



Appeal Decision

Site visit made on 9 May 2023

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2023

Appeal Ref: APP/V1260/W/22/3306163

Silverways Nursing Home, Silver Way, Christchurch BH23 4LJ

- 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 Mr Doug Furlong, Christchurch Housing Society against Bournemouth Christchurch and Poole Council.
 - The application Ref 8/21/0905/FUL, is dated 13 September 2021.
 - The development proposed is 2-storey extension to existing nursing home to create a linked, 10 bedroom care home wing.
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Decision

1. The appeal is dismissed and planning permission for 2-storey extension to existing nursing home to create a linked, 10 bedroom care home wing is refused.

Preliminary Matters and Main Issues

2. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has not provided any indication as to what their decision would have been had it been in a position to determine the application.
3. The Council has however provided copies of policies which it considers pertinent to the appeal from the Borough of Christchurch Local Plan 2001(LP), the Christchurch and East Dorset Local Plan Part 1 - Core Strategy (adopted April 2014)(CS) and the Highcliffe and Walkford Neighbourhood Plan. I have taken those policies into account.
4. A number of interested parties have made representations during the planning process. The appellant has had opportunity to view and respond to interested party comments within their appeal statement. Noting the matters raised by interested parties, I consider the main issues are:
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to overlooking and overshadowing;
 - The effect of the proposal on vehicular parking; and
 - The effect of the proposal on the integrity of the Dorset Heathlands and New Forest Special Area of Conservation and Special Protection Areas and the River Avon Special Area of Conservation (Habitats sites).

Reasons

Living Conditions

5. The appeal site is a large multi-winged two storey nursing home set within gardens to all sides and surrounded with residential properties. A public footpath runs to the southern boundary connecting Silver Way to Pine Crescent. Surrounding properties are predominantly 1 or 2 storey dwellings of traditional design set within gardens of a reasonable size. I observed that more recent residential development (28A and 29A Pine Crescent) had been constructed in close proximity to the western boundary of the appeal site.
6. The proposal would extend to the south of the existing building with a two-storey flat roofed built form broadly aligned with the southern and western boundaries. An existing tree along the western boundary would be retained, and I note the Council's Tree and Landscape Officer's comments that necessary future management could be done reasonably without adversely affecting the trees health or appearance.
7. While the southern elevation would be devoid of windows, a number of windows would feature in the proposed west elevation at both ground and first floor levels. Gardens of residential properties along Pine Crescent back onto the appeal site, and while not illustrated on the submitted plans, I observed the spatial relationship of the recently constructed residential development with the appeal site.
8. Due to the length of gardens and relatively long distance between the proposal and the rear elevations of 29 and 30 Pine Crescent, the proposal would not result in a significant increase in overlooking or overshadowing of windows. However, the proposal would result in first floor windows, some of which are full height windows, overlooking parts of the garden areas of these properties and more significantly, 29A Pine Crescent which is in closer proximity to the proposal.
9. Furthermore, while there is screening from the existing mature boundary planting, this is likely to be less effective during winter months when foliage is not in leaf. Although some mutual overlooking is not unusual in a residential area, noting the particularly close proximity of 29A Pine Crescent to the proposal, the proposal would result in an increased degree of actual and perceived overlooking and an unreasonable loss of privacy. Although it could be possible to impose planning conditions to ensure that bathroom windows within this elevation are obscure glazed, such a condition relating to the bedroom windows would not be appropriate due to the effect on future occupier's outlook.

Consequently, I conclude that the development results in a harmful effect on the living conditions of the occupiers of neighbouring properties with particular regard to overlooking. The proposal therefore conflicts with LP Policy H12 and CS Policy HE2. These policies, amongst other things, seek to ensure development does not adversely affect neighbouring residential amenity.

Vehicular Parking

10. The appeal site has existing off-road vehicular parking for up to 35 cars, although I observed that this includes an amount of double parking. The appeal site is in a location which is accessible by a number of differing public transport

modes and includes additional bicycle parking. It is put to me that the proposal would result in an additional 8 employees at the appeal site and additional potential visitors to future occupiers.

11. I note that concerns raised by interested parties relate to the impact on on-street parking, and how the proposal could result in additional pressure on on-street parking. At the time of my visit, there was sufficient available parking spaces within the appeal site, with no obvious overspill parking taking place on the surrounding highway network. However, I accept that this was a moment in time, and noting the interested party representations have no doubt that at certain times overspill parking does take place within the surrounding area.
12. Nevertheless, the Highway Authority have noted that the proposal would be unlikely to result in a significant increase in vehicle trips, and that sufficient parking would be retained to meet guidelines. Furthermore, if planning permission were to be forthcoming, planning conditions could be imposed requiring additional cycle parking provision and electric vehicle charging as required by the Highway Authority.
13. While I appreciate the concerns of local residents and accept that overspill parking may occur on the surrounding highway at times, there is no substantive evidence before me to indicate that parking within on the surrounding highway would result in highway safety issues or that the proposal would lead to a worsening of this situation. Therefore, on the evidence before me I see no reason to disagree with the Highway Authorities assessment of the proposal.
14. Consequently, the proposal would contain appropriate levels of vehicular parking and not result in harm to highway safety. The proposal therefore accords with CS policies KS11 and KS12. These policies require, amongst other things, that development provides adequate vehicle parking facilities to serve the needs of the proposed development.

Habitats Sites

15. The appeal site is within 5km of the Dorset Heathlands Special Protection Area and Special Area of Conservation. 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. Evidence shows that the designation is under significant pressure from an increasing number of people living nearby. As the population grows, urbanising impacts from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
16. The appeal site is also within 13.8km of the New Forest Special Protection Area and Special Area of Conservation which I am informed has recently had a detailed visitor survey confirming adverse effects arising from new dwellings.
17. Natural England have confirmed that the SPD is appropriate for both Dorset Heathlands and New Forest, and I see no reason to disagree. The SPD sets out a strategy for the avoidance and mitigation of impacts of new residential development. Appendix B sets out advice for different uses which are not

specifically mentioned in the SPD with the guidance indicating that nursing homes would not have a likely significant effect, alone or in combination with other projects.

18. Furthermore, the SPD confirms that certain types of specialist purpose built nursing homes where residents are no longer active will not have a significant effect on the Heathlands and do not need to provide mitigation. Residents of these developments would not be expected to leave the property to access heathland, either alone or with the support of a family member/carer.
19. The appeal proposal seeks to extend a facility providing community care provision, and no substantive evidence has been put to me as to why the proposal would not reasonably fall within the type of specialist purpose-built nursing home envisaged within the SPD.
20. I am informed that the appeal site is also within the catchment area of the River Avon Special Area of Conservation. There is a known issue with nutrients entering the river and adversely affecting environmental conditions for the qualifying species.
21. Additional foul water from the proposal would be treated in the Christchurch Waste Water Treatment Works. This discharges enriched water into the River Avon which is currently exceeding its SAC Phosphate targets. The appellant has indicated that there would be no increase in overall impact as the proposal would replace a 11-bed care home elsewhere which would be decommissioned or demolished. However, I have no further details of this before me, or of any planning mechanism as to how this could be effectively secured. Therefore, taking a precautionary approach, and noting the number of additional proposed occupants and the inclusion of en-suite bathrooms, likely significant effects both individually and cumulatively with other schemes, cannot be ruled out owing to the likelihood of additional phosphates within the catchment area of the river.
22. No details or mechanism to secure on-site avoidance measures have been put to me. Natural England have indicated that mitigation measures may be available by securing offsetting Phosphate Credits and the appellant has informally indicated acceptance of such mitigation. Nevertheless, I note that there is no calculation of the level of nutrients to be offset, or a planning obligation or other mechanism before me to secure the offset.
23. Notwithstanding, as the circumstances that could have led to the granting of planning permission are not present for other reasons, it is not necessary for me to ascertain the suitability of the offered mitigation within an Appropriate Assessment. Consequently, I have not taken this matter further.

Other Matters

24. I note the appellant's comments regarding the Councils handling of the application and frustrations with delays which the appellant state result in occupiers living in outdated accommodation and higher build costs. Although I acknowledge the proposal could result in a high standard of accommodation for future occupiers, I have no substantive evidence that existing accommodation is not fit for its purpose. Moreover, it has not been shown that the appeal scheme is the only option available to achieve the appellant's desired aims. Therefore, I conclude that the weight that I attach to this matter is limited.

Furthermore, while I sympathise with the appellant's frustrations, the Councils handling of the application or future build costs has little to do with the planning merits of the case, which I have considered on the basis of the evidence before me.

Planning Balance and Conclusion

25. The proposal would make effective use of land in meeting the need for homes and other uses and this represents a benefit of the scheme.
26. I have found no harm in respect to highway safety and the proposal is in a location which is accessible by a range of transport modes. Furthermore, no concern has been raised in relation to the effect of the proposal on the character and appearance of the area, the design incorporates energy efficient features, and the site is not in an area at risk of flooding. I also note that the Council's Tree and Landscape Officer considers that adequate provision has been made for the protection of important trees. I see no reason to disagree. These matters represent a lack of harm which is neutral in the planning balance.
27. However, I have found that the proposal would cause harm to the living conditions of neighbouring occupiers with particular regard to overlooking. I attribute significant weight to this harm, which would not be outweighed by other benefits highlighted above.
28. Consequently, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

S Harrington

INSPECTOR