



Appeal Decision

Site visit made on 20 February 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2024

Appeal Ref: APP/V1260/W/23/3324507

19A Rozelle Road, Poole BH14 0BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr O Bourton (Crestland Homes Ltd) against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/22/01585/F.
 - The development proposed is to demolish existing and erect 3 detached houses with parking.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing and erect 3 detached houses with parking at 19A Rozelle Road, Poole BH14 0BX in accordance with the terms of the application, Ref APP/22/01585/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the appeal, on 19 and 20 December 2023, the Government published revisions to the National Planning Policy Framework (the Framework). The revisions do not have a material bearing on the matters at dispute between the parties in this case. Consequently, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised advice in my determination of the appeal.
3. During the appeal, the appellant submitted a Unilateral Undertaking (the UU) as a deed pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). It secures financial contributions towards measures to mitigate the impact of the development on the integrity of the Dorset Heathlands Special Protection Area, the Dorset Heaths Special Area of Conservation, and the Poole Harbour Special Protection Area (hereinafter referred to collectively as the European Sites).

Main Issues

4. The main issues are:
 - a) The effect of the development on the character and appearance of the area;

- b) The effect of the development on the living conditions of the occupants of surrounding dwellings, particularly those in Earlham Drive, with regard to outlook and privacy; and,
- c) The effect of the development on the integrity of the European Sites.

Reasons

- 5. The appeal site lies within the built-up part of Poole, in an area that is almost entirely residential. The strategy for new development in Policy PP02 of the Poole Local Plan (2018) (the Local Plan) is to direct the majority of new housing to the most accessible locations - the town centre, district and local centres, and locations close to the sustainable transport corridors. The site lies within a sustainable transport corridor, where Policy PP02 says higher density housing development will be appropriate. It is not disputed, therefore, that the site lies in an area where residential development is acceptable in principle.

Character and appearance

- 6. The site lies at the head of a cul-de-sac of houses and bungalows. Although all of the dwellings are of traditional form, with gabled or hipped roofs, there is considerable variety in their design, scale, and materials. Plot sizes vary to some degree, but at the western end of the cul-de-sac there is some uniformity in the relatively long narrow plots on either side of the road. Here, there is also some order to the layout, with the dwellings set back from the road, on a fairly rigid building line, behind gardens contained by low boundary walls. The relative narrowness of the plots at this end of the road means that the dwellings are quite tightly packed, with only small gaps between the buildings.
- 7. The appeal site itself is something of an anomaly in these surroundings, as it is much larger than the other plots, and almost square in shape. Its subdivision, as proposed, would result in three narrow plots that would be closer in scale and proportions to others in the cul-de-sac and surrounding roads. The front elevations of the proposed houses would generally follow the alignment of the other dwellings on this side of the road. In terms of plot size and siting, therefore, the proposal would reflect the local pattern of development.
- 8. The three houses would be quite close together, but this is a characteristic of the layout of dwellings at this end of the cul-de-sac, so the development would not appear unduly crowded by comparison. In oblique views, the gaps between the buildings would not be apparent, but this is also the case with the existing dwellings when looking up the road. However, the hipped and gabled roofs would ensure that there would be visual breaks at roof level, which would prevent the dwellings appearing as a single large building. The standard two-storey scale of the buildings would be in keeping with the mass of other surrounding houses, and the site coverage would be commensurate with the prevailing density of development in the area. As a result, the site would not have the appearance of being overdeveloped.
- 9. Paragraph 135 of the Framework advises that developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. The proposed houses would have traditional pitched roofs, and projecting gables across part of their front elevations. Consequently, the overall form of the buildings would be similar to those at 14,

16, 18 and 20 Rozelle Road. Furthermore, the materials to be used - brick, render, horizontal boarding, and slate effect roof tiles, are all already found in the immediate locality. The general layout, form, scale, and materials of the development would, therefore, be reflective of the surrounding built environment. The more contemporary approach to the detailed design would be appropriate, bearing in mind the existing variety of architectural styles in the immediate area.

10. Overall, therefore, the subdivision of the site would result in a layout that would conform with the surrounding pattern of development. The scale and design of the buildings would be compatible with others in the immediate locality. Consequently, the proposal would not harm the character and appearance of the area. The development would, therefore, accord with Policies PP27 and PP28 of the Local Plan, which seek to achieve a good standard of design in all new developments, and to ensure that plot subdivisions preserve or enhance the area's residential character.

Living conditions

11. The southern boundary of the site borders the rear gardens of Nos 9 and 10 Earlham Drive. This boundary is marked by a robust concrete slatted wall to a height of approximately two metres to the rear of No 9, and a slightly lower close boarded fence to No 10. There is a line of mixed trees within the appeal site along the entire length of the boundary, which rises well above the wall and fence. The proposed houses would run parallel to this boundary, and would be approximately eight metres away. As a result of their two-storey scale, they would be more evident in views from the windows and gardens of Nos 9 and 10 Earlham Drive than the existing bungalow on the appeal site.
12. However, whilst the upper parts of the buildings would be more visible, the combined lengths of the rear gardens means that there would be a significant distance between the buildings. Consequently, when viewed from the opposing windows of Nos 9 and 10, their standard two-storey scale would not appear unduly overbearing. Even from the gardens, occupants would still have a relatively low angle of outlook over the proposed houses to the open sky beyond. Furthermore, the hipped configuration of the roofs would allow for significant gaps between the buildings at roof level, further reducing any sense of enclosure. The development would not, therefore, result in an overbearing impact or a significant loss of outlook from the windows or gardens of the houses in Earlham Drive.
13. The existing boundary treatment would maintain privacy between the ground floor windows and gardens of the proposed and existing properties. There would, however, be two first floor bedroom windows in each of the proposed houses that would look over the wall and fence. The evidence indicates that there would be well in excess of 20 metres between these windows and those in the rear elevation of No 9 Earlham Drive. At this distance there would not be a significant loss of privacy. There is less separation between the first-floor windows of the proposed Unit 1 and those in No 10 Earlham Drive. However, in this case, any overlooking would be reduced by the intervening vegetation. Consequently, the development would not result in a significant loss of privacy within the buildings for occupants of Nos 9 and 10 Earlham Drive.
14. The first-floor windows in the development would look towards the rear gardens of Nos 9 and 10 Earlham Drive from a distance of about eight metres.

However, the high boundary wall and fence would prevent any overlooking of the parts of those gardens nearest to the boundary. Nevertheless, there would be a line of sight down into more distant parts of the gardens, resulting in some degree of overlooking. In these areas, though, the presence of the tree screen would help to maintain a reasonable degree of privacy for occupants of the gardens.

15. The proposed windows would serve bedrooms, so they would not give rise to the same degree of overlooking that may be expected from primary living accommodation. I am also mindful that permission has already been granted for two houses on the site, with first floor bedroom windows looking towards the gardens of Nos 9 and 10 Earlham Drive. Whilst these would be at a greater distance from the boundary than those now proposed, they would, nevertheless, have a similar impact on privacy. Overall, whilst there would be a degree of overlooking, it would be no greater than may be expected within an urban environment. The occupants of the dwellings in Earlham Drive would, therefore, retain a suitable degree of privacy within their houses and gardens.
16. Although not specifically referred to in the Council's reason for refusal, the impact on the living conditions of the occupants of 19 Rozelle Road has been raised in representations. This property is a bungalow, with rooms in the roof space, which occupies the plot to the east of the appeal site. The proposed Unit 1 would be close to the boundary with this property. However, the side elevation of No 19 facing the site only contains a small high-level window and two small obscure glazed windows. Its primary outlook is via windows to the front and back. The front elevation of Unit 1 would be set back, so it would have no impact on the outlook from windows in the front elevation of No 19. It would project a little further back at the rear, but not to such an extent that it would affect outlook from the rear windows of No 19. Consequently, whilst the proposed dwelling would have a considerably higher eaves level close to the boundary, it would not result in any significant overbearing impact, or loss of outlook for the occupants of No 19.
17. To conclude on this issue, the occupants of surrounding dwellings, would retain acceptable living conditions, with regard to outlook and privacy. The proposal would, therefore, accord with Policy PPS27 of the Local Plan, which seeks to avoid harmful impacts on amenity for both local residents and future occupiers.

Integrity of the European Sites

18. The appeal site lies within close proximity of the European Sites, which are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). Evidence shows that they are under significant pressure from an increase in the level of recreation, and disturbance of bird species, as a result of urban development. The proposal would result in a net increase of two dwellings within their area of influence. In cumulation with the 14,200 new homes identified in the Local Plan up to 2033, it has the potential to impact on the integrity of the protected sites, through increased recreational disturbance. In these circumstances, the Habitats Regulations require that an Appropriate Assessment (AA) be carried out, and that permission may only be granted after having ascertained that development will not affect the integrity of the European Sites. I have carried out my AA on a proportionate basis with regard to the evidence before me.

19. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document sets out that mitigation for the impacts of development will be delivered through a combination of Heathland Infrastructure Projects (HIPs), and Strategic Access Management and Monitoring (SAMM). The HIPs will generally be funded by the Council using Community Infrastructure Levy (CIL) receipts, whereas SAMM funding will be through individual contributions from all developments that involve an increase in dwellings. In the case of Poole Harbour, the mitigation strategy is set out in the Poole Harbour Recreation 2019-2024 Supplementary Planning Document, which similarly requires recreational impacts to be mitigated via Infrastructure Projects and SAMMS, through a combination of CIL payments and individual contributions from developments.
20. The Council's decision notice indicates that financial contributions in accordance with the Supplementary Planning Documents would overcome the reasons for refusal on this issue. The UU requires the appellant to make financial contributions to the Council towards SAMM measures to mitigate any adverse impacts of the development on the European Sites. The evidence indicates that a sum of £1,564 has been paid to the Council pursuant to the UU. This corresponds with the figure in the Officer's report, which was calculated in accordance with the formulae in the Supplementary Planning Documents. On the evidence before me, the obligations in the UU are necessary to protect the integrity of the European Sites, are directly related to the development, and are fairly and reasonably related in scale and kind to it. Consequently, they meet the tests set out in paragraph 57 of the Framework.
21. Natural England was consulted, and the evidence before me indicates that the measures set out in the Supplementary Planning Documents provide a strategic approach that ensures that mitigation is being delivered in a timely and locationally appropriate manner. Consequently, the adverse effects identified would be avoided, or reduced to such a level that there would not be a likely significant effect, either alone or in combination. I therefore conclude through my AA that, with the provided mitigation, the proposal would not harm the integrity of the European Sites. It would therefore accord with Policies PP32 and PP39 of the Local Plan which, taken together, seek to secure appropriate funding to ensure that development does not lead to adverse effects upon the integrity of European and internationally important sites.

Other Matters

22. The impact of the development on road safety, parking, and access by emergency and refuse vehicles has been raised in representations. Rozelle Road is relatively wide, with pavements to either side. I saw that the small amount of traffic using the road did so at slow speeds. It therefore provides a safe environment for drivers and pedestrians. I also observed at my visit that, even with cars parked opposite each other, there was still room for a commercial vehicle to pass. I also saw that there was capacity for on-street parking, and that most properties also had off-street parking. Consequently, there is no evidence to indicate that the minor increase in traffic from two additional dwellings would lead to highway danger or inconvenience within the cul de sac. Furthermore, I note that the Highway Authority did not object to the proposal.

Conditions

23. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council has submitted a schedule of suggested conditions to cover other matters, and the appellant has not contested any of these. Nevertheless, I have considered them against the advice in the Planning Practice Guidance. Where I have agreed that they meet the relevant tests, I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.
24. The proposed external materials are detailed on the approved drawings. As Condition 2 requires development to be carried out in accordance with these drawings, a separate condition requiring compliance with the proposed materials fails the test of necessity.
25. A condition requiring the access and parking to be completed prior to occupation is reasonable and necessary to ensure that these facilities are provided in a timely manner. Conditions requiring the provision of electric vehicle charging points and on-site renewable energy generation are necessary in the interests of sustainability. To protect the privacy of the occupants of the proposed and surrounding dwellings, conditions requiring details of boundary treatments to be approved, and for the obscure glazing of side-facing windows, are reasonable. A condition limiting the hours of construction work is also necessary to protect existing residents from noise during the evenings and weekends. In the interests of flood control, a condition requiring details of drainage arrangements to be submitted for approval is necessary. To avoid duplication, I have combined the Council's two proposed conditions on this issue. Finally, in the interests of biodiversity, I have included a condition requiring the incorporation of bat bricks within the development.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

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: 9654/100 C - Site, Block and Location Plan; 9654/101 B - Unit 1: Proposed Floor Plans and Elevations; 9654/102 B - Unit 2: Proposed Floor Plans and Elevations; 9654/103 B - Unit 3: Proposed Floor Plans and Elevations; 9654/106 - Typical Cycle Store.
- 3) An Electric Vehicle Charging Point shall be installed for each dwelling, prior to occupation, in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority. The

charging points shall thereafter be permanently retained and available for use at all times.

- 4) The houses hereby permitted shall not be occupied until the access, manoeuvring space, vehicle parking, and cycle parking have been completed in accordance with the approved plans. These facilities shall, thereafter, be permanently retained and kept available for those purposes at all times.
- 5) The houses hereby permitted shall not be occupied until the stairwell windows at first floor level have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above first floor level shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed, and once installed the obscured glazing shall be permanently retained thereafter.
- 6) Prior to any construction work above damp-proof course level, details of the proposed boundary treatments along the south, east, and west boundaries of all rear gardens, and the north, south, east, and west boundaries of the site in its entirety shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details prior to the first occupation of any dwelling and shall be permanently retained thereafter.
- 7) Prior to any construction work above damp-proof course level, details of drainage to serve the development, including all hard surfaces, shall be submitted to, and approved in writing by, the Local Planning Authority. The drainage arrangements shall be completed in accordance with the approved details prior to occupation of any dwelling, and shall be permanently retained thereafter.
- 8) Prior to the first occupation of the houses hereby permitted, details of measures to provide 10% of the predicted future energy use of each dwelling from on-site renewable sources, shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented prior to occupation, and permanently retained thereafter.
- 9) Prior to the first occupation of the houses hereby permitted, one integral bat brick shall be installed within the southern elevation of each dwelling, in accordance with details that have first been approved in writing by the local planning authority. The approved bat bricks shall be permanently retained thereafter.
- 10) Demolition or construction works shall take place only between 08:00 and 18:00 on Mondays to Fridays inclusive, 08:00 and 16:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE