



Appeal Decisions

Site visit made on 19 February 2024

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/D1265/W/23/3324438

Land at Lower Blandford Road, Shaftesbury, Dorset

- 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 Mr M Nublat & Mrs A M Andrew against the decision of Dorset Council.
 - The application Ref P/OUT/2022/00536, dated 25 January 2022, was refused by notice dated 17 May 2023.
 - The development proposed is erection of up to 7 dwellings with associated highway and drainage infrastructure and landscaping (outline application to determine access only).
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Decision

1. The appeal is allowed, and planning permission is granted for erection of up to 7 dwellings with associated highway and drainage infrastructure and landscaping (outline application to determine access only) at Land at Lower Blandford Road, Shaftesbury, Dorset, in accordance with the terms of the application, Ref P/OUT/2022/00536, dated 25 January 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. The parties agreed to amend the description of development to that listed above which is recorded on the Council's decision notice. I have adopted the same description in the interests of consistency.
3. The application was submitted in outline with all matters save for access reserved for future consideration. As a result, I have treated all plans that depict a layout or positions of buildings as indicative in nature.

Main Issue

4. The main issue is the effects of the proposal on the character and appearance of the area, including on the separation between the settlements of Shaftesbury and Cann.

Reasons

5. The site extends to around 0.76 hectares and is rough pasture enclosed by trees, broadly triangular in shape. It lies on the eastern side of the A350 to the south of the Royal Chase roundabout on a section of street which is subject to a 40mph speed limit and is without footways or streetlighting. A public right of way, *Footpath N1/9*, crosses the site broadly east to west through its mid-section.

6. The site has trees to the north, to the east and on its roadside boundary. The site is also protected by an area Tree Preservation Order¹ (TPO) confirmed in 2022. Otherwise, the site is a plateau enclosed by trees and hedges.
7. The site is within the settlement boundary for Shaftesbury under the saved Policies of the North Dorset District-Wide Local Plan (2003) (LP 2003), which is carried over into the Shaftesbury Neighbourhood Plan area (SNP) (2021). There is existing ribbon development to the south, the suburban development to the west across the A350 and newly constructed housing to the north, beyond a deep, steeply sided treed valley known as *Boynes Hollow*. The rural settlement of Cann is situated far south.
8. The northern part of the site is within the SNP area. Policy SFG11 of the SNP designates the site as an Important Treed Area (ITA) which, under the Policy, should retain its treed character and where replacement planting will be sought where unavoidable tree losses are proposed. The southern part of the site falls outside of the SNP area but the Policy Map seeks to continue the scope of the Policy protection of the ITA beyond the SNP boundary. The ITA designation is related to the 'Important Open or Wooded Areas' (IOWA) which were set out in Policy 1.9 of the LP 2003. That Policy simply sought to protect designated IOWAs from development.
9. The proposal seeks to introduce up to 7 dwellings on the site, necessitating the removal of around three individual trees from the sparser part of the treed boundary on the roadside to create the site access and small sections of tree groups inside the site to increase the available area.
10. The submitted Arboricultural Impact Assessment² (AIA) indicates that the trees and partial groups that would be removed fall under Category C trees, i.e., low quality trees. My assessment is that they are poorer quality than many of the specimens that exist around the site and thus, are deserving of the 'C' categorisation.
11. The introduction of an urban form of development would change the character of the open plateau part of the site, but, in my view, would not materially undermine its treed character or the green corridor nature of the A350. The trees around the boundaries of the site would be retained, with minor exceptions, and they would maintain their landscape connectivity with trees to the north and east which also contribute to the area's verdant character. There would be unavoidable tree losses, but the treed character of the site and setting would largely remain, and the replacement planting would be secured by way of a comprehensive scheme of landscaping, the indicative version of which envisages the planting of 16 trees.
12. Users of Footpath N1/9 would sense a change in the surrounding environment, with a loss of the sense of rurality and of being within an enclosed field. However, the Footpath could be provided within a greener spacious route through the site and would still have a sense of the verdant character of the site and its wider context. It is a short section of footpath across the site, offering a relatively limited experience of wider views and quickly descends into the wooded and tranquil area of *Boynes Hollow*.

¹ TPO/2022/00536

² Arboricultural Impact Assessment, Barton Hyett Associates, November 2022 (Rev C)

13. Given the way in which the development would be a minor addition to the urban extent of Shaftesbury, extending no further than the ribbon development to the south, it would not appear to materially diminish the separation between the settlements of Shaftesbury and Cann. Furthermore, the scale of the proposal at up to 7 dwellings, would appear capable of being accommodated on the site within sufficient spaces and would relate well to the existing residential development to the south, north and west. It would be a low density form of development which would benefit from the visual containment of the trees around the site. The reserved matters application could also ensure that the scale and design of the dwellings were compatible with the surrounding area and limit the visual impact in views from the surrounding area.
14. For the above reasons, the proposal would not harm the character or appearance of the area and would maintain the treed character of the site and separation between Shaftesbury and Cann. It would therefore accord with, in particular, Policy 4 of the North Dorset Local Plan Part 1 (2016) and Policy SGF11 of the SNP. These Policies collectively seek to preserve the natural environment through the protection of environmental assets and for Important Treed Areas to retain their treed character.
15. Despite the compliance with Policies 4 of the LPP1 and SGF11 of the SNP, the proposal would conflict with Policy 1.9 of the LP 2003, because it would not strictly protect an IOWA from development. However, I attribute this Policy reduced weight given its age and due to the form of wording in newer Policy SGF11 of the SNP which seeks to protect the important features of the ITAs with some degree of scope for development to proceed where it would not be harmful otherwise.
16. The Council acknowledge that the Draft Dorset Council Local Plan is at an early stage of preparation and can only attract very limited weight in decision making. I have no reason to disagree with this position and have assessed the proposal against the extant policies of the development plan. Similarly, the Melbury Abbas and Cann Neighbourhood Plan has not advanced beyond the draft plan stage, nor has it been submitted formally for examination before referendum. It does not, therefore, attract more than limited weight.

Other Matters

Housing Land Supply

17. I note that as of September 2023, the Council has been able to demonstrate³ a 5.74 year housing land supply against the requirement for a minimum five year supply set out in the National Planning Policy Framework (the Framework). This is not disputed by the Appellant, though the situation has changed since the appeal application was originally submitted and emphasis is directed to the fact that the housing targets are a minimum, not a maximum.

Representations

18. I have taken into account the numerous representations made in connection with the proposal. The landscape and coalescence issues are addressed above. It is also relevant that the site is wholly within the Shaftesbury settlement boundary, as are the houses to the south, indicating that they are a part of the

³ As set out in the Housing Land Supply Report for the former district area of North Dorset for 1 April 2023, dated 19 September 2023

Shaftesbury urban area, even if they are locally regarded as forming part of a more dispersed rural settlement.

19. I note that there are concerns about the effect of the proposal on the biodiversity value of the site but have noted the submitted biodiversity plan and information which would see at least a 10% net gain in biodiversity through the implementation of the development.
20. In respect of the surface water issues, the submitted Flood Risk Assessment and provisional plan for the sustainable drainage system indicates that the development could proceed without increasing the flood risk elsewhere.

Planning Balance

21. For the reasons outlined above, noting the reduced weight to apply to Policy 1.9 of the LP 2003, my conclusion is that the proposal is in accordance with the development plan, when taken as a whole. For this reason, the housing land supply matter is not determinative. There are no other considerations advanced that indicate that the decision should be taken other than in accordance with the development plan.

Planning Conditions

22. As the proposal is in outline form, conditions are necessary to seek the submission of reserved matters applications within a three year period and for the development to be commenced within two years of approval of the final reserved matters.
23. In the interests of certainty, a condition is necessary specifying the approved plans to limit the site extent.
24. Conditions are also necessary in respect of the need for a construction environment management plan, to provide protection to nearby residents during the course of construction.
25. In the interests of highway safety, it is also necessary to condition the provision of a suitable visibility splay at the access and for the approval and implementation of a suitable section of estate road for the 15 metres back into the site from the point of access onto the A350. Additionally, a condition is necessary to secure a footway and uncontrolled pedestrian crossing over the A350 to promote connectivity between the site and Shaftesbury for the benefit of future residents and other existing residents.
26. For obvious reasons relating to the character and appearance of the area, a condition requiring a final tree report and protection plan is necessary. Similarly, a condition specifying the detail of the landscaping plan is also required.

Conclusion

27. For the foregoing reasons, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - a) The layout and landscaping reserved matters shall include full details of the proposed biodiversity mitigation measures which shall be in accordance with the measures set out in section F of the Biodiversity Plan dated 12 Jan 2022 prepared by Jonathan Crewe and approved by Dorset Council on 13 Jan 2022.
 - b) The layout and appearance reserved matters shall include the provision of cycle storage for each dwelling.
 - c) The appearance reserved matters shall include full details of the proposed biodiversity net gain measures in which shall be in accordance with the measures set out in section H of the Biodiversity Plan dated 12 Jan 2022 prepared by Jonathan Crewe and approved by Dorset Council on 13 Jan 2022.
 - d) The layout and appearance reserved matters shall include precise details of the access, geometric highway layout, turning and parking areas and drainage infrastructure.
 - e) The landscaping and reserved matters shall include a timetable for the implementation of the measures detailed in a) and c) above.
- 2) An application for approval of any 'reserved matter' must be made not later than the expiration of three years beginning with the date of this permission.
- 3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: PL4072/1A - Location Plan and PL4072/4C – Proposed Highway Plan.
- 5) No part of the development hereby approved shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out,
 - a) Measures for the controlling of movements of plant and machinery within the site during the construction phase.
 - b) The setting out and protection of exclusion zones within 5m of watercourses within and abutting the site and root protection areas of retained trees.
 - c) The hours when mechanised plant and machinery will be used on site and the specification for any lighting to be used during the construction phase.
 - d) Pollution spillage avoidance measures.The development shall be carried out in full accordance with the approved CEMP at all times.

- 6) Before any of the dwellings hereby approved are first occupied, the access including the visibility splay detailed on the approved plans PL4072/4C shall be completed. The said access and visibility splays shall be retained thereafter for the lifetime of the development with the visibility splays free of operational development and vegetation exceeding 0.6 metres above the relative level of the adjacent carriageway.
- 7) Before any of the dwellings hereby approved are first occupied the first 15.00 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.
- 8) Before any of the dwellings hereby approved are first occupied an uncontrolled crossing point on the A350 and a new 2m wide footway on the western side of this road, as shown on Dwg No PL4072/4C shall have been completed.
- 9) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (a tree protection plan) and the appropriate working methods (an arboricultural method statement) in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out as approved.
- 10) The landscaping details required by the reserved matters shall include:
 - a statement setting out the design objectives and how these will be delivered;
 - earthworks showing existing and proposed finished levels or contours;
 - means of enclosure and boundary treatment[s];
 - vehicle parking layouts;
 - other vehicle and pedestrian access and circulation areas;
 - hard surfacing materials;
 - A planting specification;
 - proposed and existing functional services above and below ground [e.g., drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points];
 - an implementation programme, including phasing of work where relevant.
 - a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, or in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with an approved scheme of management and maintenance.

----- END OF SCHEDULE -----