



Appeal Decision

Site visit made on 17 November 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Appeal Ref: APP/D1265/W/23/3322363

Land West of New Manor Farm, Emley Lane, Hinton Martell BH21 7HE

- 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 G Saunders against the decision of Dorset Council.
 - The application Ref P/FUL/2022/01010, dated 15 February 2022, was refused by notice dated 8 December 2022.
 - The development proposed is erection of 2 no. dwellings and associated parking.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of 2 no. dwellings and associated parking at Land West of New Manor Farm, Emley Lane, Hinton Martell BH21 7HE in accordance with the terms of the application, Ref P/FUL/2022/01010, dated 15 February 2022, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr G Saunders against Dorset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the heading above has been taken from the planning application form. Although Part E of the appeal form states that the description of development has changed, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form that also more accurately reflects the appeal proposal.
4. During the course of the appeal, Areas of Outstanding Natural Beauty became 'National Landscapes'. Therefore, in relation to this appeal, reference to the Cranborne Chase National Landscape refers to the Cranbourne Chase Area of Outstanding Natural Beauty as referred to by the main parties.
5. During the course of the appeal, a revised version of the Framework was published. The main parties were invited to comment on whether it has relevance for the appeal. I have taken the comments received into account.
6. The site lies within the Bournemouth Green Belt. However, both parties consider that the proposal represents 'limited infilling in villages' in accordance with Paragraph 149(e) of the National Planning Policy Framework (the Framework) and that as a result the appeal proposal does not represent inappropriate development in the Green Belt. On the basis of the evidence

before me and my observations on site, I concur with this and as a result it does not fall to be considered as a main issue.

7. The effect of the proposal on the character or appearance of the Hinton Martell Conservation Area has been mentioned by third parties and I have a statutory duty to consider this. Therefore, and although not forming a reason for refusal from the Council, I have included it as a main issue.
8. The site falls within 5km of the Dorset Heathlands which comprises the Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heaths Special Area of Conservation and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes. I will return to this below.

Main Issues

9. In light of the above, the main issues are:
 - whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy;
 - whether the proposal would preserve or enhance the character or appearance of the Hinton Martell Conservation Area and conserve or enhance the landscape and scenic beauty of the Cranborne Chase National Landscape; and,
 - the effect on nationally and internationally protected sites.

Reasons

10. The appeal site is a small area of land partly enclosed by trees and hedging accessed via an existing unmade track off Emley Lane. The site is located within the Green Belt, the Hinton Martell Conservation Area (CA) and the Cranborne Chase National Landscape (CCNL). It is proposed to erect a pair of semi-detached dwellings with associated parking and garages.

Whether appropriate location

11. The appeal site lies outside of, but adjacent to, the Village Infilling Area for Hinton Martell. Policy KS2 of the Christchurch and East Dorset Local Plan: Part 1 – Core Strategy (CS) sets out the Council's settlement hierarchy and identifies the settlement of Hinton Martell as a village. Within villages, the policy states that "only very limited development will be allowed that supports the role of the settlement as a provider of services to its home community."
12. In light of the location of the site outside of the Village Infilling Area, and despite it representing very limited development, the proposal conflicts with Policy KS2 of the CS.
13. Policy KS11 of the CS states that the Council will use its planning powers to influence development so that it reduces the need to travel, provides improved access to key services and facilities and promotes alternative modes of travel. The policy further states that development should be in accessible locations that are well linked to existing communities by walking, cycling and public transport routes.

14. Despite the availability of good pedestrian and cycle links to the village from the appeal site, there is limited public transport serving the village. Moreover, the village is located a considerable distance from other settlements providing access to key services and facilities that would make walking and cycling to other settlements unattractive for most people. As a result, the site is not in an accessible location that is well linked to existing communities and would not reduce the need to travel.
15. It follows from the above that I conclude that the appeal site is not an appropriate location for housing, with particular regard to the local development strategy. As a result, the proposal is contrary to Policies KS2 and KS11 of the CS and paragraph 83 of the Framework.

Character and appearance

16. The site is located within the CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
17. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. Policy HE1 of the CS states that the significance of heritage assets and their settings will be protected and enhanced.
18. The Council's conservation area appraisal (the Appraisal) for Hinton Martell¹ explains that the boundaries of the CA are tightly drawn around the oldest part of the village and generally follow field boundaries where they meet the village. With regard to the built form, the Appraisal advises that there are traditional buildings within the CA featuring a variety of materials. Walls are of cob or brick under roofs of thatch, plain clay tiles or occasionally slate. These features contribute to the significance of the CA.
19. The site is also located within the CCNL. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. In this regard, the site is partly characterised by its boundary planting and trees that provide a green backdrop to the site.
20. Policy HE3 of the CS states that development proposals within and/or affecting the setting of the Area of Outstanding Natural Beauty will need to demonstrate that account has been taken of the relevant Management Plan.
21. The appeal proposal has been amended to address the comments made by the Inspector dealing with the previous appeal proposal on the site². The current appeal proposes a single building which would have the appearance of a linear converted barn with an associated courtyard set back from the access track. It would be similar in form to, and compliment, the outbuildings associated with the old Manor Farm buildings adjacent to the site. Appropriate materials are

¹ Supplementary Planning Guidance No.6 September 2005

² APP/D1265/W/20/3256310

- proposed that would again give the appearance of a converted barn. Existing planting and trees to the site boundaries would retain the green backdrop.
22. For these reasons, the appeal proposal would positively respond to its setting taking on the appearance of a traditional building with appropriate materials reflecting the significance of the CA. In this regard, it would not represent overdevelopment of the site. The comments from the Council's Conservation Officer stating that the revised scheme would make a positive contribution to the local distinctiveness and preserve and enhance the character and appearance of the CA and accord with Policy HE1 of the CS are noteworthy and I have no reason to disagree.
23. With regard to the CCNL, for the same reasons, and given the low-density nature of the proposal, retention of boundary planting and lack of roof lights, the proposal would conserve the landscape and scenic beauty of the CCNL. It is again noteworthy that the Council came to a similar conclusion in this regard.
24. In conclusion, the proposal would, therefore, enhance the character and appearance of the CA, would not harm its significance, and would conserve the landscape and scenic beauty of the CCNL. As such, the proposal accords with Policies HE1 and HE3 of the CS. In addition, the proposal accords with Chapter 16 of the Framework.

Effect on nationally and internationally protected sites

25. The site falls within the 5km zone of influence around the Dorset Heathlands which comprises the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes (SAC), which overlap with various other environmental designations. The Dorset Heathlands are extensive areas of land including lowland heathland, wetlands, and dunes.
26. The Dorset Heathlands are protected via the Habitats Directive, which is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I am statutorily required to take appropriate steps to conserve biodiversity.
27. The Dorset Heathlands are designated in order to safeguard ecology and the habitat upon which various species are reliant, notably in this instance Dartford warblers, nightjars, woodlark, hen harriers, merlin, sand lizards and smooth snakes. Ecology can be disturbed by recreational activities, predation from domestic pets, and from habitats being unavailable from time to time by consequence.
28. Whilst not a precise correlation, the potential for adverse effects increases with the number of dwellings nearby, including within a wide zone of influence (and therefore the aggregate, or in-combination, implications of a number of smaller developments may be significant). Habitats Regulation 63(1) states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. I have sought to apply that requirement reasonably and proportionately relative to the nature and context of the development proposed.
29. The avoidance or mitigation of effects resulting from increased residential development would be achieved by the provision of alternative greenspace, to redirect those who would have made use of the Dorset Heathlands

recreationally, and via associated monitoring and management arrangements. The contributions that individual schemes are expected to make in that context are established at a strategic level, such that a proportionate contribution is made in each instance funded by Community Infrastructure Levy (CIL) receipts. I have consulted with Natural England which has confirmed that the payment is sufficient to avoid adverse impacts on the Dorset Heathlands. As CIL receipts are collected via payment under the CIL Regulations, there is no need for a legal agreement to secure payment as part of this appeal.

30. Chapter 4 of the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (SPD) indicates the approach that it establishes towards ecological mitigation has been arrived at in conjunction between Dorset Council, Bournemouth, Christchurch and Poole Council with Natural England, the appropriate nature conservation body under Regulation 63(3). Consequently, subject to appropriate financial contributions being made via CIL, I am satisfied that likely significant effects to the ecological integrity of the SPA and SACs would be avoided.
31. In conclusion, I am satisfied that with the proposed avoidance and mitigation measures in place, secured through the CIL receipts, the development would not have an adverse effect on nationally and internationally protected sites. The development would therefore comply with the Conservation of Habitats and Species Regulations 2017. It would also accord with the SPD which, amongst other things, seek to ensure that development between 400m and 5km of protected European and internationally protected heathlands provide mitigation and avoid harm arising on the Dorset Heaths international designations.

Other Considerations

32. I have taken into account the concerns raised by third parties with regard to parking problems, highway safety concerns from traffic and the position of the access, the condition of Emley Lane, concerns regarding the impact from construction vehicles and errors in the supporting documents. However, the submitted plans adequately detail the proposal, and reports have been updated with suitable car parking provided on site. In addition, I have limited evidence before me to demonstrate that the access or additional traffic would cause significant highway safety concerns from two additional dwellings. I note that the Council came to similar conclusions in these regards. Therefore, I am satisfied that the proposal would not be materially harmful to highway safety.
33. I am satisfied that a condition ensuring the implementation of the contents of the mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Plan would adequately mitigate the impact from the development upon ecology.

Planning Balance

34. The Council acknowledge that since the determination of the planning application, they are now unable to demonstrate the required four-year supply of deliverable housing sites. Therefore, given that I have found that the proposal does not represent inappropriate development within the Green Belt, and would cause no harm to the CA or CCNL, the presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is engaged. This differentiates the current appeal from the other appeal

referenced by the Council³. In any case each application and appeal must be considered on its own merits.

35. Paragraph 11 of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.
36. The proposal would not be in an accessible location contrary to the environmental objective of the Framework which seeks to move to a low carbon economy. I give this conflict modest weight.
37. Turning to the benefits, the proposal would contribute to the supply of housing and add towards addressing the existing shortfall in housing land supply. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. The proposal would enhance the character and appearance of the CA. These benefits are tempered by the scale of the proposal, but nevertheless carry significant weight in favour of the development.
38. In this instance, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
39. In conclusion, whilst the proposal would not accord with CS Policies KS2 and KS11 bringing it into conflict with the development plan as a whole, the material considerations I outline above, including the Framework, indicate that planning permission should be granted notwithstanding the conflict with the development plan.

Conditions

40. I have had regard to the tests in the Framework in relation to conditions, and the planning conditions suggested by the Council. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
41. Conditions are necessary to ensure that prior to the installation of new services, facing and roofing materials and window details are submitted to and approved by the Local Planning Authority. These are required in the interests of protecting the character and appearance of the area.
42. A condition is necessary to secure the detailed biodiversity mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Plan certified by the Dorset Council Natural Environment Team on 5/9/2022 in the interests of protecting and enhancing ecology.
43. A condition is necessary to secure details of hard and soft landscaping in the interests of protecting the character and appearance of the area.
44. A condition is necessary to secure the hardsurfacing of the access off the highway in the interests of highway safety.

³ APP/D1265/W/23/3315231

45. Conditions are necessary to ensure that the car port, parking and turning/manoeuvring areas are provided prior to occupation to ensure highway safety is not adversely impacted.
46. Further conditions are necessary to remove permitted development rights for gates, fences, walls, enlargement, improvement or other alteration of a dwelling house, additions and alterations to the roof, and buildings incidental to the enjoyment of a dwellinghouse. These are required in the interests of protecting the openness of the Green Belt and to protect the character and appearance of the CA and CCNL.
47. In the interests of conciseness and clarity, I have amended the suggested wording to some of the conditions.

Conclusion

48. For the reasons given I conclude that the appeal should succeed.

C Rose

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: drawing number PL101: Site and Location Plan, drawing number PL102: Proposed Elevations, drawing number PL103: Materials and Detail, drawing number PL104: Contextual Elevations.
- 3) Prior to the installation of new services into the buildings where external housing of such services is proposed (including fire safety, extraction and ventilation and lighting), details of the external appearance of any external housing shall be submitted to and approved by the Local Planning Authority and the development shall be completed in accordance with these approved details.
- 4) Before using any external facing and roofing materials in the construction of the development, details of their manufacturer, colour and type shall have been submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved.
- 5) Prior to the installation of the windows in the buildings, details of their joinery and finishes shall be submitted to and approved by the Local Planning Authority and the development shall be completed in accordance with these approved details.
- 6) The detailed biodiversity mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Plan certified by the Dorset Council Natural Environment Team on 5/9/2022 must be

implemented in accordance with any specified timetable and completed in full (including photographic evidence of compliance being submitted to the Local Planning Authority) in accordance with section J of the Biodiversity Plan prior to the substantial completion, or the first bringing into use of the development hereby approved, whichever is the sooner. The development shall subsequently be implemented entirely in accordance with the approved details and the mitigation, compensation and enhancement/net gain measures shall be permanently maintained and retained.

- 7) Before the dwellings hereby approved are occupied, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved before occupation unless otherwise agreed in accordance with a programme submitted to the local planning authority.
- 8) Before the development hereby approved is occupied or utilised the turning/manoeuvring and parking shown on Drawing Number PL101 must have been constructed. Thereafter, these areas, must be permanently maintained, kept free from obstruction and available for the purposes specified.
- 9) The car port shown on Drawing Number PL101 must be constructed prior to the occupation of the development hereby approved. Thereafter, it must be maintained and available for the purpose of parking a motor vehicle. It should not be converted to use as a garage by the provision of doors and/or walled enclosure.
- 10) Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no fencing over 1m in height shall be constructed on, or within 5m of the site boundaries.
- 11) Notwithstanding the provisions of Classes A, B, C & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no roof lights, enlargement of the dwellinghouses hereby approved shall be installed/carried out or outbuildings constructed.

*****END OF CONDITIONS*****