



Appeal Decision

Site visit made on 4 December 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/V1260/W/23/3323872

17 Mudeford, Christchurch BH23 3NQ

- 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 C Reid (Reid & Reid Developments Limited) against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 8/22/0555/FUL, dated 29 June 2022, was refused by notice dated 20 January 2023.
 - The development proposed was described as 'demolish existing two bungalows and erect two contemporary replacement detached dwellings with associated access and parking (revised scheme)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is shown by the red line in the location plan¹. The southern part, beyond a garden fence line, is a grass bank and beach (foreshore) in the Stanpit and Fishermans Bank Conservation Area. The foreshore is crossed by a public right of way and is registered common land. The site plan² was amended before the Council made its decision to clarify that the foreshore is not a part of the site to be redeveloped. I have determined the appeal on this same basis and I mean 'the site' as excluding the foreshore, unless otherwise stated.
3. The Council's decision notice purports to refer to policies of the 'Christchurch and East Dorset Local Plan'. Policies H12 and BE5 are from the Borough of Christchurch Local Plan, March 2001 (LP). Policies HE1 and HE2 are from the Christchurch and East Dorset Local Plan Part 1 Core Strategy, April 2014 (CS). The LP and CS comprise the development plan.

Main Issue

4. The main issue in this appeal is the effect of the design, scale and form of the proposed dwellings on the character or appearance of the area, including the settings of The Watch House locally listed building (LLB)³ and the Stanpit and Fishermans Bank Conservation Area (CA).

¹ Drawing number 2201 01

² Drawing number 2201 04B

³ Also referred to as No.20 Coastguard Way and 'the boathouse'

Reasons

5. The site is a large (wide and deep) plot with a main aspect south over a harbour estuary to a distant headland and spit. It contains two mid-20th century detached bungalows, one behind the other. The one at the front is substantially greater in floor area and irregular in shape. Though of little innate architectural merit each has a shallow pitched hipped tile or slate roof with low eave and ridge levels. Aside also from some detached outbuildings and hardstanding the site is mostly undeveloped, covered by lawn, shrubs and some trees.
6. It is part of a pocket of land containing a loose knit of dwellings in similar plots that vary in-depth and orientation from the harbour, behind denser residential development on the south side of Mudeford and next to it – west along Fishermans Bank, including Argyle Road and Coastguard Way and east in, and off, Rushford Warren cul-de-sac. The dwellings in this pocket of land vary in age, design and siting but have traditional pitched gable or hipped tiled or slate roofs and are moderate in scale and form with up to two conventional stories, including some with accommodation in the roof. Although no longer in the CA this low-key residential development in more open landscaped plots facing towards the harbour is nevertheless a locally distinctive contrast to this finer grain of surrounding residential development and in this part of the harbour.
7. To the west includes the landmark Victorian LLB, originally part of a station used to police this part of the coast now part of Mudeford Sailing Club⁴. Its significance also includes a narrow floor plan facing the harbour, two-storey elevations and a shallow pitched front and rear gable end slate roof. The significance of the CA includes the LLB and the mostly modest sized two-storey detached, semi-detached and terraced Victorian artisan cottages or houses with shallow pitched slate roofs that line Fishermans Bank facing the harbour. This largely intact and cohesive group of village scale buildings are distinctive in this part of the CA which ends at the LLB next to the site.
8. This immediate local context can be appreciated from the public right of way in the CA, which is an integral part of Fishermans Bank as it runs from the west in front of the LLB, including because intervening boats in the boatyard are not static in nature. Additionally, from the foreshore in front of the site, also in the CA, including because of the modest height and innocuous presence of the bungalows on the site and its openness. It is clearly valued as such by many local residents. The site and the existing development on it therefore makes a significant positive contribution to the character and appearance of the area and to the setting of the LLB and the CA.
9. Each 3-storey, 5-bedroom house would have a wide floorplan in close proximity to each other and side boundaries of the site with flat roofs incorporating high second and third-storey eave and roof levels. Despite articulated and recessed or staggered reductions in each storey, variation in external materials and extent of glazing the dwellings would have a pronounced horizontal and vertical box or block like emphasis. These imposing monolithic elevations would stretch across most of the site width and protrude significantly upwards. Albeit single-storey, both houses would also extend a long way back on the site with a narrower attached ancillary link and garages on one side.

⁴ Council's Stanpit & Fishermans Bank Conservation Area Appraisal & Management Plan (final draft May 2008)

10. As a result, both houses would be significantly taller and appreciably more substantial in massing and extent than the bungalows. Their sheer bulk would dwarf adjoining buildings either side and fundamentally be incompatible in overall shape and appearance in their immediate context. This stark, discordant, over-dominant infilling of built form would also cause a significant reduction in openness on the site, including at elevated skyline level and in the main aspect south close to the harbour. The houses would not, therefore, reflect important features of the existing residential development on the site or in this pocket of land, which once redeveloped in the unsympathetic manner proposed would be permanently lost.
11. Such an abrupt juxtaposition of the houses on one side of it would overwhelm the quaint visual and physical integrity of the LLB and unduly diminish the collective value and worth of the group of buildings in the CA facing Fishermans Bank to the west. Moreover, the hard edged, jarring presence of the houses next to the CA boundary would undermine the largely uniform, humble visual and physical transition into or out of this part of the CA and adversely affect how these (respectively) non-designated and designated heritage assets are experienced.
12. As well as intrinsic harm in these regards, the houses would be conspicuous, prominent and visually intrusive in this exposed harbourside and shoreline setting in views from the public right of way and the common land within the CA, as well as in semi-public views to people using the sailing club or sailing in the harbour. Their overbearing presence would also detract from tranquil enjoyment of the foreshore, including the panoramic vista from it in front of the proposed houses over the harbour and towards the headland and spit.
13. The Council did not object in principle to contemporary house design on the site or to demolition of the bungalows. Two similar complementary bespoke houses side by side could be compatible with the design, scale and form (as well as siting) of other dwellings in the pocket of land and not alter density of development in terms of dwellings per hectare. The houses would establish an appropriate building line and be high quality in modern design and external materials. The plots would be appropriate in size with landscaped gardens including a retained Horse Chestnut tree and Monterey Pine tree which have significant visual amenity value and are protected by a Tree Preservation Order. However, these aspects of the proposal would not overcome the adverse impacts outlined above.
14. Planning permission for two detached replacement houses on the site has expired⁵. Also of contemporary design they were, though, two-storey above ground with moderately pitched gabled roofs and commensurate conventional eave and ridge heights, including some accommodation into the roof. As such these houses better reflected the prevailing scale and form of existing buildings either side of the site, including the LLB and in the CA. As well, they maintained spaciousness at roof and ground level, including with smaller floorplans and detached outbuildings. This gave a more gradual transition in step-up and step-down of scale and form in relation to the LLB and other buildings in the CA to the west, into and out of the CA and to the other dwellings in the pocket of land next to the site.

⁵ Ref 8/18/2653/FUL

15. Accordingly, though the proposed houses would be in approximately the same position on the site with a similar plot subdivision and not substantially greater in overall floor area (by virtue of the basements in the previously approved houses), they are significantly different in design, scale and form. Moreover, evidently not the only way in which this under-utilised site could be developed more efficiently, including to regenerate or modernise this part of the harbour as the appellant otherwise suggests is required.
16. Planning permission for a contemporary design replacement dwelling at No.21/23 Mudeford has also expired⁶. Though in this same pocket of land and dwellings as the site and in the CA at that time, the dwelling to have been replaced is essentially mostly two-storey, set inland from the harbour shoreline behind two dwellings forward of it either side and not next to the LLB or CA. The third storey scale and massing was contained mainly within a pitched asymmetric roof form with gable ends and overall only 1.5m above existing ridge height. Although the Inspector found the dwelling would contribute positively to the character and appearance of the CA as it was, that proposal is therefore not comparable in these regards to the site, the bungalows on it or the houses in the current appeal.
17. No.42 Mudeford is a contemporary design replacement dwelling facing the harbour⁷. While it reflects some design features of the proposed houses, including a flat roof and that it is a relatively wide, detached building with a horizontal emphasis, it is two-storey and lower than the dwelling it replaced. It is also sited much further to the east in Waterside, off Rushford Warren cul-de-sac, around a small headland and further separated from the site by a wide belt of trees. It is a significant distance from the LLB and the CA.
18. As such No.42 has more in common and integrates with the similar contemporary residential development in Waterside further east, which is also mostly two-storey in scale and form closest to the shoreline. The proposed houses would have no appreciable or meaningful visual or spatial relationship with No.42 or the development in Waterside as a whole, which it would be isolated from. The photographed view (and suggested interrelationship) relied on by the appellant in this respect is not from the foreshore directly in front of the site, as the appellant contends, and is not anyway available at high tide.
19. The appellant does not object to the Council's suggested conditions but these would not overcome the adverse impacts of the proposal set out above.
20. I find that the proposed dwellings would adversely affect the character and appearance of the area. They would also have a significant negative effect on the setting of the LLB and this part of the CA, so adversely affect and undermine the significance of the LLB and CA overall and as such fail to preserve or enhance the character or appearance of the CA. Consequently, the proposed development is contrary to LP Policies H12 and BE5 and to CS Policies HE1 and HE2. These policies include that residential development should be appropriate in character to the immediate locality and reflect and enhance recognised areas of local distinctiveness, including by compatibility or improving its surroundings in relation to scale, bulk, height and visual impact. Additionally, development outside but close to the boundary of a conservation area should preserve or enhance the character or appearance of the

⁶ APP/E1210/A/06/2023369

⁷ Ref 8/18/3566/FUL

conservation area, with heritage assets to be conserved or enhanced having regard to local historic significance and importance.

Other Matters

European Sites

21. The site is within a zone of influence of European Sites protected due to habitat and species important for nature conservation⁸. Alone, or in combination with other development, there is therefore potential for the proposal to cause damage or disturbance likely to have a significant effect on the integrity of these features of the European Sites by reason of increased residents' recreational use or increased phosphates from wastewater leading to nutrient enrichment. The appellant has agreed to make a financial contribution towards Strategic Access Management and Monitoring in the European Sites, though there is no planning obligation before me in this respect. In addition, the appellant considers that because there would be no net gain in dwellings on the site there is no need for nutrient mitigation.

Other interested party comments

22. Some local residents and Christchurch Town Council also objected to the proposal for other reasons, including alleged adverse impact on retained trees, overlooking of nearby dwellings, loss of views, loss of leisure or recreational use of the public right of way or common land in the foreshore and alleged inaccuracies or omissions in the appellant's computer generated and aerial drone images.
23. The appellant's arboricultural impact assessment and method statement has been prepared by a competent person. Subject to the proposed mitigation measures, which could be secured by a planning condition, and following amendment of the proposal made before the Council's decision, there is no objective evidence of unacceptable impact on retained trees, including the Horse Chestnut and Monterey Pine.
24. There would be more elevated vantage points and glazing in the proposed houses compared to the previously approved houses on the site, giving a greater perception of overlooking. But views from upper floor windows of the same number of houses towards existing dwellings or gardens, including No.19 Mudeford, would be similar in direction and orientation so cause no materially greater actual overlooking. Because of distance or downward angle, views from additional balconies or terraces would not render habitable rooms unusable or restrict all outdoor amenity space, including at No.19. For planning purposes there is no right to a distant private view and the siting or bulk of the houses would not be so close as to unduly restrict outlook from any existing dwelling.
25. The foreshore is not part of the proposed development and interference with use of the public right of way or the common land would be a matter between the respective land owner(s) and relevant public authority(ies). While the appellant's computer generated or drone images do not convey all the directions of view that I have been referred to, there is no objective evidence that the images that have been provided are inaccurate in any material way.

⁸ Dorset Heathlands Special Protection Area and Ramsar Site, Dorset Heaths Special Area of Conservation and River Avon Special Area of Conservation and Ramsar Site

Heritage and Planning Balance

26. The appellant considers that the Council cannot currently demonstrate a 5-year supply of deliverable housing sites, with a 2.7 year supply. This is not disputed by the Council. National Planning Policy Framework (the Framework) paragraph 11(d) is therefore engaged. The starting point is that planning permission should be granted.
27. In this appeal policies in the Framework that protect an area or asset of particular importance (the CA) – in this case from development within its setting – provide a clear reason for refusing planning permission. Accordingly, by virtue of Framework paragraph 11(d)(i) and footnote 7 the presumption in favour of sustainable development does not apply in this case.
28. The proposal would be in a settlement and on a site where new housing of contemporary design is acceptable in principle, accessible to facilities and services and (albeit that there is no objective evidence of an identified need) add to the housing stock of large family dwellings. This small windfall site could be built-out relatively quickly and sustain employment during construction. Subject to conditions the houses would be energy efficient and the proposal would achieve ecology enhancement and biodiversity net gains on the site.
29. While these benefits would align with objectives of the Framework to meet family living needs, support the economy, conserve the natural environment and manage climate change, they could also have largely been delivered by the previously approved or other houses on the site. These would be limited social, economic and environmental public benefits from two houses so have modest weight in support of the proposal.
30. However, there would be no net gain in dwellings so no contribution to significantly boosting the supply of homes or helping to meet the Council's housing requirement. The proposal would cause appreciable harm to the character and appearance of the area and have a negative impact on this part of the CA, including indirectly the LLB, and to its surroundings outside but next to it in its setting that contribute to its significance. The overall harm to the CA would be less than substantial, to be weighed against the public benefits.
31. The proposal would undermine development plan objectives in both respects. Given the housing land supply position, reduced weight applies to these policies most important for determining the appeal. However, they are broadly consistent with objectives of the Framework to ensure development is sympathetic to local character and history, including the surrounding built environment and landscape setting, and to maintain a strong sense of place to create distinctive places to live and visit. The Framework also aims to conserve the historic environment and heritage assets, such as the LLB and the CA which are an irreplaceable resource to be conserved in a manner appropriate to their significance. Any harm to, or loss of, the significance of a designated heritage asset (the CA in this case) should require clear and convincing justification.
32. Consequently, notwithstanding the housing land supply position, I consider that the support in the Framework for the proposal is not at the expense of ensuring that the houses are appropriate and suitable in relation to the character and appearance of the area and do not detract from this historic environment. I therefore give significant weight to the former and considerable

importance and great weight to the conservation of the CA which includes the LLB. Accordingly, the public benefits of the proposal do not outweigh the harm.

33. In this appeal, policies in the Framework also protect another area or asset of particular importance (the European Sites). As the Competent Authority it would ordinarily be necessary for me to undertake Appropriate Assessment⁹. But as I intend to dismiss the appeal, even if the proposal did not adversely affect the integrity of the European Sites, so not provide a clear reason for refusing the development, there is no need for me to consider this matter any further. This is because it would not affect my decision or therefore alter the outcome of the appeal.

Conclusion

34. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan¹⁰. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁹ The Conservation of Habitats and Species Regulations 2017 (as amended)

¹⁰ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12