



Appeal Decision

Inquiry Held on 14-17 November and 5 – 7 December 2023

Site visit made on 17 November 2023

by H Butcher BSc (Hons) MSc PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2024

Appeal Ref: APP/D1265/W/23/3325232

Land to the south-east of the A31 Ringwood Road and to the north-east of Brocks Pine, St Leonards, Dorset BH24 2NR

- 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 full and outline planning permission.
 - The appeal is made by Mr Nathan Ross of WH White Ltd against Dorset Council.
 - The application Ref P/OUT/2021/04412 is dated 27 March 2023.
 - The development proposed is a hybrid planning application for:
Full planning permission for the change of use of agricultural land to Suitable Alternative Natural Greenspace (SANG) (as an extension to the existing Avon Heath Country Park); the demolition of existing café and visitor centre in Avon Heath Country Park; engineering works to remove hard standing from existing country park and restore the land as greenspace; and construction of means of access and car parking to serve the SANG and country park; and
Outline planning permission, with details of access submitted for approval and all other matters (appearance, landscaping, layout and scale) reserved for subsequent approval for the development of a surf lagoon, outdoor climbing wall, visitor reception, café and administration building, and associated landscaping, together with erection of buildings in the country park extension incorporating a new visitor centre (allowing for the continuation of such activities as the 'Nature School' at Avon Heath Country Park) and new café (to replace demolished country park buildings), car park kiosk, toilets, play facilities and SuDS features; and the erection of wild play structures.
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Decision

The appeal is allowed and planning permission is granted for: Full planning permission for the change of use of agricultural land to Suitable Alternative Natural Greenspace (SANG) (as an extension to the existing Avon Heath Country Park); the demolition of existing café and visitor centre in Avon Heath Country Park; engineering works to remove hard standing from existing country park and restore the land as greenspace; and construction of means of access and car parking to serve the SANG and country park; and: Outline planning permission for the development of a surf lagoon, outdoor climbing wall, visitor reception, café and administration building, and associated landscaping, together with erection of buildings in the country park extension incorporating a new visitor centre (allowing for the continuation of such activities as the 'Nature School' at Avon Heath Country Park) and new café (to replace demolished country park buildings), car park kiosk, toilets, play facilities and SuDS features; and the erection of wild play structures; both at land to the south-east of the A31 Ringwood Road and to the north-east of Brocks Pine, St Leonards, Dorset BH24 2NR in accordance with the terms of the

application, Ref P/OUT/2021/04412, dated 27 March 2023, subject to the conditions in the attached Schedule.

Preliminary Matters

- 1) As confirmed at the Inquiry I have also used the replacement application form dated 27 March 2023 for my banner heading and decision above.
- 2) The hybrid application includes an outline permission for, amongst other things, the surf lagoon, with only access to be determined at this stage. However, before me are various plans, including an Illustrative Masterplan¹, which give an indication of how the outline permission might be developed. In respect of the outline permission I have considered these plans on an illustrative basis.
- 3) The appellant's planning witness became ill just before the Inquiry opened on 14 November 2023. The Inquiry was able to sit for the remainder of that week to hear from interested parties, highway evidence, and undisputed evidence on economic impacts and the proposed SANG. However, the Inquiry then had to be adjourned until 5 December 2023 to allow a substitute planning witness to prepare before the remaining main issues were heard.
- 4) The Council confirmed prior to the Inquiry that following the submission of additional information they were withdrawing their putative reasons for refusal 1 and 3 which respectively related to the Dorset Heathlands, and landscape.
- 5) The revised National Planning Policy Framework (December 2023) (the Framework) was published after the Inquiry closed. The parties were consulted on these changes. However, it was agreed that the revisions to the Framework do not change the key areas of policy material to this case.

Main Issues

- 6) The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - Whether safe and suitable access can be achieved for all users;
 - The effect of the proposal on the integrity of the Dorset Heathlands; and,
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

- 7) The application site comprises approximately 32.8 ha of land which is predominantly in agricultural use but also includes land forming part of the Avon Heath Country Park and a lorry park. The appeal site is located entirely within the south-east Dorset Green Belt.

¹ Drawing ref: 20030BP-LHC-00-00-DR-L-0102

- 8) Policy KS3 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (CS) is an overarching strategic policy which sets out that development in east Dorset District and Christchurch Borough will be contained by the South East Dorset Green Belt. It further states that the most important purposes of the Green Belt in the area are to protect the separate physical identity of individual settlements by maintaining wedges and corridors of open land between them and to maintain an area of open land around the conurbation.
- 9) There is no development plan policy which sets out the Council’s more detailed approach to decision making in the Green Belt. Consequently, I must turn to the Framework. This sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings in the Green Belt should be regarded as inappropriate development subject to certain exceptions. These include:
- Para 154 b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
 - Para 155 e) material changes in the use of land (such as change of use for outdoor sport or recreation) again providing such a change preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
 - Para 154 d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
- 10) The parties broadly agree that the outline permission for the surf lagoon and associated facilities would constitute inappropriate development in the Green Belt. I concur with that position. This element of the proposal would include new facilities and buildings for outdoor recreation which would have a harmful impact on both openness and the purposes of including land within the Green Belt. Paragraph 154 b) would therefore not apply.
- 11) It is useful, however, to quantify the degree of harm to the Green Belt. As shown on the Illustrative Masterplan the facilities for the surf lagoon could be grouped together in the western corner of the site. The new buildings could be limited to a surfing lake complex and ticket office only, and these could be restricted in size and height by way of condition. The lagoon and associated facilities would also be relatively low-lying structures in the landscape. Furthermore, there would be space for extensive open land to be retained around the surf lagoon. I therefore find that the totality of harm to the Green Belt would be moderate. Nevertheless, this carries substantial weight as set out at paragraph 153 of the Framework.
- 12) Moving on to the other elements of the proposal, it is also agreed by the parties that the application for full planning permission for a change of use of agricultural land to Suitable Alternative Natural Greenspace (SANG) is not inappropriate development as it would meet the exception test within para 155 e) of the Framework. I concur with that position.

- 13) This leaves the replacement of the existing country park buildings. The parties are agreed that the proposal is for a 'like-for-like' replacement. Conditions could be applied to ensure that the replacement buildings would be for the same use and not materially larger than existing. Furthermore, the S106 agreement sets out that development cannot commence until agreement is reached with the Council regarding the programming of the demolition of existing buildings and reinstatement of the land, and the building of the replacement buildings and their being brought into use. Whilst the Council is not a signatory to the legal agreement they are aware of it and as local planning authority it is in their interest that no harm occur to the Green Belt. I am therefore satisfied that with these measures in place this would secure compliance with the exception in paragraph 154 d) of the Framework and mean this element of the proposal would not be inappropriate development.
- 14) Notwithstanding this the Council sought to advance an argument in respect of harm visually to the openness of the Green Belt as a result of the replacement of the country park buildings as they would be in a different location. However, for exception 154 d) where the effect of the development on openness is not expressly stated as a determining factor in gauging inappropriateness, there is no further requirement to assess the impact of the development on the openness of the Green Belt. In short, where development is found to be not inappropriate by virtue of exception 154 d) there is no requirement to undertake an assessment of impact on openness as this is implicitly taken into account in the exception. I therefore find no harm to openness in this regard.
- 15) In summary, of the various elements of the proposal, it is the surf lagoon and associated facilities which conflict with Policy KS3 of the CS and constitute inappropriate development. I have found the totality of harm to the Green Belt in this regard to be moderate, albeit this harm carries substantial weight.

Safe and Suitable Access for all Users

- 16) The highway safety matter in dispute relates to the safety of non-motorised users accessing the site e.g. pedestrians. This could be future visitors who are staying in the local area or future employees who live in close proximity to the site.
- 17) The details submitted with the appeal indicate two accesses are to be provided: a main vehicular access from Brocks Pine and an access from an existing bridleway to the north of the site.
- 18) For a pedestrian to access the surf park, from, for example, the Travel Lodge at the Woolsbridge roundabout or any of the residential properties close to this roundabout, there are two main options. The first option, and the most direct route, would be to head to the main entrance on Brocks Pine where the ticket office/admissions office and surf lagoon are shown to be located on the Illustrative Masterplan.
- 19) However, this option is problematic. It would be necessary to cross the A31, which is a dual carriageway, using an existing at-grade crossing. This requires crossing in two moves via a central reservation in the road between crash barriers. The A31 here is a busy road, even in the winter when I visited, and because there is no pedestrian priority or any sign indicating to drivers that there is a pedestrian crossing it is very difficult to find a suitable break in the traffic to safely cross. Furthermore, the crossing on the southern side of the

A31 directs pedestrians into the lay-by for a bus stop therefore incorporating an additional hazard. In my view it is a difficult and dangerous crossing to navigate for an able-bodied person let alone anyone with young children or mobility issues.

- 20) After crossing the A31 it would then be necessary to cross Brocks Pine. This is a quieter road currently but would likely get busier with traffic visiting the surf park, and as such could cause highway safety issues to pedestrians and other non-motorised users. Furthermore, the pavement along Brocks Pine is overgrown and narrow and therefore not attractive to walk along. This could encourage people to walk down the highway which would not be satisfactory in highway safety terms. Overall, therefore, this is not a safe or suitable access to the surf park for pedestrians.
- 21) The alternative route for a pedestrian to take would be via a bridleway which is c.10min walk/700m north-east away from the Woolsbridge roundabout. This would then require crossing a pedestrian bridge over the A31 and walking through the newly created SANG. The resulting journey would mean effectively circumnavigating a large proportion of the surf park including an unnecessary detour through a SANG. Whilst it would be a safer route in terms of crossing the A31, it is not suitable given the significant diversion it would involve.
- 22) The pedestrian bridge is currently well used as indicated by the appellant. This is unsurprising given it provides direct access to Brocks Pine from the St Ives area. However, this does not of itself indicate it is well used by people from St Leonards, located near the Woolsbridge roundabout, or that they would use it to access the surf park. The at grade crossing at the Woolsbridge roundabout is not well used currently and again, this is not surprising. It is an unsafe crossing. Neither points alter my finding that access to the surf park would be safe or suitable for all users.
- 23) The Framework sets out that in assessing applications for development it should be ensured that safe and suitable access to the site can be achieved for all users. Neither of the two options for pedestrians to access the site meet both requirements. The surf park would not therefore provide a safe or suitable access for pedestrians. The lack of safe and suitable pedestrian access to the surf park would also have a knock-on effect for people choosing to travel by bus and bicycle as they could encounter similar issues navigating the A31.
- 24) Given the dangers I have identified at the A31 crossing at the Woolsbridge Roundabout, any increase in the use of this as might occur as a result of the surf park being located just beyond, would, in my view, amount to an unacceptable impact on highway safety.
- 25) The Framework also sets out that significant development, which this is, should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The surf park would fail to do this as it would not offer a genuine choice of transport modes to access it as the choice to access the site other than by car would be unsafe and/or unsuitable.
- 26) As discussed at the Inquiry, however, safe and suitable access to the site for all users could be achieved. National Highways provided a concept drawing for a signalised, pedestrianised, "toucan crossing" at the A31 Ringwood Road,

Woolsbridge Roundabout². Also discussed were improvements to the pedestrian access along Brocks Pine and the addition of a pedestrian crossing and the Council provided plans of two options for this³. With such improvements my concerns with respect to safe and suitable access for all users to the site would be overcome. I therefore consider these works are necessary. On the evidence before me there is also a reasonable prospect such improvements could be achieved. Such works could therefore be secured by way of Grampian condition.

- 27) Subject to such conditions the proposal would provide safe and suitable access for all users. It would therefore comply with Policy KS11 of the CS which requires development to reduce the need to travel and to provide mitigation against negative transport impacts which may arise. It would also accord with the Framework for the reasons set out above.

Habitats Regulations Assessment

- 28) The appeal site is located adjacent to the Avon Heath Country Park which includes the Dorset Heaths Special Area of Conservation (SAC) and the Dorset Heathlands Special Protection Area (SPA). It is also within close proximity of the Dorset Heathlands Ramsar. Collectively these form part of the Dorset Heathlands.
- 29) The Dorset Heaths SAC is designated on account of the rare and vulnerable wet and dry heathland habitats which support the southern damselfly. The Dorset Heathlands SPA is notified on account of heathland bird species including Nightjar, Dartford Warbler and Woodlark during the breeding season and Hen Harrier and Merlin over winter. The Dorset Heaths Ramsar is designated on account of the high species richness supporting nationally scarce wetland plant and invertebrate species, and high ecological diversity of wetland habitat types and transitions, with wet heaths and acid mire habitats present.
- 30) These areas are vulnerable to recreational pressure from visitors which can lead to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets.
- 31) In my view persons visiting the surf lagoon would be unlikely to also visit the heathlands in the same trip due to the expense, time, and energy commitment involved in attending a surfing session. Nevertheless, the proposal has the potential to create an increase in visitors to the Dorset Heathlands by encouraging more visitors to the area generally through, for example, tourism and the creation of increased opportunities to park in the area. Taking a precautionary approach, therefore, the proposal has the potential to undermine the conservation objectives of the Dorset Heathlands and adversely affect their integrity, thereby having a likely significant effect.
- 32) In order to mitigate such adverse effects, it is proposed that as part of the reconfiguration of the access and parking for the country park no more than the existing level of parking is provided and this could be controlled by condition. Enforcement of this parking area and any unauthorised parking at the surf park is also proposed to be controlled through a Car Park Management Plan secured by a legal agreement.

² Drawing No: A31-HGN-XX-M2-CH-001 Rev P01

³ Drawing Nos: DL1283/101/01/Orig and DL1283/102/01/Orig

- 33) In addition to this the provision of a SANG as part of the proposal would not only mitigate any additional recreational pressure on the Dorset Heathlands by providing an alternative area for outdoor recreation, but it would also intercept pressure from existing users of the Avon Heath Country Park by providing a natural greenspace with less constrained access (e.g. in respect of dogs being required to be kept on leads at certain times of the year). This outcome is likely to be particularly effective given the close proximity of the proposed pedestrian access to the SANG to the pedestrian access to the country park, thereby providing a credible and effective alternative for visitors accessing from here. The provision of the SANG could be secured by legal agreement and condition. Furthermore, the relocation of the Avon Heath visitor centre and car park further away from designated sites would also have a positive influence on visitor pressure and biodiversity.
- 34) Natural England (NE) have commented that they are satisfied with the SANG as shown on the Illustrative Masterplan with the exception of the provision of additional gaps between the boundary fencing of the SANG and the Dorset Heathlands to allow dogs and children to be recovered to the SANG side safely. This could be secured by condition. The overall conclusion of NE is that the various measures proposed to avoid or mitigate the risk of harm to the designated heathland sites is likely to be sufficient to allow the Competent Authority to reach a conclusion of no adverse effect on the integrity of the Dorset Heathlands. Consequently, they raise no objection subject to securing the package of mitigation measures set out in the application.
- 35) This all leads me to conclude, having undertaken an Appropriate Assessment, that the proposal, subject to the above mitigation, would not adversely affect the integrity of the Dorset Heathlands, in fact, there would be a benefit. Adverse effects on the Dorset Heathlands can therefore be ruled out beyond all reasonable scientific doubt. It follows that I find no conflict with Policy ME1 of the CS which seeks to protect, maintain, and enhance the condition of all types of nature conservation sites, habitats, and species.

S106 Agreement

- 36) A signed and dated agreement under S106 of the Town and Country Planning Act 1990 has been submitted which provides for various obligations. In line with Regulation 122(2) of the CIL Regulations 2010 (as amended) the Framework explains in paragraph 57 that planning obligations must only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. It is therefore necessary for me to consider these obligations in detail and reach a finding on them having regard to the above tests. I consider the obligations in turn below.
- 37) The first schedule deals with a contribution from the owner of £12,350 towards the Dorset Heathlands Air Quality Strategy. This is necessary to mitigate against any adverse effect of the development on the air quality of the Dorset Heathlands. The figure was agreed in consultation with NE. Policy ME2 of the CS which concerns protection of the Dorset Heathlands provides support for this obligation. The fourth schedule ensures this contribution is spent on the purposes for which it is to be paid.
- 38) The second schedule requires a SANG Management Plan to be submitted to the Council setting out a detailed plan for the initial creation of the SANG and

timeline for carrying out works, and its on-going management. It also ensures that the Surf Lagoon is not put into operation until the SANG works have been completed and the SANG is made available for use by the public. In addition to this it includes a SANG Step-in Maintenance Contribution which is to be used in the event that the SANG is not being maintained or managed in accordance with the approved SANG Management Plan. Policy ME2 of the CS again provides support for this obligation.

- 39) The third schedule secures a Car Park Management Plan which is crucial to ensure mitigation against any increased recreational pressure on the Dorset Heathlands as previously discussed.
- 40) Finally, the fifth schedule, by way of a Community Facilities Management Plan, ensures the phasing of the building of the replacement country park buildings with their demolition and restoration of the land. This is necessary to make the development acceptable in planning terms.
- 41) In summary, all the obligations meet the tests of the Framework and fully comply with the requirements of Regulation 122(2) of the CIL Regulations 2010.

Other Considerations

- 42) I have found that the proposed surf lagoon would be inappropriate development in the Green Belt. As set out in the Framework inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. Following on from this very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The other considerations in this case are as follows:
- 43) As discussed above the proposed SANG would go beyond providing mitigation for any effects of the proposed surf lagoon and would, in fact, provide a real benefit in terms of relieving recreational pressure on the Dorset Heathlands. This consideration carries substantial weight. That the existing country park has a management plan in place does not alter my position on this. Whilst there might be other ways to improve the Dorset Heathlands those details are not before me and, in any event, this approach is endorsed by NE.
- 44) The proposal is also expected to achieve a 46% Biodiversity Net Gain and 139% net gain in hedgerow units largely due to the creation of the SANG. This could be secured by condition and is a consideration of moderate weight.
- 45) The surf park would undoubtedly bring significant economic benefits to the area not only from jobs in construction and operation but also to the leisure and tourism industry on a year-round basis, as recognised by, amongst others, the Dorset Chamber of Commerce. This consideration is of significant weight.
- 46) The proposed surf park would provide health and wellbeing benefits. Surfing can increase physical health, build confidence and also has social benefits. It can increase feelings of well-being and have beneficial psychological effects through mindfulness and relaxation. Of note, a representative from The Wave Project, a children's mental health charity, attended the Inquiry to talk in support of the project. Surf lagoons can also provide a controlled, accessible environment with adaptive surfing to help overcome mobility issues.

Conversely surfing in the sea can present access, and health and safety concerns, and good surfing conditions cannot be guaranteed all of the time. Given the relatively sparse distribution of surf parks across the country such benefits are of regional importance and as such carry significant weight.

- 47) Para 150 of the Framework also requires local planning authorities to plan positively to enhance the beneficial use of Green Belts, such as looking for opportunities to provide access; providing opportunities for outdoor sport and recreation; and to retain and enhance landscapes, visual amenity, and biodiversity. The proposal would do all of this which is also a significant consideration.
- 48) There would also be some associated benefits which would arise from the works necessary to provide safe and suitable access to the site, discussed above, through the general improvement of highway conditions for non-motorised users in this area accessing, for example, Brocks Pine Country Park. Given my observations regarding crossing the A31 at the Woolsbridge roundabout this is a significant consideration.
- 49) Taken together these other considerations cumulatively carry very substantial weight.

Other Matters

- 50) Whilst not raised in its putative reasons for refusal or covered in any detail in the Inquiry the Council referred to conflict with Policy KS2 of the CS. This sets out the settlement hierarchy for development in general. The proposal, however, is of a specific type and scale not envisaged by such a policy. In this case I consider there are more relevant policies, e.g. relating to Green Belt, which are the most important for determining this appeal. Consequently, I afford any perceived conflict with this policy only minimal weight.
- 51) Whilst the proposal would likely result in a substantial increase in vehicular movements onto Brocks Pine from the A31 Ringwood Road and vice-versa the Council as Highway Authority and National Highways raise no concerns in this regard. Although this matter has been raised by local people and I noted on my visits to the area that this is a particularly busy junction, the Framework is clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. There is no substantive evidence before me to conclude this would be the case. In a similar vein I am satisfied adequate parking could be provided.
- 52) There is no policy requirement either in the Development Plan or the Framework to consider alternative sites when considering the provision of facilities for outdoor sport in the Green Belt. Furthermore, land may be developed in any way which is acceptable for planning purposes and so planning law does not require consideration as to whether the proposed development would be more appropriately located at an alternative site. In any event, given the submissions before me in this case, I do not find the matter of alternative sites to be determinative and the absence of a search for alternative sites would not, of itself, prevent a finding of very special circumstances.
- 53) From all that I have seen and heard I find no reason to come to a finding that the proposal would be detrimental to the character and appearance of the area.

- 54) No substantive evidence has been put to me that the visitor numbers the application has been based on are wholly inaccurate. Viability is not a matter on which this case turns nor is the success or failure of other surf parks. Nevertheless, provision is made by condition to restore the land in the event development ceases permanently or is suspended for more than two years.
- 55) I have included relevant conditions to protect the living conditions of occupiers of neighbouring properties in terms of noise and disturbance.
- 56) There is no firm evidence before me that air quality impacts would be anything other than negligible. In any event, I have found justification to improve accessibility to the site for non-motorised vehicles. Similarly, there is no firm evidence before me that trees protected by Tree Preservation Orders would be harmed by the proposal.
- 57) Finally, it is worth noting that whilst there were a significant number of objections to the development there was also a significant level of support.

Conditions

- 58) A final list of conditions was provided towards the end of the Inquiry. I have considered these in line with the advice contained at paragraph 56 of the Framework i.e., that they are kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. I have also carried out minor editing and removed any duplication.
- 59) Given the hybrid nature of the application I have divided the conditions into the following sections:
- *Conditions relating to full planning permission only (SANG)*
- 60) In addition to the standard time limit condition (1), I have included a plans condition for certainty (2). I have also included a condition to ensure a minimum of 14.7ha of SANG is provided as set out in the proposal (3).
- 61) It is also necessary to ensure the pedestrian access to the north corner of the site is provided as that is an essential element of the proposal in terms of intercepting pressure from existing users of the Avon Heath Country Park (4).
- *Conditions relating to the outline planning permission only (Surf Park)*
- 62) I have attached standard conditions requiring details of the reserved matters to be submitted for approval, specifying when the reserved matters application must be submitted by, and when the development permitted must be commenced by (1-3). I have included a plans condition as this provides certainty (4) and to provide clarity as to what should be submitted at reserved matters stage I have also included condition 5 which references indicative and illustrative plans submitted in support of the application.
- 63) Conditions 6 and 7 relating to floor area and height of buildings are necessary in respect of defining the principle of development.
- 64) Condition 8, requiring a Bird Hazard Management Plan, is necessary to protect against bird strikes due to the proposal including a large body of water. Condition 9 is necessary to deal with the excavation work required for the development and Condition 10 to ensure satisfactory foul water drainage.

- 65) To provide additional protection against dogs recreating in the adjacent heathland it is necessary to include a condition prohibiting all but dogs trained to assist persons with disabilities at the surf lagoon (11). This is adequate and requires no more prescriptive an approach.
- 66) To protect the amenity of the area I have included a condition restricting the hours of operation (12). These hours are acceptable given that the development is separated from neighbouring residential properties by adjacent highways. Whilst this contradicts the evidence given in the Inquiry by the appellant that the surf park would only be open at times to reflect seasonal hours of daylight, given my findings on providing safe and suitable access, this matter falls away.
- 67) Also, for reasons of amenity, I have included a condition requiring a noise impact assessment to further protect the living conditions of occupiers of neighbouring properties, and it is necessary that this is agreed early on (13). For the same reasons I have also included a condition prohibiting externally amplified music (14).
- 68) Finally, to meet the development plan standards for sustainable development it is necessary to include conditions 15 and 16 which relate to BREEAM and renewable energy.
- *Conditions relating to both the full planning permission (SANG) and the outline permission (Surf Park)*
- 69) A condition requiring a Landscape and Ecology Management Plan is necessary to ensure satisfactory habitat creation and landscape management measures are applied to the development and that there is a biodiversity net gain (1).
- 70) Conditions 2-4 ensure a safe and suitable access to the development. To promote sustainable travel I have included condition 5 to secure a Travel Plan, and this relates to all elements of the development.
- 71) For reasons of health and safety conditions 6 and 7 are necessary to protect against contamination. To ensure satisfactory drainage of surface water conditions 8 and 9 are necessary.
- 72) Condition 10 ensures no additional parking is provided for the country park thereby avoiding an increase in recreational pressure on the heathland. It also ensures adequate parking is provided for both the surf park, and the SANG and country park. Condition 11 ensures the parking is laid out in a satisfactory manner with provision for the charging of electric and other ultra-low emission vehicles. Condition 12 ensures access is retained to the lorry park.
- 73) In the interest of the environment and specifically the Dorset Heathlands I have included conditions in respect of external lighting and litter (13 and 14). Conditions for the submission of a Construction Traffic Management Plan and a Construction Environmental Management Plan are necessary for both permissions for reasons of the environment and the amenity of local residents (15 and 16).
- 74) For highway safety reasons I have imposed a condition that no access be provided from the track immediately to the north of the appeal site (17). Given the specific policy circumstances required to allow the appeal it is also necessary to include a condition restricting residential use of the site (18).

- 75) Conditions 19 and 20 ensure the necessary works to improve safe and suitable access for all users are provided. Finally, in the interest of highway safety I have imposed a condition regarding the treatment of the northern boundary of the site (21).
- 76) Conditions requiring a phasing plan for the works and demolition of existing buildings are not necessary as the S106 Agreement ensures by way of a Community Facilities Management Plan that this will be managed satisfactorily.
- 77) I do not consider that odour from the development would be an issue given it would be a development in an otherwise open area some distance from immediate neighbouring properties. Therefore, a condition relating to odour, does not meet the test of necessity.

Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal

- 78) I have found that the surf lagoon and associated facilities element of the proposal would conflict with the development plan as a whole. It would constitute inappropriate development in the Green Belt by virtue of harm to openness and the purposes of including land within it. I find moderate harm to the Green Belt accordingly. However, any harm to the Green Belt should be given substantial weight. I have also found harm in terms of conflict with the settlement hierarchy set out in Policy KS2 of the CS. I give this minimal weight.
- 79) In respect of any other harm, I have found no harm, subject to appropriate conditions, in terms of providing safe and suitable access for all users, and no harm, but rather a benefit, to the Dorset Heathlands.
- 80) I find that the other considerations in this case carry very substantial weight. These clearly outweigh the harm that I have identified. Looking at the case as a whole I therefore consider that very special circumstances exist which justify the development.

Conclusion

- 81) The appeal is allowed.

H Butcher

INSPECTOR

SCHEDULE OF CONDITIONS

Conditions relating to the full planning permission only

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the relevant parts of the following approved plans:
 - Site location plan: 20030BP – LHC – 00 – 00 – DR – L – 0101
Revision P3
 - Proposed access: 13304 – HYD – XX – XX – DR – TP – 0002
Revision P02
 - Site Areas Relating to Components of the Proposed Development
 - Landscape Strategy: 20030BP – LHC – 00 – XX – DR – L – 0106
Rev P5
 - Illustrative Masterplan: 20030BP – LHC – 00 – -00 DR – L – 0102;
- 3) A minimum of 14.7ha of SANG is to be provided.
- 4) Prior to the commencement of development details of a means of access for non-motorised users from the northern corner of the site closest to the pedestrian overbridge over the A31 Ringwood Road, including a timescale for such works, shall be submitted to and approved in writing by the local planning authority. The SANG shall be constructed in accordance with the approved details and the pedestrian access retained thereafter.

Conditions relating to the outline planning permission only

- 1) No part of the development shall commence until details of reserved matters (appearance, landscaping, layout, and scale) in respect of that part of the development have been submitted to and approved in writing by the local planning authority. Unless otherwise required by the conditions of this permission, any development undertaken pursuant to this permission shall be in accordance with the reserved matters as approved.
- 2) Application for approval of any reserved matters shall be made to the local planning authority not later than the expiration of three years beginning with the date of this permission.
- 3) The development hereby permitted must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, two years from the final approval of the last such matter to be approved.
- 4) The development permitted shall be carried out in accordance with the following approved plans
Site location plan: 20030BP – LHC – 00 – 00 - DR – L – 0101 Revision P3
Proposed access: 13304 – HYD – XX – XX – DR – TP – 0002 Revision P02
- 5) Any reserved matters application shall be submitted in general conformity with:
 - Site Areas Relating to Components of the Proposed Development;
 - Scale and Massing Parameter Plan: 20030BP – LHC – 00 – 00 - DR – L – 0104 Revision P1, with the exception of the Temporary Camping Ablution Block shown therein;
 - Illustrative Masterplan: 20030BP – LHC – 00 – -00 DR – L – 0102;
 - Landscape Strategy: 20030BP – LHC – 00 – XX – DR – L – 0106 Revision P5.
- 6) The Surf Lagoon Complex visitor reception, café, and administration centre shall have a gross floor area of no greater than 2,500m² and a ridge height of up to 10m.
- 7) The replacement Avon Heath Visitor Centre shall have the same use as the existing centre and shall have a gross floor area of no greater than 500m² and a height of up to 6m.
- 8) Prior to the commencement of any building, engineering or other operations a Bird Hazard Management Plan shall be submitted to and approved in writing by the local planning authority. The Bird Hazard Management Plan shall identify management measures to be implemented for the reduction of risk to aviation from bird strike associated with the construction and operation of the development hereby permitted. The development shall be carried out in accordance with the approved Bird Hazard Management Plan.
- 9) Prior to the commencement of any building, engineering or other operations a Soil and Excavation Arisings Management Plan shall be submitted to and approved in writing by the local planning authority. The Soil and Excavations Arisings Management Plan shall provide details on

the type, quantity and quality of materials likely to be excavated within the appeal site during construction of the development hereby permitted and shall further identify measures to be implemented for the handling, storage, management and use of all soil, mineral and other excavation arisings. The development shall be carried out in accordance with the approved Soil and Excavation Arisings Management Plan.

- 10) Prior to the commencement of any building, engineering or other operations hereby granted outline planning permission a Foul Water Drainage Management Plan shall be submitted to and approved in writing by the local planning authority. The Foul Water Drainage Management Plan shall provide details of the means of connecting the development to the foul sewer network if feasible. The development shall be carried out in accordance with the approved Foul Water Drainage Management Plan.
- 11) No dogs other than dogs trained to assist a person with a disability shall be allowed onto the surf lagoon.
- 12) No part of the surf lagoon complex shall be open for use outside of the hours of 06:00 to 22:00 Sundays to Thursdays (inclusive) and 06:00 to 23:00 on Fridays and Saturdays.
- 13) Prior to the submission of reserved matters a detailed Noise Impact Assessment shall be submitted to and approved in writing by the local planning authority. The noise impact assessment shall identify any source of noise from the operation of the surf lagoon and detail the mitigation measures required to ensure that the operation of the use does not have adverse impact on surrounding uses. The development shall be carried out in accordance with any approved mitigation measures in the Noise Impact Assessment and maintained in perpetuity.
- 14) Music shall not be amplified anywhere on the site except within buildings.
- 15) Prior to the construction of any building details of measures to ensure that not less than 10% of the total energy consumption of the development shall be provided from onsite renewable energy generation or that alternative measures will achieve at least 10% less energy consumption than similar development constructed in accordance with the current Building Regulations shall have been submitted to and approved in writing by the local planning authority and implemented on site.
- 16) The buildings shall achieve a BREEAM Level 'Very Good' in accordance with the requirements of the relevant BREEAM scheme. No building shall be occupied until a Final BREEAM Certificate has been issued for it and produced to the local planning authority certifying that BREEAM Level 'Very Good' has been achieved.

Conditions relating to both planning permissions

- 1) Prior to the commencement of development a Landscape and Ecology Management Plan shall be submitted to and approved in writing by the local planning authority. The habitat creation and landscape management measures set out in the plan shall:
 - i. Include a final Masterplan;
 - ii. Address the impact avoidance and mitigation strategy ('IAMS') set out in the document titled "Further Revised Ecological Impact Assessment" dated 18 January 2023 (Ecological Planning & Research Ltd, Issue Number 22/27/-1C) submitted in support of the application for planning permission and detail measures to be implemented to secure 45.87% net gain in habitat units and 138.91% in hedgerow units across the scheme as a whole. The development must then be carried out in accordance with the agreed details.
 - iii. Provide details of means of controlling access to and egress from the SANG and Country Park Extension, and the Surf Lagoon Complex to include provision for movement by people and wildlife; and,
 - iv. Make provision for the restoration through landscaping and the placement of soil and subsequent aftercare management of any part of the appeal site, subject to operations involving the removal of soil and excavation of underlying materials (mineral or spoil) in the event that building, engineering or other operations forming part of the development cease permanently or are otherwise suspended following the commencement of development for a period of more than two years prior to the completion of the development.

All demolition and any building, engineering or other operations and all landscaping, all habitat creation and all landscape management shall be undertaken in accordance with the Landscape and Ecology Management Plan as approved. Unless otherwise specified in the approved Landscape and Ecology Management Plan, any trees, hedges or shrubs planted in accordance with any approved landscape details or the Landscape and Ecology Management and Plan that within a period of 5 years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 2) Prior to first use the first 15m of the new access on Brocks Pine (measured from the rear edge of the highway and junction to the existing carriageway) shall be laid out and constructed to at least binder course level in accordance with a specification previously submitted to and approved in writing by the local planning authority, and shall be permanently retained thereafter.
- 3) Prior to first use the visibility splays at the new access on Brocks Pine shall be cleared in accordance with a specification previously submitted to and approved in writing by the local planning authority and permanently retained thereafter.

- 4) Prior to the commencement of any building, engineering or other operations hereby permitted a technical specification and programme for the laying out and construction of the proposed access shown on Proposed Access: 13304-HYD-XX-XX-DR-TP-0002 Revision P02 to include pedestrian access shall be submitted to and approved in writing by the local planning authority. The access shall be laid out and constructed in accordance with the specification and programme as approved and shall thereafter be maintained in accordance with the approved details.
- 5) The development will not be brought into use until a Travel Plan setting out measures to be implemented to encourage users of the development to utilise sustainable modes of travel has been submitted to and approved in writing by the local planning authority.

The Travel Plan shall include as a minimum:

- i. the identification of targets for trip reduction and modal shift;
- ii. the methods employed to meet these targets;
- iii. the mechanisms for monitoring and review;
- iv. the penalties to be applied in the event that targets are not met
- v. mechanisms for mitigation;
- vi. the provision of disabled parking spaces and other enlarged parking spaces to serve the development;
- vii. arrangements to be implemented for the provision of parking for staff, customers and other visitors to any existing built community facility to be retained within the Application Site (if any) and for any new community facilities to be constructed as part of the development;
- viii. the charging of electric and other ultra-low emission vehicles;
- ix. implementation of the travel plan to an agreed timescale or timetable and its operation thereafter;
- x. mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall be brought into use in accordance with the approved Travel Plan.

- 6) Prior to the commencement of any building, engineering or other operations a Ground Investigation and Site Suitability Report shall be submitted to and approved in writing by the local planning authority. The Ground Investigation and Site Suitability Report shall include an assessment of ground conditions within the Application Site and provide details of any measures to be implemented to ensure suitable ground conditions are established for the construction and use of the development hereby permitted such that no part of the Application Site is likely to be determined as contaminated land under Part IIA of the Environmental Protection Act 1990 on completion of the development. The development shall be undertaken in accordance with the Ground Investigation and Site Suitability Report as approved.
- 7) In the event that any unexpected contamination is found at any time during site clearance, demolition, engineering or building operations work shall

cease on site and an investigation and contamination risk assessment shall be conducted and reported to the local planning authority for approval together with details of any proposed contamination management and/or remediation measures. Contamination management and remediation shall then be undertaken in accordance with any management and remediation measures as approved. On completion of the works, a verification report confirming that all works were completed in accordance with the approved management and remediation measures shall be submitted to the local planning authority for approval before work can recommence.

- 8) Prior to the commencement of any building, engineering or other operations hereby permitted a detailed Surface Water Management Plan based upon the hydrological and hydrogeological context of the appeal site and addressing surface water management during both the construction and the operational phases of the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Surface Water Management Plan.
- 9) Prior to the commencement of any building, engineering or other operations a Surface Water Drainage System Management Plan detailing arrangements to be made for the maintenance and management of the surface water drainage system and any receiving drainage system for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. No surface water shall be permitted to run off from the development on to the strategic road network or into any drainage system connected to the strategic road network. No drainage connections from any part of development shall be made to any strategic road network drainage systems. Development shall be carried out and managed in accordance with the Surface Water Drainage System Management Plan for the lifetime of the development.
- 10) Prior to first use of the development space shall have been laid out for no more than 157 car parking spaces plus 12 additional SANG spaces (169 spaces in total) to be made available for users of the country park, and for no more than 211 car parking spaces to be made available for users of the surf lagoon of which no more than 70 spaces will be made available for staff. An overflow car park of 50 spaces for the surf lagoon shall also be provided but will only be opened during visitor events. At all other times it shall be gated and locked. The car parking shall thereafter be kept available at all times for the parking of vehicles.
- 11) No building, engineering or other operations shall be commenced until a Parking Specification has been submitted to and approved in writing by the local planning authority. The Parking Specification shall specify arrangements to be implemented for:
 - i. the manoeuvring and parking of vehicles, cycles and scooters within the Application Site;
 - ii. the provision of disabled parking spaces and other enlarged parking spaces to serve the development; and
 - iii. the charging of electric and other ultra-low emission vehicles.

The Parking Specification shall be implemented as approved prior to first use.

- 12) At all times during the construction and operation of the development safe and suitable access shall be maintained to the existing lorry park and adjacent toilet facilities located within the appeal site.
- 13) Prior to the installation of any external lighting within the appeal site, the design and specification of the lighting to be installed including details of its proposed positioning, intensity (Lux) and any light attenuation measures such as directional shields and sensor activated controls, shall be submitted to and approved in writing by the local planning authority. Only external lighting in accordance with a lighting design and specification approved by the local planning authority shall be erected or installed on the appeal site.
- 14) Prior to first operation of the buildings and facilities hereby permitted a Litter and Operational Waste Management Plan shall be submitted to and approved in writing by the local planning authority. The Litter and Operational Waste Management Plan shall identify arrangements to be implemented for the avoidance and collection of litter and for the sustainable collection of operational waste arisings. The development shall be maintained in accordance with the approved Litter and Operational Waste Management Plan.
- 15) Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Construction Traffic Management Plan.
- 16) Prior to the commencement of development a Construction Environmental Management Plan detailing measures to be implemented during the construction of the development including details of noise levels and hours of construction shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Construction Environment Management Plan.
- 17) Notwithstanding the provisions 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 access to the development shall be provided from the accommodation track located immediately south of the A31 and north of the appeal site.
- 18) Notwithstanding the provisions 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 residential uses shall take place on the appeal site.
- 19) No development shall commence until full details of an upgraded crossing at the A31 Ringwood Road at grade crossing at the Woolsbridge Roundabout for non-motorized users has been submitted to and approved in writing by the local planning authority. The approved works to the crossing shall be implemented prior to the development first being brought into use.
- 20) No development shall commence until full details of improvements along Brocks Pine to provide safe and suitable access to the development for non-motorised users has been submitted to and approved in writing by the local planning authority. The approved works shall be implemented prior to the development first being brought into use.

- 21) Prior to the commencement of the development hereby permitted a Boundary Treatment and Landscaping Plan in respect of the strategic highway boundary across the north of the site shall be submitted to and approved in writing by the local planning authority (in consultation with the strategic highway authority). The plan shall include as a minimum:
- i. details of the fencing type, location, construction method, and maintenance schedule;
 - ii. details for management of existing boundary planting to include an Arboricultural Tree Survey and Tree Protection Plan with a method statement for any works required to address the removal, retention and management of trees along this boundary;
 - iii. details of any proposed new planting including location, species mix, maintenance method statement, and schedule; and
 - iv. details of any other screening feature (eg bunds), location, construction method, and maintenance schedule.

Development shall be carried out in accordance with the Boundary Treatment and Landscaping Plan as approved for the lifetime of the development.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Neill

He called:

Owen Clark

Colm O'Kelly

Oliver Gibbins

FOR THE APPELLANT:

Paul Cairnes KC and Sioned Davies

They called:

James McKechnie

Gareth Jones

Stephen Jenkinson

Dr Rebecca Brookbank

Paul Osborne

Giles Moir

INTERESTED PERSONS WHO SPOKE AT THE INQUIRY

Eleanor Ward National Highways

Lisa McCaffrey National Highways

Jack Mason National Highways

Cllr J B Parker

Mr Reed

Victoria Hudson

Francesca Hughes The Wave Project

Nigel Rendal

Gordon Crisp

Tanya Peppin

Carl Cadwallader

Ben Powis Surfing England

Andrew Joyce International Surfing Association

Bryan Scarfe

INQUIRY DOCUMENTS

- ID1 Summary of National Highways (NH) Non-Motorised Users Survey Findings
- ID2 Opening statement for the appellant
- ID3 Opening Statement for the Local Planning Authority
- ID4 Signed petition in support of Dorset's Surf Lagoon at Brocks Pine
- ID5 NH Verbal Statement
- ID6 Highway improvements condition
- ID7 SV note
- ID8 Map to accompany Stephen Jenkinson's evidence
- ID9 The Wave Comparison Note
- ID10 The Wave Aerial View
- ID11 Update to policy references in Gareth Jones' proof
- ID12 Table of appellant's position on Green Belt
- ID13 Appellant's 'other considerations'
- ID14 Declaration from Giles Moir
- ID15 The Queen on the application of Cherkley Campaign Limited v Mole Valley District Council v Longshot Cherkley Court Limited
- ID16 Signed petition objecting to the development
- ID17 Draft conditions
- ID18 Updated draft conditions
- ID19 Maps showing the strategic operational highways extent
- ID20 Example concept drawing of a non-motorised user cross at the A31 from NH
- ID21 Memorandum of Understanding
- ID22 Draft copy of Agreement under Section 106 of the Town and Country Planning Act.
- ID23 The Wave Comparison Note
- ID24 Appropriate/Inappropriate Table from the appellant to accompany closing statement
- ID25 Table of benefits from the appellant to accompany closing statement
- ID26 Closing statement for the Local Planning Authority
- ID27 Closing statement for the appellant