainable development as articulated within paragraph 8 of the Framework. Having regard to the provisions of the development plan read as a whole, and all material considerations, planning permission should clearly be granted.

Conditions

43. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance.

44. A condition regarding the approved plans is required to provide certainty and a materials condition is necessary to ensure that those used are in keeping with

the area. Conditions relating to parking, access and waste management are all necessary for highway safety reasons.

45. Conditions are also necessary for the provision and management for biodiversity improvement and to ensure the ongoing protection of important species and those protected by legislation, including ensuring habitat is not harmed by external lighting.

46. Given the proximity to neighbouring dwellings, a condition is necessary in relation to the construction phase to safeguard neighbouring occupiers living conditions. A condition is also necessary as it is essential that surface water drainage can be adequately managed both during the construction phase and thereafter.

47. Conditions relating to cycle storage and electric vehicle charging points are also necessary to comply with the sustainability principles of local and national policy.

Conclusion

48. For the reasons given, the proposal complies with the development plan, read as a whole. No material considerations have been shown to have sufficient weight as to warrant a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

S Harrington

INSPECTOR

Annex

Conditions

1) Approval of the details of the Landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(b) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(c) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

   ASP.20.040.001 B;
   ASP.20.040.002 D;
   ASP.20.040.003;
   ASP.20.040.100;
   ASP.20.040.101;
   ASP.20.040.102 A;
   ASP.20.040.200;
   ASP.20.040.201;
   ASP.20.040.202 A;
   ASP.20.040.203;
   020.0644.001;
   020.0644.002;
   020.0644.003;

3) No development above damp proof course shall take place until details of all external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved.

4) Prior to commencement of development (including demolition) a Landscape, Environment Management Plan must be submitted to and approved in writing by the Local Planning Authority. This must include full details of the new reptile grassland habitat and translocation methods as well as details of how and by whom the management and maintenance of this space for reptiles in the long-term will occur. The development shall only be carried out in accordance with the agreed Landscape Environment Management Plan.

   Thereafter, the measures contained in the approved Landscape Environment Management Plan, shall at all times be retained, maintained and managed in accordance with the requirements in the approved plan.

5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in

writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
i. the parking of vehicles of site operatives and visitors
ii. loading and unloading of plant and materials
iii. storage of plant and materials used in constructing the development
iv. the erection and maintenance of security hoarding
v. wheel washing facilities
vi. measures to control the emission of dust and dirt during construction
vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

6) Prior to the commencement of development (including demolition), a surface water management plan must be submitted to and approved in writing by the Local Planning Authority. The development must be carried out in accordance with the approved details thereafter.

7) Prior to the occupation of the development hereby approved details of the provision of Electric Vehicle Charging Points and associated infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and brought into operation prior to the occupation of any residential unit hereby approved or any commercial use hereby approved commencing.

   Thereafter the Electric Vehicle Charging Points shall be permanently retained and available for use at all times.

8) Prior to the occupation of any of the hereby approved dwellings, a waste management strategy must be submitted to and approved in writing by the Local Planning Authority. The strategy must include details of the proposed private collections including frequency and access. Development must thereafter be carried out in accordance with the approved details.

9) Prior to the installation of any external lighting, a bat sensitive external lighting scheme must be submitted to and approved in writing by the Local Planning Authority. Luminaires of any external lighting proposed must have a colour temperature less than 3000 K with peak wavelengths greater than 550nm. The development must be carried out in accordance with the approved details and at all times accord with the approved details.

10) The development hereby approved must be carried out in strict accordance with the mitigation, compensation and enhancement strategy as set out in the Preliminary Ecological Appraisal (PEA), Preliminary roost appraisal (PRA) and ecological survey report dated 10th March 2021, and the measures be maintained and retained for the lifetime of the development.

11) Before the development is occupied the cycle parking facilities shown on the hereby approved plans must have been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

12) The development hereby permitted shall not be occupied or utilised until the turning and parking shown on the approved plans has been

constructed. Thereafter, these areas shall be maintained, kept free from obstruction and available for the purposes specified.

13) Before the development is occupied, the first 5 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.

End of Conditions