



Appeal Decision

Site visit made on 12 December 2023

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Appeal Ref: APP/D1265/W/22/3307475

Land West of Putton Lane, Chickerell, Weymouth DT3 4AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Chickerell Developments Limited against the decision of Dorset Council.
 - The application Ref WD/D/20/003122, dated 7 December 2020, was refused by notice dated 24 March 2022.
 - The development proposed is Erection of 3no. dwellings (outline - all matters reserved).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Chickerell Developments Limited against Dorset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application was submitted in outline with all matters of detail reserved for future consideration. I have assessed the proposal on this basis and treated the drawings as being for illustrative purposes only.
4. The application originally sought outline planning permission for five dwellings. However, a subsequent addendum to the application form was submitted seeking permission for three dwellings. The Council's Decision Notice reflects this amended proposal as does the wording of the description of development on the appeal form. I have therefore used the revised description in the banner heading above.
5. On 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework). There have been no fundamental changes relevant to the main issues in this appeal.

Main Issues

6. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area; and,
 - the effect of the proposal on the integrity of the Chickerell Wildlife Corridor.

Reasons

Character and Appearance

7. The appeal proposes the erection of three dwellings on land adjacent to a built-up residential area. The appeal site, with its established boundary planting appears to be part of the rural character of the land to the south of the existing dwellings. It forms part of the area identified as a 'green lung' between Chickerell Link Road and Weymouth Football Club in the Chickerell Town Neighbourhood Plan 2019-2036 made June 2021 (NP)¹. The change in character from urbanised to rural begins at the appeal site.
8. The appeal site is also located within the South Dorset Ridge and Vale landscape as set out in the West Dorset Landscape Character Assessment February 2009 (LCA). It describes the landscape towards Weymouth being of a broader scale with urban fringe land uses encroaching into the countryside. It describes that this has an urbanising influence which is a detrimental feature of the landscape character area. It refers to the presence of tall and bushy hedgerows and roads having an open, rural character. This is consistent with what I saw.
9. Although boundary hedges would be retained, the proposed development would be visible from Putton Lane. It would appear as an urbanising incursion into the landscape, which the LCA seeks to avoid, and would detract from the rural character and appearance of the area. This would be at odds with Policy ENV1 of the of the West Dorset, Weymouth and Portland Local Plan 2011-2031 adopted October 2015 (LP) which requires that development be located and designed so that it does not detract from the local landscape character.

Integrity of the Chickerell Wildlife Corridor

10. The appeal site is located on land within the Chickerell Wildlife Corridor (CWC), identified in Policy CNP4 of the NP. The CWC forms an important network of multifunctional green space incorporating and connecting various important breeding, foraging and hibernating habitats including the Crook Hill Nature Reserve, a Special Area of Conservation with a population of great crested newts.
11. Although the Ecological Impact Assessment Report (EcIA)² states that there are no suitable habitats present on the appeal site for amphibians, the Biodiversity Plan (BP) which provides mitigation for the onsite impact to biodiversity, assumes the presence of great crested newts on the site. As such, a precautionary approach has been taken through the implementation of mitigation and reasonable avoidance measures.
12. As part of the avoidance measures, it is proposed to erect temporary fencing along the western boundary of the appeal site to prevent great crested newts from populating the appeal site for the duration of the construction period. As well as keeping great crested newts out of the appeal site, the fence would prevent other species from moving into and through the appeal site.
13. The proposed dwellings would be a permanent incursion into the CWC. Whilst a mitigation and enhancement scheme would provide improved habitat for great

¹ Paragraph 4.23 of the Chickerell Town Neighbourhood Plan 2019-2036

² Version 2 dated 29 December 2021

crested newts on the southern part of the appeal site, the proposed dwellings on the northern part of the site would be a physical barrier. Together, the fence and the dwellings would compromise the functionality of the CWC by inhibiting the free movement of species using the CWC for foraging, breeding and hibernating. This would detract from the purpose of the CWC to establish 'connecting corridors' to deliver a wide range of environmental benefits and undermine the reason for its designation.

14. Policy CNP4 of the NP seeks to resist development in the Chickerell Wildlife Corridor that would significantly detract from its function. Notwithstanding that the incursion of built development into the CWC would only be around 45 metres nor that it is adjacent to a road, in the absence of evidence to the contrary, and taking a precautionary approach, I cannot rule out the possibility that the appeal proposal would significantly detract from the functioning of the CWC for the reasons set out above. The proposal would conflict with Policy CNP4 in this respect and Paragraph 180 of the Framework which seeks to minimise impacts on and provide net gains for biodiversity by establishing coherent ecological networks.
15. In addition, Policy ENV3 of the LP states that development which would cause harm to the green infrastructure network or undermine the reasons for an areas inclusion within the network will not be permitted unless clearly outweighed by other considerations. As will become evident, I have concluded that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. It therefore follows that the harm I have identified is not clearly outweighed by other considerations. Accordingly, the appeal scheme would also be contrary to Policy ENV3 of the LP.

Other considerations

16. During my site visit, I noted that there was a corrugated structure in the northwest corner of the appeal site and a number of containers and other chattels on the hardcore area in northern most part of the appeal site. However, whilst the EcIA refers to the structure I saw, it also refers to the north part of the site having been recently cleared and consisting of bare ground and piles of cleared vegetation, indicating that the containers and chattels have been sited more recently. The appellant has provided ariel photographs of the appeal site between 2001-2021 which are unclear. Taken together, and in the absence of either a planning permission or a Certificate of Lawful Development which is conclusive on the matter, it has not been sufficiently demonstrated that the appeal site is previously developed land. I therefore attribute very limited weight to this.
17. There are no objections from the Council in terms of highway safety and residential amenity. Rather than being benefits of the proposal, these are neutral factors in my consideration of this appeal.
18. The mitigation measures set out in the BP mitigate and compensate for the impacts of the proposal on biodiversity on the appeal site so this is neutral in the planning balance. The proposed biodiversity enhancements are a benefit and there are benefits associated with the provision of three additional dwellings. Together I have given these modest weight.

Other Matters

19. The submissions indicate that the appeal scheme would have a likely significant in combination adverse effect on the integrity of the Chesil and the Fleet Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar, without mitigation. However, given my overall conclusion, the proposal would have no effect on the SAC, SPA and Ramsar and therefore I have not considered this matter further.

Planning Balance

20. I have been provided with conflicting information about whether the Council can demonstrate a five-year housing land supply. Even if I engaged Paragraph 11d) of the Framework³ I have found harm to the character and appearance of the area and the functionality of the CWC and the reasons for its designation. I have had regard to the purpose of conserving biodiversity⁴ and as such, I attach significant weight to this.
21. Overall, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh its modest benefits. This is not a material consideration that indicates the appeal should be determined otherwise than in accordance with the development plan.

Conclusion

22. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Alison Fish

INSPECTOR

³ which requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

⁴ Section 40 of the Natural Environment and Rural Communities Act 2006