



Appeal Decision

Site visit made on 24 July 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2023

Appeal Ref: APP/V1260/W/22/3311939

1 Felton Road, Poole BH14 0QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
- The appeal is made by Ms Beth Michael against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref APP/22/01202/F, dated 26 August 2022, was refused by notice dated 24 October 2022.
- The development proposed is sever land and erect detached eco dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Deed pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, and Section 1 of the Localism Act 2011 is before me. This is signed by the relevant landowners and secures the payment of Strategic Access Management and Monitoring (SAMM) contributions intended to mitigate recreational pressures placed upon Poole Harbour¹ and the Dorset Heathlands². The Council has confirmed that, as a consequence of the Deed's submission, its fourth and fifth reasons for refusing planning permission are remedied. I shall formulate the Main Issues on this basis and shall return to the submitted Deed later in this decision.

Main Issues

3. The main issues are:
 - The effect upon the character and appearance of the area;
 - The likely long-term effect upon protected trees; and
 - Whether or not acceptable living conditions would be provided for future occupiers of the development, having particular regard to outlook and access to light.

Reasons

Character and appearance

4. The site is comprised of a fenced-off area of residential garden land and contains a belt of established planting along its south-eastern side. It is

¹ designated as a Special Protection Area (SPA) and Ramsar site, as well as a Site of Special Scientific Interest

² relevant designations: Dorset Heathlands SPA; Dorset Heathlands Ramsar site; Dorset Heaths Special Area of Conservation (SAC)

situated at the point where Felton Road meets Constitution Hill Road. Consistent with the existence of a long-standing Tree Preservation Order³, which covers the site and applies to an expansive area situated to the northwest of Constitution Hill Road, the general locality is well-vegetated. Properties upon Felton Road tend to be consistently laid out upon generously sized plots and are often similarly designed with either steep or shallow roof pitches. Meanwhile, the often-large nearby properties that address either Constitution Hill Road or Harbour View Road exhibit a range of designs and varying palettes of external-facing materials. Thus, a somewhat formal, yet mixed, spacious, and green residential character and appearance is identifiable local to the site.

5. The proposed dwelling, to incorporate two floors of living accommodation, would cover a sizeable footprint and its frontage, to address Felton Road, would be of not inconsiderable width. However, by virtue of its shallowed-pitched roof design and assisted by the planned retention of established planting, the dwelling would not appear as an unduly prominent or domineering addition to the streetscene. This is especially when noting that it would be of noticeably lower profile when compared to both No 1 Felton Road and No 1A Felton Road to the northwest. It is also relevant that a clear sense of assimilation with No 2 Felton Road (No 2) to the northeast would ensue. This is not least due to the dwelling's proportions and intended placement on-plot, which would loosely correspond with No 2's position to the opposite side of Felton Road.
6. Thus, the proposal, upon implementation, would satisfactorily respect the siting, mass and scale of properties upon Felton Road, as well as the prevailing pattern of development, so as to have an acceptable effect upon the character and appearance of the area. The scheme satisfactorily accords with Policy PP27 of the Poole Local Plan (November 2018) (the Local Plan) in so far as this policy requires development to reflect or enhance local patterns of development and neighbouring buildings.

Protected trees

7. The proposed dwelling would be sited in proximity to several established and protected trees. These include a large Scots pine located within the belt of established planting that avails to the southeast side of the site, and a sizeable purple Maple situated just beyond the site's northwest boundary within the private garden of No 1A. Notwithstanding the outcome of condition surveys carried out in February 2022, I experienced both these particular trees to be in seemingly good health, to exhibit full and well-balanced crowns, and to make important contributions to the visual amenity of the locality alongside other established specimens of value.
8. The Council has referred to the proposal not being accompanied by an Arboricultural Impact Assessment. However, it is apparent that a detailed tree report⁴ (the AIA) was produced to support an earlier 2022 application⁵ for development of an identical description at this site. That scheme was successful at appeal⁶. The AIA contains an appraisal of specific construction techniques and illustrates an intention to utilise cellular confinement systems to

³ Tree Preservation Order, 1964, confirmed February 1967

⁴ Arboricultural Impact Assessment and Method Statement, dated 2 February 2022

⁵ Ref: APP/22/00144/F

⁶ Ref: APP/V1260/W/22/3301372, decision date 24 March 2023

driveway areas as well as piled foundations incorporating voids where built development would fall within the calculated root protection areas (RPAs) of trees. The previous Inspector did not raise any specific objection to the utilisation of such techniques and was accepting of the AIA's findings.

9. However, the proposal that is before me has evolved and differs from the scheme that was successful at appeal earlier this year. Indeed, a dwelling of increased ridge height is now proposed and, perhaps most pertinently, a portion of the proposed dwelling's foundations are now intended to be constructed within the RPA of the purple Maple where previously they were not. When noting the precise extent of the RPA effected, there is no clear reason for me to doubt that a piled foundation technique, if utilised, could satisfactorily guard against potential damage during the construction phase. However, once constructed, the dwelling that is proposed would, to its opposing sides, have an immediate physical relationship with the canopies of established trees that make a valuable contribution to the sylvan qualities of the area. The proximity of the intended relationship with the purple Maple is especially concerning.
10. Although openings would be concentrated to the northeast and southwest elevations, there would exist potential for shading from trees to noticeably influence day-to-day living arrangements at the site. Furthermore, notwithstanding the intended use of gutter guards, a realistic threat of future property damage because of direct conflict or falling debris could not be ruled out. Therefore, whilst any future proposals for works to adjacent trees would only be likely to materialise if consistent with the specific wants and desires of future occupiers, the scheme would be fairly anticipated to lead to undue future pressures for heavy pruning, or even removal works, to occur to trees that make a positive contribution to the local landscape.
11. For the above reasons, an unacceptable long-term effect upon protected trees would, in my judgement, be likely to avail. The scheme conflicts with Policy PP27 of the Local Plan in so far as this policy requires development to respond to natural features on the site and to not result in the loss of trees that make a significant contribution, either individually or cumulatively, to the character and local climate of the area.

Living conditions – outlook and access to light

12. The proposed dwelling would contain four bedrooms. Two of these would, in terms of access to outlook and light, each be served by merely two roof lights. As these roof lights would be positioned to a southwest-facing roof slope, I am satisfactorily content that they would provide acceptable access to direct sunlight as well as daylight. However, extremely limited outlook upon an upward rather than outward trajectory would be afforded by the small-sized roof lights in question. Whilst a range of opportunities to attain a good standard of outlook would avail from shared/communal areas at ground floor, this does not justify oppressive internal arrangements for the users of multiple bedroom spaces. For the avoidance of doubt, a lack of potential overlooking opportunities does not justify the creation of sub-standard living conditions for future occupiers of the development.
13. For the above reasons, having particular regard to outlook, unacceptable living conditions would be provided for future occupiers. The scheme conflicts with Policy PP27 of the Local Plan in so far as this policy promotes development that

is compatible with surrounding uses and would not result in a harmful impact upon amenity for both local residents and future occupiers.

Other Matters

14. The site lies in proximity to both Poole Harbour and the Dorset Heathlands, and thus to European sites⁷. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have ultimately found the proposal to be unacceptable for other reasons, it is unnecessary for me to consider undertaking appropriate assessments (AAs). As such, neither am I required to assess the suitability of mitigation payments secured through the submitted Deed. For the avoidance of doubt, even had I undertaken AAs and identified no adverse effect upon the integrity of European sites at both Poole Harbour and the Dorset Heathlands, it would not have affected my overall conclusions on this appeal.

Planning Balance

15. As indicated at Paragraph 11 of the Framework, the presumption in favour of sustainable development is engaged in circumstances that encompass where the policies most important for determining a scheme are deemed out-of-date. This includes, with respect to proposals for housing, where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
16. The Council has accepted that it cannot currently demonstrate a five-year supply of deliverable sites. Moreover, the evidence before me indicates that a 4.1-year supply of housing land currently avails in the Poole area. As such, on the premise of no adverse effect being caused to the integrity of European sites, the presumption in favour of sustainable development is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
17. I have identified conflict with Policy PP27 of the Local Plan. This policy is consistent with the Framework in so far as it recognises that trees make an important contribution to the character and quality of urban environments and promotes the creation of places that offer a high standard of amenity for existing and future users of places. I apportion significant weight to the identified conflict with Policy PP27, which is associated to considerable harms by virtue of the scheme's likely long-term effect upon protected trees and the creation of unacceptable living conditions for future occupiers of the development.
18. Turning to the scheme's benefits, it would deliver an additional energy-efficient residential unit in an accessible location where there is currently a meaningful shortfall in housing land supply and a recent record of under-delivery. This represents a valuable contribution in such circumstances. Indeed, small-sized sites can make an important contribution to meeting the housing requirement of an area. Even so, the delivery of only one additional unit of family-sized

⁷ as defined at regulation 8 of The Conservation of Habitats and Species Regulations 2017 (as amended)

accommodation would not make a clear or noticeable difference to the overall housing land supply position. I thus apportion moderate weight to this benefit of the scheme.

19. The scheme would also generate jobs and investment during the construction phase, as well as expenditure in the local economy and support for local community facilities in the area once occupied. These are benefits that attract limited weight given the modest scale of development under consideration.
20. Having considered the benefits and adverse impacts of the scheme that is before me, I conclude that the harms and associated policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, does not apply therefore. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

21. Whilst I have identified the proposal, upon implementation, would have an acceptable effect upon the character and appearance of the area, I have found harm by virtue of the likely long-term effect upon protected trees and due to unacceptable living conditions being created for future occupiers of the development. These harms are the overriding considerations in this case. Accordingly, the appeal is dismissed.

Andrew Smith

INSPECTOR