



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: 3rd April 2023

Appeal Ref: APP/D1265/W/22/3301809

1 Braeside Road, Land rear of 14 Malmesbury Road, St Leonards And St Ives BH24 2PQ

- 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 Lenny Bignall against the decision of Dorset Council.
 - The application Ref P/FUL/2021/03864, dated 19 August 2021, was refused by notice dated 25 February 2022.
 - The development proposed is to construct a self-build 2 bedroom detached property with associated parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted to construct a self-build 2 bedroom detached property with associated parking and amenity space at 1 Braeside Road, Land rear of 14 Malmesbury Road, St Leonards And St Ives BH24 2PQ in accordance with the terms of the application, Ref P/FUL/2021/03864, dated 19 August 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The address given for the appeal site varies between the application form, decision notice and appeal form. I have used that given on the decision notice, as it is the one that most accurately describes the location of the site.

Main Issues

3. The main issues are:
 - a) The effect of the development on the character and appearance of the area; and,
 - b) Whether the proposal would provide suitable living conditions for future occupants with regard to noise.

Reasons

Character and appearance

4. The appeal site comprises a disused and overgrown strip of land that lies adjacent to, but at a higher level than, the busy A31 Ringwood Road to the south. On its northern side it borders the large rear gardens of two bungalows that are served by Malmesbury Road. It is enclosed by a close-boarded fence along the southern side, and hemmed in behind the existing residential development to the north. There are also mature trees on both boundaries.

Consequently, the only readily accessible views into the site are through the narrow access point off Braeside Road to the east.

5. It is proposed to construct a dwelling on the site, with its first-floor accommodation contained entirely within the roof space and two modest dormers. The narrowness of the site dictates that the dwelling would be located at its western end, where it is at its widest. As a result, much of the site would be given over to a long driveway, parking spaces, and a turning area. However, this expanse of hard surfacing would only be visible through the access point, where only the first part of the driveway would be evident. From here, it would also be viewed in the context of the dual carriageway of the A31 to one side, and the entirely hard-surfaced front forecourt of 3 Braeside Road to the other. It would not, therefore, be out of character with its surroundings.
6. The elongated form of the site means that the useable area would be confined to the western end, and the front and rear garden spaces would be much smaller than those of the adjacent residential development to the north and west. Even at this widest part of the site, the proposed dwelling would be close to both of its side boundaries. Again, this would not reflect the pattern of development to the north, where the dwellings are generally set away from their boundaries in spacious gardens. The shape of the site, the consequent layout of the development, and the restricted amount of space around the dwelling would not, therefore, be of the same character as the surroundings.
7. Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 - Core Strategy (adopted April 2014) (the Core Strategy) seeks to ensure that development reflects and enhances areas of recognised local distinctiveness. Whilst the residential area of Braeside Road and Malmesbury Road is pleasantly suburban, it is composed of a range of architectural styles, and largely of relatively recent origin, so could not be described as locally distinctive. Furthermore, I have not been advised that the site falls within a Special Character Area as referred to in Policy HE2. The requirements of the Policy therefore have limited applicability to the appeal scheme.
8. Viewed through the access from Braeside Close, the proposed dwelling would be a long way back on the plot. The size of the garden areas, and the relationship of the dwelling with its site boundaries, would not be evident from here. Rather, the dwelling would be glimpsed in relative isolation from the surrounding development, framed by the mature trees to both boundaries. It would not, therefore, have an uncharacteristically cramped appearance. Consequently, despite the restricted nature of the site, the development would not appear out of character with the pattern of development from this viewpoint.
9. Viewed from the footpath alongside the A31, the site is not seen in the context of the suburban residential development to the north, which is largely screened from view. Instead, it is experienced in an environment that is heavily influenced by the busy dual carriageway. The gable end of the dwelling would be close to the footpath, and readily visible over the boundary fence. Other buildings along this stretch of road are generally set further back, however the dwelling would be of a limited scale compared with many much larger buildings along this road corridor. It would, therefore, be an inconsequential addition to the street scene, and would not be harmful to the character of this highly urban environment.

10. Paragraph 130 of the National Planning Policy Framework (the Framework) says new development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). In this case, the development would not conform with the nearby pattern of development. However, as set out above, the discrete nature of the site is such that it would not be readily seen in juxtaposition with the surrounding dwellings, so would not appear incongruous. As a result, the dwelling could be accommodated on the site without harm to the surrounding built environment.
11. For the reasons given above, I conclude that the development would not be harmful to the character and appearance of the area. The proposal would, therefore, accord with Policy HE2 of the Core Strategy, which seeks to ensure that development is compatible with its surroundings. It would also meet with the aims of the Framework to achieve well-designed places.

Noise

12. The appeal site lies close to the busy A31 dual carriageway, which comprises four lanes of fast-moving traffic. The Council's concern regarding the impact of the resultant noise on the residential amenity of future occupants of the dwelling is therefore understandable. Section 12 of the Framework, and Policy DES2 of the East Dorset Local Plan (2002) (the Local Plan), both seek to ensure that occupants of new development are not subject to unacceptable impacts from traffic noise. However, neither sets any standards for acceptable levels of noise for residents. At the time of my visit, I witnessed a constant noise from passing traffic, although this was when stood on the site, outside any building, with only a rather flimsy timber boundary fence to provide any attenuation.
13. The application was accompanied by a Noise Impact Assessment (the NIA) prepared by a suitably qualified expert. Using pre-covid noise maps, and applying a penalty of 5dB to improve accuracy and to assume a worst-case scenario, the NIA establishes that the current levels of noise experienced by the proposed development would be 80dB(A) during the daytime and 70dB(A) at night. BS:8223:2014¹ sets a target level for bedrooms of 35dB(A) during the daytime and 30dB(A) at night. Consequently, for noise levels within the dwelling to be acceptable, a reduction of 45dB would be necessary. Part E of the Building Regulations 2010 requires a minimum performance of 45dB for all separating walls of purpose-built dwellings, so no additional mitigation would be required in this respect. Furthermore, the NIA states that acoustically laminated double-glazed windows should be able to attenuate background noise by 45 dB(A). Consequently, it would be feasible to provide suitable living conditions for occupants within the dwelling.
14. The NIA calculates that the noise impact levels at the outdoor amenity areas for the proposed dwelling would be 65dB(A). BS 8223:2014 states that, for external areas that are used for amenity space, such as gardens and patios, it is desirable that the noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T, which would be acceptable in noisier environments. Consequently, in this inherently noisy location, a reduction of 10dB(A) would be necessary to achieve acceptable living conditions for

¹ Guidance on sound insulation and noise reduction for buildings (The British Standards Institution 2014)

residents in the outdoor amenity areas. The Addendum to the NIA submitted with the appeal demonstrates that a 2-metre acoustic fence would achieve a reduction of 11.3dB, thus reducing noise at the amenity area to below the upper threshold.

15. The Council contends that, as the mitigation would only achieve the upper guideline value, there could be pressure for a higher fence to be provided in order to achieve an improved standard of amenity. The Officer's Report indicates that a height in excess of 2.5 metres would raise concerns in terms of visual appearance. The Addendum to the NIA shows that a 2.5 metre fence would achieve a 13.5dB reduction, which would result in the expected noise level being 51.5dB, significantly below the upper threshold. Consequently, it would be feasible to achieve an acceptable standard of outdoor amenity for occupants of the dwelling without harm to the character and appearance of the area.
16. The Council has not disputed the findings of the NIA, and the Environmental Health Officer did not object to the application provided the mitigation set out in the NIA was secured by planning condition. Consequently, and for the reasons given above, I conclude that the proposal would provide suitable living conditions for future occupants with regard to noise. The development would, therefore, accord with Policy DES2 of the Local Plan, and the advice in Section 12 of the Framework.

Other Matters

17. The site lies within 5km of the Dorset Heathland Special Protection Area (the SPA) and the Dorset Heaths Special Area of Conservation (the SAC). The evidence indicates that additional dwellings within this zone are likely, in combination with other plans and projects, to result in harm to the integrity of these internationally protected areas. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (the SPD) sets out the mitigating measures that are necessary to avoid harm from the projected levels of development. In determining the application, the Council carried out an Appropriate Assessment (AA). It concluded that the mitigation measures set out in the SPD, funded via Community Infrastructure Levy receipts would ensure that there would be no harm to the SPA or the SAC.
18. The Conservation of Habitats and Species Regulations 2017 as amended, require that permission for development may only be granted after it has been ascertained that it will not affect the integrity of internationally protected sites. As I am the competent authority in determining this appeal, it is incumbent upon me to satisfy myself that this is the case. Based on the evidence before me, and following AA, I conclude that the necessary mechanisms are in place to ensure that mitigating measures will be delivered so that there would be no harm to the SPA and SAC as a result of the development.
19. The access to the site lies close to the junction of Braeside Road with the A31, which has given rise to concerns regarding highway safety. However, neither the Highway Authority nor Highways England have raised objections to the proposal. There is no pattern of accidents associated with this junction, and the proposed use would not result in a significant increase in traffic movements in the vicinity. Consequently, I have no reason to depart from the expert advice of these consultees.

20. The application was accompanied by an Air Quality Assessment, which concluded that, based on local monitoring data, and predicted background pollutant concentration, the site is suitable for residential development. Furthermore, mitigating measures could be secured by planning condition to avoid any potential nuisance arising from the construction phase.
21. The proposed dwelling would be of modest scale and height, so, although its gable end would be close to the rear garden boundary of 14 Malmesbury Road, it would not be a particularly dominant or overbearing structure, and would not result in any significant loss of light. The first-floor bedroom windows facing towards the rear gardens of the dwellings in Malmesbury Road could be obscure glazed to avoid any loss of privacy. Consequently, there would be no harm to the living conditions of occupants of the adjacent residential properties.
22. The application was accompanied by an Arboricultural Impact Assessment & Method Statement, which identified that most of the trees on the site could be retained and that, subject to conditions, all of the protected trees would be unharmed. A replacement oak tree is proposed to mitigate the loss of those trees that would be lost. However, National Highways has advised that the proposed oak tree is likely to be within falling distance of the A31 at maturity, and an alternative species should be selected. This, and additional planting, could be secured through a condition requiring a landscaping scheme, to ensure that the overall level of planting on the site would not be significantly diminished.

Conditions

23. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council and National Highways have both submitted schedules of suggested conditions to cover other matters. I have considered all the suggested conditions against the advice in the Planning Practice Guidance. I have agreed that they are necessary, but I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.
24. To protect the character and appearance of the area, I have imposed conditions requiring the proposed external materials for the dwelling, and a landscaping scheme, to be submitted to the Council for approval. In accordance with the advice from National Highways, I have imposed conditions requiring submission of details of a construction traffic management plan, a scheme of surface water drainage, and a method statement for tree removals, together with a condition specifying the location and mode of opening of the access gates. Also in the interests of highway safety, I have imposed a condition requiring the approved car parking and turning facilities to be provided and retained.
25. To protect the living conditions of the occupants of nearby residential properties, I have imposed conditions requiring the provision and retention of obscure glazing in first floor windows, and the submission of a construction management plan for approval by the Council. Finally, to ensure that the development provides safe and suitable living conditions for future occupants, I have imposed conditions requiring the reporting of any unexpected

contamination that is encountered, and details of noise reduction measures to be submitted to the Council for approval.

Conclusion

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

Nick Davies

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: J.47.2020-01A – Block and Location Plan; J.47.2020-02A - Proposed Floor Plans and Elevations.
- 3) Prior to the commencement of the development hereby permitted, a construction traffic management plan shall be submitted to, and approved in writing by, the local planning authority (in consultation with National Highways). The management plan shall include details of the following:
 - anticipated number, frequency, and size of construction vehicles;
 - the provision of parking for contractors' vehicles during all stages of the development;
 - provision of a means of delivery and storage for all plant and materials that avoids parking or unloading on the A31 trunk road;
 - provision of a suitable turning area on site to ensure that all construction and delivery vehicles exit and enter the site in a forward gear.

During construction, traffic management shall be implemented in accordance with the agreed plan.

- 4) Prior to the commencement of the development hereby permitted, details of the proposed means of surface water disposal, including during the construction phase, shall be submitted to, and approved in writing by, the Local Planning Authority. The method of surface water drainage shall be designed, implemented, and maintained to ensure no surface water run-off arising from the development site shall enter the trunk road or highways drainage systems. Development shall proceed in accordance with the approved details, and the final scheme shall be operational before occupation of the dwelling, and shall be permanently retained thereafter.
- 5) Prior to the commencement of the development hereby permitted, a Construction Method Statement shall be submitted to, and approved in writing by, the local planning authority. The Statement shall provide for:

- the storage of plant and materials used in constructing the development;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from construction works;
- delivery and construction working hours; and,
- mitigation measures to reduce noise during the build.

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

- 6) Prior to the commencement of any tree removals, a method statement for the works shall be submitted to, and approved in writing by, the local planning authority. The statement shall give due consideration to any requirement for traffic management. The works shall be undertaken in accordance with the agreed method statement.
- 7) Development shall not proceed above damp-proof course level until details/samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 8) Development shall not proceed above damp-proof course level until details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority (in consultation with National Highways). The details shall include:
 - boundary treatments (including hedgehog holes);
 - hard surfacing materials (including an above ground cellular confinement system finished with a permeable surface within the root protection area of the protected trees);
 - a replacement tree;
 - planting plans (including plants/trees to be retained);
 - written specifications (including cultivation and other operations associated with plant and grass establishment);
 - schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; and,
 - an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before the dwelling is occupied, or in accordance with the agreed implementation programme. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 9) Development shall not proceed above damp-proof course level until further details of the noise reduction measures described in the Noise Impact Assessment by AVAL dated March 2021 have been submitted to, and approved in writing by, the local planning authority. The measures

shall be completed in accordance with the approved details prior to the first occupation of the dwelling and shall thereafter be permanently retained.

- 10) The car-parking spaces and vehicle turning area shall be completed in accordance with the details shown on approved drawing no J.47.2020-01A prior to the occupation of the dwelling hereby permitted. These facilities shall thereafter be permanently retained, and shall be used for no purposes other than the parking and manoeuvring of vehicles.
- 11) The dwelling hereby permitted shall not be occupied until the first-floor windows identified on approved drawing no J.47.2020-02A have been fitted with obscured glazing with a minimum obscuration of industry level 3, and no part of those windows that is less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. This form of glazing shall be permanently retained thereafter.
- 12) Any gates associated with the development hereby permitted shall be sited wholly within the development site and not less than 8 metres from the development site boundary with Braeside Road. The gates shall be hung to open inwards into the development site and shall thereafter be permanently maintained in that condition.
- 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to, and approved in writing by, the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.