



Appeal Decision

Site visit made on 21 March 2023

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/V1260/W/22/3301678

**26 Chewton Farm Road and 2 Avenue Road, Walkford, Christchurch
BH23 5QN**

- 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 Amirez Ltd against BCP Council.
 - The application Ref 8/21/1217/FUL is dated 22 December 2021.
 - The development proposed is demolition of existing dwellings and outbuildings and the erection of 8 dwellings and a detached bungalow (9 dwellings in total) with associated access and parking.
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Decision

1. The appeal is dismissed and planning permission is refused for demolition of existing dwellings and outbuildings and the erection of 8 dwellings and a detached bungalow (9 dwellings in total) with associated access and parking at 26 Chewton Farm Road and 2 Avenue Road, Walkford, Christchurch BH23 5QN, in accordance with the terms of the application Ref 8/21/1217/FUL dated 22 December 2021, and the plans submitted with it.

Application for costs

2. An application for costs was made by Amirez Ltd against BCP Council. This application is the subject of a separate Decision.

Main Issues

3. The Council failed to determine the planning application within the prescribed period. Since the appeal submission, the Council has confirmed that, had the appeal not been lodged and it had been in a position to determine the application, it would have refused planning permission for three reasons. These are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of future occupants of unit 9, having regard to privacy and outlook impacts; and
 - The effect of the proposal on the Dorset Heathlands SPA and Ramsar Site and Dorset Heaths SAC (the European Sites).

Reasons

Character and appearance

4. The appeal site lies on the corner of Chewton Farm Road and Avenue Road in an established residential area within the designated settlement boundary. The roughly rectangular-shaped site is occupied by a detached two-storey dwelling fronting onto Chewton Farm Road and a detached bungalow fronting onto Avenue Road, together with several single storey outbuildings to the side/rear of the properties.
5. The site is located within a roughly triangular-shaped area, known as the Chewton Farm Estate, which is bounded by Avenue Road, Seaview Road and Chewton Farm Road, and is identified in Saved Policy H9 of the *Borough of Christchurch Local Plan* (2001) (the Local Plan) as having a special character and amenity which is worthy of protection and at risk from residential infill development, including subdivision of existing garden land to form building plots.
6. This area is described as consisting mainly of substantial residential properties set in large plots and providing a form of large family accommodation which is not in abundance throughout the remainder of the Plan area. The Council has confirmed that this is the only area identified for such protection within the entire Local Plan area, and the special character of this residential enclave is also emphasised within the Council's adopted *Christchurch Borough-Wide Character Assessment* (2003), where it is described as a small estate of large houses characterised by more generous garden plots and a small-scale private roadway.
7. The area has a verdant, spacious, and tranquil, semi-rural character. Dwellings are historically generally set within spacious plots and have large rear gardens. Chewton Farm Road has a notably rural character. It has no pavements and residential development is mainly restricted to one side of the road, where it is set back behind grassed highway verges and hedged and treed frontages, with open countryside on the opposite side of the road. It is characterised by large, detached properties sited well back from the road frontage within generous soft landscaped gardens.
8. Avenue Road, whilst comprising a more suburban arrangement of dwellings with fairly regular building lines, has grass verges to both sides, many hedged or treed frontages, and mature trees interspersed amongst the built development. These include within typically long rear gardens, where they provide a green backdrop to frontage dwellings, which is visible from the public realm of the street. At its western end, the road leads into the un-made lane of Seaview Road which abuts the wooded Chewton Common SNCI, thereby discouraging through traffic and adding to the quiet, semi-rural character of the road.
9. The properties close to both ends of the road and within the adjoining Seaview Road and Chewton Farm Road, including 2 Avenue Road, tend to be sited within wider plots and include a greater variety of building positioning in relation to the street.
10. The substantial amount of soft-landscaped and treed undeveloped rear garden land between the frontage properties of the three roads, makes a significant positive contribution to the spacious, verdant and tranquil character of the area, and has, in the main, remained undeveloped, and where visible from the street scene between properties, provides a green backdrop to the townscape.

11. Both dwellings on the appeal site are set within large plots, with generous soft-landscaped gardens. Mature boundary hedging and trees are a feature of the site boundaries, and make a positive contribution to the visual amenities of the appeal site. This includes along the road frontages, where, notwithstanding the existing vehicular accesses, the frontage vegetation provides a high degree of verdant screening of the existing built development. This is particularly evident when approaching the junction-facing part of the site from the north along Chewton Farm Road.
12. Moreover, the existing dwellings are set back from the street, are orientated to face their respective roads, and sit comfortably within a loose-knit, spacious layout of dwellings within soft landscaped gardens which is characteristic of the townscape. As such, the existing layout of development on the appeal site is wholly in keeping with, and makes a positive contribution to, the character and appearance of the Chewton Farm Estate development.
13. The proposal would introduce a terraced housing layout of development encompassing a regular arrangement of enclosed rear gardens and large areas of communal frontage parking. This would comprise an uncharacteristically formal, higher density and urban-like form of built development which would be at odds with the prevailing semi-rural character of the townscape.
14. The proposed regular, linear arrangement of formally laid out rear gardens to the new houses, their relatively compact size in relation to surrounding gardens and rigid perpendicular orientation in relation to the new terraced housing, would be at odds with the spacious and more sporadic placement of dwellings that is typical of Chewton Farm Road and existing dwellings which are sited to the rear of road frontage properties.
15. The proposed layout would also be uncharacteristically cramped, having regard to the proximity of the two terraces to each other and that of the northernmost building to the Avenue Road frontage, where it would present an awkward frontage to the street, comprising a side wall almost devoid of fenestration. Moreover, the proposed bungalow would appear unduly cramped in relation to both its side boundaries, resulting in an incongruous dwelling layout, having regard to that which prevails along Avenue Road.
16. The proposal would necessitate a significant loss of garden area and soft landscaping to accommodate the proposed built development. This would be particularly evident in the northeast corner of the site where existing garden and frontage vegetation would be lost to accommodate the proposed parking and access for dwellings 1-4. The proposed loss of a significant amount of on-site vegetation would be harmful to the verdant character of the area, and together with the introduction of a considerably higher and bulkier 2-storey building in lieu of the existing bungalow would result in a highly urbanising impact on this visually prominent part of the townscape.
17. The resulting visual dominance of built development would be compounded by the elevated position of the site in relation to Chewton Farm Road, whose ground levels decline northwards away from the site.
18. Moreover, it is not unreasonable to expect that the harm arising from the loss of green undeveloped land would be exacerbated by the future introduction of further intensification of site coverage with the built development in association

- with the future residential occupation of each property, such as rear garden outbuildings, sheds, decking and patios in connection with each individual plot.
19. The resulting intensity of built development within the site, together with an uncharacteristically terraced layout of development, would be contrary to the prevailing spacious and sylvan pattern of development within the Chewton Farm Estate.
 20. I am not persuaded, on the basis of the evidence before me, which does not include specific details of the proposed soft landscaping or tree species, that the proposed tree planting, indicated on the supporting tree report¹ (the AIAMS) would provide sufficient replacement soft landscaping to appropriately compensate for that lost, or that it would sufficiently screen the new built development in views from the public realm to prevent it appearing stark and incongruous within the townscape. Moreover, the implementation and future retention of new landscaping could not be guaranteed in the future, and it is not appropriate to rely upon it to screen new built development of an inappropriate layout and design for its surroundings.
 21. Moreover, the appeal site, together with Nos 22 and 24 Chewton Farm Road is covered by a Tree Preservation Order² which protects two Oak trees located on its Chewton Farm Road frontage. These mature trees are referred to as T1 and T5 on the submitted Site Block and Location Plan Ref 9537/100 Rev G. They occupy a prominent position within the street scene and make a significant positive contribution to the verdant character of Avenue Road.
 22. Part of the proposed frontage parking, turning and footpath access to the new houses would be sited within the Root Protection Areas (RPA) of these trees. As such, the proposal represents a potential threat to the character, amenity value and longer-term survival of the Oaks, the loss of which would materially harm the character and appearance of the area.
 23. I have had regard to the appellant's proposed use of a no-dig Cellular Confinement System (CCS) to protect the tree roots in these areas. I have also noted the appellant's assertion that the amount of RPA that would be covered by this hard-surfacing would amount to less than the 20% figure contained within British Standard 5837:12 and that this is not contended by the Council. With this in mind, and in the absence of any cogent evidence to the contrary, I have no reason to consider that the proposed CCS would not be a satisfactory means of construction for this part of the development in respect of tree root protection and, that in principle, this matter is capable of being dealt with by means of a condition.
 24. However, there is no information before me in respect of the proposed routes of services and any necessary drainage facilities, whose installation has the potential to adversely affect tree roots. Taking a precautionary approach, although noting the appellant's proposals in this respect which are contained within the AIAMS, I am not persuaded on the basis of the information before me, that this matter has been satisfactorily addressed.
 25. Moreover, whilst highway safety matters associated with the use of the proposed access, parking and footway arrangements for the houses are not

¹ Arboricultural Impact Assessment and Method Statement Ref GH2195.1 dated 8 February 2022 by Gwydion's Tree Consultancy

² Ref Tree Preservation Order 2021 No.10

referred to within the Council's putative reasons for refusal, the Council's suggested conditions and the statement by the Council's Transportation Officer, recommend that alterations be made to the layout of this part of the development in order to ensure safety and convenience for future occupiers of the development. Whilst not constituting significant changes to the overall scheme, such alterations would potentially impact further upon existing landscaping and trees, and this potential conflict remains unresolved.

26. My attention has been drawn to recent planning permissions³ for the redevelopment of Nos. 20 and 22 Chewton Farm Road with apartment buildings. Whilst these developments have resulted in a notable increase in density of development, I do not find them to be directly comparable to the appeal scheme. Key differences include the type of development, which in each case comprises a single building to be used as flats and having communal landscaped amenity area around the building rather than two blocks of terraced houses with individual plots being created for each unit, the juxtaposition of the flats buildings in relation to their site frontage and to neighbouring properties, and the proposed amount and position of car parking.
27. As such, those schemes comprise more spacious loose-knit arrangements of built development which enable the retention of sufficient garden space and trees and shrubs around them, so as not to conflict with, or detract from, the overall prevailing character of large properties set in large verdant plots. which distinguishes the Chewton Farm Estate.
28. Moreover, whilst noting that at the time of approval of these schemes the Council could not demonstrate a 5 year housing land supply, I note that the Council did not identify specific harm in respect of the impact of either scheme upon the character and appearance of the area.
29. Having regard to the above, notwithstanding the time which has elapsed since the adoption of the Local Plan, and the presence of some new built development during the intervening time, I find that the overall prevailing character of Chewton Farm Estate has been retained.
30. For the above reasons, I conclude that the proposal would have a detrimental impact on the character and appearance of the area. As such, the appeal scheme would be contrary to Policies HE2 and HE3 of the *Christchurch and East Dorset Local Plan Part 1 – Core Strategy* (2014) (the Core Strategy) and Saved Policies H9 and H12 of the Local Plan. These policies, amongst other things, seek to ensure that new development is of a high quality design, which reflects and enhances areas of recognised local distinctiveness, including protecting the special character and amenity of the established residential area in Chewton Farm Estate, is compatible with or improves its surroundings in terms of matters including layout, site coverage, landscaping, visual impact and relationship to mature trees, and does not result in the loss of important environmental features such as open space or trees which is part of the character of the area.
31. For similar reasons, the proposal would also be contrary to Policies of the *National Planning Policy Framework 2021* (the Framework) which seek to achieve well-designed places, as set out in Chapter 12.

³ Refs 8/20/0752/OUT, 8/21/0331/CONDR, 8/21/0798/RM and 8/21/0690/FUL

Living conditions

32. The rear elevations of the proposed houses at units 5-8 would directly look towards the east side of the proposed bungalow on plot 9 and its rear garden. The side wall of the bungalow facing towards the houses would include a bedroom window and a small ensuite window. The bedroom is single size and would be the smallest in the bungalow, and so would be reasonably likely to be used as a study. Moreover, I find that the outlook from its window would be largely compromised by boundary screening measures which would reasonably be required to be of sufficient height and design to ensure security between the bungalow and the houses. Such screening would also largely act as a privacy screen to this window, given the proposed close proximity of the side wall of the bungalow to its eastern side boundary.
33. There is a difference of opinion between the main parties as to the distance between the rear wall of dwellings 5-8 and the boundary with the bungalow on plot 9. Even taking the Council's figure of 9.6m as the minimum distance, and noting that the building would be stepped at the rear, so that only one house would be sited at that distance from the rear garden of the bungalow, I consider that the new houses on plots 7 and 8 would be sited sufficiently distant from the garden of the bungalow so that there would be no unduly oppressive or enclosing impacts. In coming to this view, I have taken account that the garden of unit 9 would also enjoy reasonable unobstructed outlooks to its west and south sides.
34. Having regard to privacy impacts, the Council has referred to the failure of the proposal to accord with the Council's adopted design guidance⁴. This guidance was adopted following public consultation to assist in applying the Local Plan policies, and as such, I afford it weight. However, I find that the 12.5m separation distance referred to by the Council relates specifically to the distance between the back and side of 2 or 3 storey dwellings, rather than to gardens. Moreover, the Design Guide confirms that in most urban areas a degree of overlooking is inevitable. With the above in mind, I am satisfied that the proposed distance between the rear first floor bedroom windows of the southernmost two houses and the garden of the bungalow is acceptable within the context of urban built residential development, and would not result in undue overlooking of the garden of the bungalow.
35. For the above reasons, I therefore conclude that the proposed development would not materially harm the living conditions of the occupiers of unit 9 having regard to privacy and outlook impacts. As such, the development would accord with Core Strategy Policy HE2 and Saved Policy H12 of the Local Plan, in so much as these policies aim to ensure that new development is compatible with, or improves its surroundings, in respect of matters including its relationship to nearby properties including minimising general disturbance to amenity and ensuring that the residential amenities of existing and future occupiers of dwellings are not adversely affected by matters including the loss of privacy.

⁴ Residential Development A Design Guide (2008)

36. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

European Protected Sites (EPS)

37. The Council's final putative reason for refusal relates to the failure of the proposal to secure avoidance/full mitigation of the likely significant effects from recreational pressures that the Council considers the proposed additional dwellings, in combination with other dwellings proposed near to the EPS, would have on their integrity.
38. The appeal site lies within the zone of influence of the Dorset Heathlands EPS. Natural England is concerned about the intensification of residential development in South-East Dorset, and the resultant pressures upon protected Heathland by the new occupants of these dwellings living in close proximity to such areas. Studies have shown that increased access to lowland heathland from nearby development leads to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets. It is the view of Natural England that within 5km of Heathland, there will be significant adverse effects in combination with other proposals. However, avoidance or mitigation measures, including access management measures to divert recreational pressure from heathland can allow development to be permitted.
39. The proposal would be required to comply with an Avoidance and Mitigation Framework Strategy contained within the *Dorset Heathlands Planning Framework 2020–2025 Supplementary Planning Document* (2020) (the DHPF) which includes a requirement for a financial contribution towards Strategic Access Management and Monitoring (SAMM).
40. During the course of the appeal, the appellant submitted a completed unilateral undertaking (UU), pursuant to section 106 of the Town and Country Planning Act 1990, in respect of the payment of a Strategic Access Management and Monitoring Contribution to mitigate against 'in-combination' effects from new residential development upon the EPS due to increased recreational disturbance to the protected habitats and species of the lowland heath.
41. The Council has not specifically commented upon the submitted planning obligation, but has confirmed that, in principle, such a mechanism constitutes a satisfactory means of addressing this matter.
42. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the EPS falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further and to undertake an Appropriate Assessment (AA), under the Habitats Regulations, of the implications of the appeal scheme for the EPS.
43. However, as the first main issue provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome.

Other Matters

44. The Council has confirmed that it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework, and that the Council's supply stands at 2.7 years of deliverable housing land in respect of the figure for the former Borough of Christchurch. As such, the undersupply is acute.
45. Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a 5-year housing land supply cannot be demonstrated, or the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years.
46. Paragraph 11 sets out that, where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
47. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area within a designated settlement boundary, where access to facilities and services and public transport connections is likely to be greatest.
48. Paragraph 60 of the Framework refers to boosting significantly the supply of homes, and 7 additional dwellings would make a modest contribution towards addressing the housing delivery deficit. Moreover, the development would comprise a size of dwelling which the Council has identified that there is a need for within the Borough, and it could be built out relatively quickly, having regard to Paragraph 69 of the Framework.
49. There would also be economic benefits as a result of the construction of the new dwellings and economic and social benefits as a result of their future occupation. These considerations weigh in favour of the development, and I afford them moderate weight, having regard to the modest size of the proposed development.
50. The Council has raised no objection to the appeal scheme in respect of matters including the principle of additional dwellings on the site and the impact of the proposal upon the living conditions of the occupiers of existing neighbouring properties. Moreover, I have found no harm in respect of the impact of the development upon the living conditions of future occupiers of the scheme.
51. In terms of the planning balance, the lack of identified harm is a neutral factor that does not diminish the harm that would arise from the appeal scheme in respect of the impact on the character and appearance of the area.
52. A high standard of design is a key aspect of sustainable development. The harms I have identified in respect of the first main issue would be significant. As a result, the social objective of sustainable development of fostering well-designed and beautiful places would not be achieved.

53. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified and would not address or outweigh the aforementioned harms that I have identified.
54. Accordingly, notwithstanding whether footnote 6 to Paragraph 11 of the Framework applies with respect to habitats sites, I have found that, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the benefits. Therefore, the proposals would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

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

S Leonard

INSPECTOR