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# Appeal Decision

Site visit made on 1 February 2024

**by Lewis Condé BSc, MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 April 2024**

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**Appeal Ref: APP/V1260/W/23/3322254**

**Land to the front of 20, 22 and 24, Inverclyde Road, Poole, Grid Ref**

**Easting: 403950, Grid Ref Northing: 91649**

- 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 Birch Land Company Ltd. against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref is APP/21/00518/F.
  - The development proposed is erect a single dwelling with associated parking, and realign existing driveway.
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## Decision

1. The appeal is allowed and planning permission is granted to erect a single dwelling with associated parking, and realign existing driveway at Land to the front of 20, 22 and 24 Inverclyde Road, Poole, Grid Ref Easting: 403950, Grid Ref Northing: 91649 in accordance with the terms of the application, Ref APP/21/00518/F, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application site address in the banner heading above is taken from the original application form.
3. Notice of the application and appeal has been served to owners of the site via 'Certificate C', as per the requirements of the Town and Country Planning (Development Management Procedure) Order 2015, as amended. I have no robust reasons to consider that this was an untoward manner to notify those with ownership interests of the application or appeal. Comments have been received from parties who claim to have an ownership interest in the appeal site, these have been taken into account in my determination of the appeal.
4. A revised version of the National Planning Policy Framework (the Framework) was issued on 19 December 2023. In respect of the matters of interest in this appeal, there have been no fundamental changes to national policy.

## Main Issues

5. The main issues are the effect of the proposed development on: a) the character and appearance of the area, including protected trees; and b) nationally and internationally protected sites.

## Reasons

### *Character and Appearance, including loss of protected trees*

6. Inverclyde Road is a relatively long, residential street that is located in a predominantly residential area. The street primarily contains detached dwellings along consistent building lines, set back either side of the road behind front gardens. It therefore has a highly linear, rhythmic layout, albeit the dwellings vary significantly in their precise form and scale. Notably, although the architecture is generally traditional along the street, there are a wide variety of designs, materials, and roof configurations.
7. The appeal site is located within a small woodland that is situated beyond a turning circle at the end of Inverclyde Road. The woodland marks somewhat of a step-change in the character of the streetscene, with the character becoming lower density, more verdant, and less formal in its arrangements. Indeed, beyond the turning circle there are only a few detached dwellings located off a private drive, which are set within clearings amongst the woodland. These dwellings vary in their architectural appearance, do not follow the consistent building lines and layout of dwellings along Inverclyde Road, nor do they address the public street. This results in the dwellings located off the private drive, having a rather separate and distinct identity.
8. The proposed dwelling would be accessed from the private drive and set amongst the woodland. It would have a striking, contemporary, flat roof design that would be highly geometric, and would be largely raised on piers due to the site's topography and presence of trees. Its scale and design have clearly been considered to respond to its position within the area of woodland, including the site's constraints.
9. The proposed dwelling's overall scale is diminutive, while it would have a modern vernacular stemming from its form and materiality. The proposal's design would be unlike anything within the immediate nearby vicinity, but unashamedly so. Whilst as indicated there is not a strong consistency in the appearance of dwellings nearby.
10. The dwelling's position set amongst mature trees, alongside its scale and the recessive nature of its materials would lead to it being a discrete building with limited visual impact on the wider streetscene. It would sit forward of neighbouring dwellings on Inverclyde Road, but this would not be highly notable given its position within the woodland. Furthermore, as indicated, the building lines of dwellings located off the private drive already vary compared to the consistent approach to the remainder of Inverclyde Road.
11. Given the appeal site's location off a private drive there would be very limited potential for the proposed dwelling to interact with the public realm or provide natural surveillance. However, this is typical of many properties located off private access roads, including neighbouring dwellings. As such, the lack of frontage onto the public street is not entirely at odds with its surrounding context nor harmful to the character or appearance of the area.
12. Drawing the above together, I find that the scale and form of the proposed dwelling would not cause harm to the character and appearance of the area.
13. Turning to the impact of the proposed development on protected trees, the appeal site has a verdant sylvan character and appearance due to the presence

of a significant number of mature trees. The existing trees on site provide a positive visual contribution to the area, hence the group Tree Preservation Order (TPO) that encompasses the appeal site.

14. The proposed development would involve the removal of five trees, comprising four false acacias and a single beech tree (three Category C and two Category B trees). This would allow for a clearing in which the proposed development would be set. This loss of trees represents only a small proportion of those present at the appeal site. A significant level of tree canopy coverage would therefore remain, with the submitted Arboricultural Statement (April 2023) indicating that the most visually important trees, including a group of maritime pines, a sycamore and false accia towards the south/south-west of the site and Scots pines to the north would be retained. Additionally, the appellant proposes to plant four new trees at the site in positions that would enable them to be visible features nearby, this could be suitably secured via a condition on the grant of the permission. As such, the rather dominant sylvan character and quality of the site would remain, despite the proposed removal of a small number of trees.
15. The layout of the proposal would place development close to further trees, such that how the development is carried out will be crucial as to whether any further trees will be harmed or lost. To minimise ground disturbance and avoid damage to tree roots, the proposal involves the dwelling being raised on mini piles/screw piles above existing ground levels across almost its entire footprint. Meanwhile, specialist foundation design has been prescribed by the appellant given that several of the piles would be set within root protection zones, this includes the use of exploratory investigation works and potential repositioning should significant roots be encountered. The proposal also involves locating surface water drains and soakaways outside tree protection areas, while service runs are proposed to be installed via trenchless insertion methods. Together, these design considerations, alongside the limited extent of new hard surfacing should suitably limit the impact of the development on further trees.
16. Furthermore, a range of additional working protocols are outlined within the submitted Arboricultural Method Statement and Tree Protection Plan which should ensure a significant degree of protection to trees during the construction period. Again, this could be suitably secured via a planning condition. Subject to compliance with these working practices, there is no robust reasons for me to conclude that further trees at the site would be lost or harmed through the construction process.
17. Despite a clearing being created for the proposed dwelling, it would remain set near the canopy fringe of several mature trees. However, from the evidence before me and my observations on site, the proposed dwelling would be served by an adequate level of light and suitable living conditions, including access to external amenity areas.
18. Concerns have been raised in relation to post-development pressures to remove or maintain additional trees at the site. The appellant's submitted arboricultural evidence, however, demonstrates that trees with growth potential that could impact on the living conditions of future occupiers, are species with high canopies and that allow for dappled light, or have already reached the end of their rapid crown growth. Consequently, they are unlikely to

require significant, frequent attention beyond occasional pruning. I have no robust reasons to reject these arboricultural findings.

19. The existence of the group TPO is also a relevant factor in gauging the level of risk associated with the loss of existing trees/tree canopy in the future. Indeed, separate future applications would need to be made and approved by the Council before works to protected trees could lawfully be undertaken. It is also anticipated that future owners/occupiers would be aware of the scheme's design approach and woodland context before taking occupation.
20. Therefore, whilst post-development pressures for additional tree works cannot be entirely ruled out, I am satisfied that where such pressures could lead to harm to protected trees or the character and appearance of the area, they could be suitably resisted by the Council.
21. Overall, I am therefore satisfied that the proposed development would not cause harm to the character and appearance of the area, including with respect to protected trees. It therefore accords with Policies PP27 and PP28 of the Poole Local Plan 2018 (the Local Plan). Together these policies seek to promote a high standard of design in new development that reflects local character, including through responding to the natural features of the site and avoiding the loss of trees that make a significant contribution to the character of the area.
22. The proposed development would also adhere to the design aims of the Framework.

*Nationally and Internationally protected sites*

23. The appeal site falls within 5km (but beyond 400m) of the Bourne Valley Site of Special Scientific Interest (SSSI). The SSSI is also part of the Dorset Heathlands, Special Protection Area (SPA), Ramsar Site, and Special Area of Conservation (SAC) (collectively referred to as the 'Dorset Heathlands'). The Dorset Heathlands host priority habitat species including birds, lizards and snakes, as well as other species that can be found in lowland, heathland, wetlands and dunes.
24. Additionally, the appeal site is also within the catchment of the Poole Harbour SSSI, SPA, and Ramsar site, which are nationally and internationally important for wetland birds, wetland and intertidal habitats, subtidal habitats, and invertebrate communities.
25. Consequently, both the Dorset Heathlands and Poole Harbour are recognised by the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) as amended, as areas of international importance. The Habitat Regulations require the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me as the competent authority in the context of this appeal.
26. Both the Dorset Heathlands and Poole Harbour are under significant pressure from increased public access and recreational use, resulting in disturbance to the habitat sites and threatening their integrity.
27. Although not a precise correlation, the potential for adverse effects on the protected sites increases with the number of dwellings nearby, including within

the zones of influence. This is due to an increased likelihood of more visitors accessing the sites. Whilst the proposal is for a single dwelling, adopting a precautionary principle, and without mitigation, it is likely to have a significant effect on the sensitive interest features of the habitat sites, from human pressures, either alone or in combination with other proposals, causing harm to nature conservation.

28. The Dorset Heathlands Planning Framework and Supplementary Planning Document (adopted 2020) (DHPFSPD) and the Poole Harbour Recreation Supplementary Planning Document (adopted 2020) (PHRSPD) seek to secure financial contributions from all new residential developments within close proximity of the protected sites. This includes contributions to be used towards Strategic Access Management and Monitoring Measures (SAMMs) to mitigate the effects of development.
29. Provided mitigation can be secured, in the form of the above developer contributions, it can be deemed that the proposal would not have an adverse effect on the integrity of the protected habitats, when considered either alone or in combination with other proposals. This is an approach that has been endorsed by Natural England.
30. The appellant has submitted a signed and dated Unilateral Undertaking (UU) which appropriately commits to the relevant financial contributions towards SAMMs measures outlined in the DHPFSPD and PHRSPD. I also understand that the contributions have now been paid to the Council.
31. Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (2010), set out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms, secondly, they must be directly related to the development and thirdly they must be fairly and reasonably related in scale and kind to the development.
32. I am satisfied that the financial contributions are necessary to make the proposed development acceptable in planning terms. The obligation would contribute towards the provision of relevant monitoring and mitigation measures. Given the location of the appeal site within the zone of influence of the protected sites, I consider that the contribution is directly related to the appeal scheme. In addition, as it relates to standard charges based on the scale and type of residential development proposed, I consider it to be fairly and reasonably related to the proposal in scale and kind.
33. For the above reasons, I am satisfied that the planning obligation would meet the requirements of the Framework and the CIL Regulations. I therefore give it significant weight in the determination of this appeal.
34. In conclusion I am satisfied that with the proposed avoidance and mitigation measures in place, secured through a planning obligation, the development would not have an adverse effect on the nationally and internationally protected sites. The development would therefore comply with the Habitat Regulations. It would also accord with Local Plan Policies PP32 and PP39, which together, amongst other matters seek to ensure that development does not adversely affect the integrity of nationally and internationally important sites.

## **Other Matters**

35. I note the various comments of local residents regarding the potential impact of the development on wildlife. However, the Council's Biodiversity Officer has indicated that the proposal does not result in the loss of any high value or volume of biodiversity and that enhancement measures could be suitably secured by a condition, which the appellant has indicated a willingness to agree to. There is no robust evidence to warrant me reaching an alternative view.
36. The Council also found the proposal to not cause harm to highway safety, flood risk, or the living conditions of neighbouring residents. From my observations on site and the evidence before me, I have no reason to conclude differently.
37. The use of a construction method statement (to be secured via a condition on the grant of a permission) could alleviate issues of access and potential public safety during the construction process.
38. Concerns have been raised regarding the proliferation of development of a similar nature within the wider area, however, the appeal scheme has been determined on its own merits.
39. Compliance with title deeds or covenants are separate legal matters to be dealt with between the relevant parties and are not material planning considerations. Similarly, concerns raised regarding the precise building process and potential damage to third party property are a private matter between the parties involved and have had no bearing on my consideration of the planning merits of the proposal.
40. A local resident raised concern as to the timing in which they received notification of the appeal, the resident's representation to the appeal has nevertheless been received and considered.
41. I have also considered the various other concerns raised by interested parties, including the potential impacts on a rhododendron hedge, the sustainability of the proposed development and the extent of public consultation. However, none of these matters raised outweigh or alter my conclusion on the main issues.

## **Conditions**

42. The Council has provided draft conditions, in the event that the appeal was to be allowed. I have undertaken some minor editing of the conditions proposed by the Council in the interests of precision and clarity. I have also added conditions in relation to a construction method statement and replacement tree planting, which the appellant has reviewed and confirmed as acceptable.
43. A condition specifying the approved plans is necessary to provide clarity and in the interest of certainty and proper planning. A condition that the development is undertaken in accordance with the materials specified is necessary in the interest of the appearance of the development.
44. The requirement for the development to be undertaken in accordance with a Construction Method Statement, to first be approved in writing by the Local Planning Authority, is reasonable and necessary in the interest of highway safety and the living conditions of neighbouring residents.

45. The provision of a swift box prior to the occupation of the dwelling is reasonable and necessary in the interests of bio-diversity.
46. A pre-occupation condition requiring the provision of the access, turning, and vehicle parking space as shown on the approved drawings is also reasonable and necessary in the interests of highway safety and to ensure an appropriate form of development is delivered.
47. Conditions relating to the provision of bicycle storage and electrical vehicle charging points are both reasonable and necessary on sustainability grounds, having regard to development plan policy.
48. A condition requiring that works be undertaken in accordance with the approved Arboricultural Method Statement and Tree Protection Plan, as well as being supervised by a qualified arboricultural expert, is necessary to protect trees at the site in the interests of the character and appearance of the area. Likewise, a condition requiring replacement tree planting is also reasonable and necessary in the interests of the character and appearance of the site and surrounding area.

### **Conclusion**

49. For the reasons outlined above, the proposal complies with the development plan and there are no material considerations that indicate a decision should be taken other than in accordance with it. The appeal is therefore allowed.

*Lewis Condé*

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:
  - Location and Block Plan, Drawing Ref: 19-214 PL01 A;
  - Proposed Plans and Elevations, Drawing Ref: 19-214 PL02 A;
  - Substructure and Services, Drawing Ref: 19-214 PL03 A;
  - 3D Views Colour, Drawing Ref: 19-214 PL04 A; and
  - Tree Protection Plan and Arboricultural Method Statement, Drawing Ref: DS/64021/AL
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors;
  - ii. loading and unloading of plant and materials; and
  - iii. storage of plant and materials used in constructing the development.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) The materials and finishes to be employed on the external faces of the development hereby permitted shall be as specified on the approved drawings.
- 5) The development hereby permitted shall not be occupied until a minimum of 1no swift box is installed on the front elevation of the building in accordance with the swift conservation guidance <https://www.swift-conservation.org/OurLeaflets.htm> The swift box shall thereafter be retained and maintained for its intended use by nesting birds.
- 6) The development hereby permitted shall not be occupied until the access, turning space and vehicle parking shown on the approved plan have been constructed, and these shall thereafter be retained and kept available for those purposes at all times.
- 7) The development hereby permitted shall not be occupied until secure cycle parking has been provided in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. Thereafter, the cycle parking shall be permanently retained available for use at all times.
- 8) Within 3 months of the commencement of the development, details of the provision of Electric Vehicle Charging Points and associated infrastructure

shall be submitted to the Local Planning Authority for approval in writing. Those details shall be in accordance with the BCP Council Parking Standards SPD (adopted 5th January 2021). The approved details shall be implemented and brought into operation prior to the occupation of the residential unit hereby approved. Thereafter, the Electric Vehicle Charging Points shall be permanently retained available for use at all times.

- 9) All works relating to the ground clearance, tree works, demolition and development with implications for trees shall be carried out as specified in the approved Tree Protection Plan and Arboricultural Method Statement (Ref: DS/64021/AL), and shall be supervised by an arboricultural consultant holding a nationally recognised arboricultural qualification.
- 10) Replacement tree planting shall be carried out in the first planting season following the end of construction, in accordance with the details set out on the Tree Protection Plan and Arboricultural Method Statement (Ref: DS/64021/AL). If, within a period of 5 years from the date of planting, the tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.