



Appeal Decision

Site visit made on 4 April 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2024

Appeal Ref: APP/V1260/W/23/3334352

46-48 Dalmeny Road, Bournemouth, BH6 4BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr N Briant – Dalmeny Ltd against the decision of BCP Council.
 - The application Ref. 7-2023-2567-P, dated 19 August 2023, was refused by notice dated 10 November 2023.
 - The development proposed is demolish existing buildings and erection of 4 houses.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing buildings and erection of 4 houses at 46-48 Dalmeny Road, Bournemouth, BH6 4BW, in accordance with the terms of the application, Ref. 7-2023-2567-P, dated 19 August 2023, and subject to the conditions listed in the Annex to this decision.

Preliminary Matters

2. I have adopted the description of development as it appears on the application form but deleted the reference to the previous approval as this wording is superfluous and not an act of development.
3. Since the decision was issued a revised version of the National Planning Policy Framework (Framework) was published in December 2023. However, the relevant policies remain broadly unchanged, albeit some of the paragraph numbering is different. Whilst some of the housing policies have also changed I am satisfied that these do not affect the main issues raised by the appeal proposal and I have not therefore sought any further comments from the parties.
4. Whilst the Council's decision includes only one reason for refusal, the second paragraph to this raised an objection on the basis that the proposal would generate increased occupancy and a net demand on designated heathland and would need to secure heathland mitigation in accord with policy CS33 of the Bournemouth Local Plan: Core Strategy (October 2012) (BLP) and the Dorset Heathlands Planning Framework 2020 – 2025 (DHPF). As the proposal failed to secure suitable mitigation contributions the Council alleged that it was contrary to those policies and the corresponding policy in the Framework.
5. Following the submission of the appeal, the Council wrote to the Appellant in relation to this matter and a Unilateral Undertaking, dated the 9 November 2023, that had been submitted by the Appellant to secure the contribution required. Minor alterations were required to the submitted Unilateral

Undertaking (UU) and a revised UU was signed and dated 12 March 2024. This was returned to the Council with confirmation, in an email dated 13 March 2024, of the direct payment of the contribution to the Council. The Appellants email of 13 March 2024 also sought confirmation from the Council that this UU overcame the second paragraph of the reason for refusal. I have not been provided with any further correspondence from the Council but paragraph 2.5 of their Statement of Case (Council SOC) confirms that the Appellant has agreed to secure the relevant contribution through a UU which would meet the requirements of policy CS33 and the provisions of the DHPF, and subject to the appeal being allowed it would satisfy this ground. I have determined the appeal on that basis.

6. Reference has been made to the extensive planning history of the appeal site. This includes an appeal that was dismissed to alter, extend and convert the appeal properties into six flats, with a separate detached house at the rear, on 17 September 2020 (ref. APP/V1260/W/20/3252784) (2020 Appeal). The Inspector dismissed that appeal as he was unable to conclude that the development would not adversely affect the integrity of the Dorset Heathland Special Protection Area & Ramsar site, and the Dorset Heaths Special Area of Conservation (European site). In doing so, the Inspector found that the impact of the scheme on the character and appearance of the area would be acceptable. I have had regard to those findings in determining this appeal. I have also had regard to the subsequent history and specifically the Council's grant of planning permission on 4 May 2023 to demolish the existing buildings and erect four dwellinghouses (ref. 7-2022-2567-N) (2023 Approval).

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

8. The appeal site is located on the corner of Dalmeny Road and Harbour Road and comprises two large detached two storey properties with accommodation in the roof. The roof accommodation within 46 Dalmeny Road is provided by various dormers within its hipped roof. On 48 Dalmeny Road, it is provided through the gable ends on the front, side and rear of its roof. The surrounding area comprises similar two storey detached properties with accommodation in the roof as well as chalet style bungalows. A number of properties have been altered, extended and replaced, with a mixture of old and new. There is no uniform style with properties varying in terms of their form, scale, mass, ridge heights, detailing and materials. There are also examples of large flatted developments located closer to the seafront.
9. The appeal proposal involves the demolition of the existing buildings and the construction of a building comprising four houses, with internal garages and a driveway at the front and gardens at the rear (albeit Plot 4 also includes a side garden due to its corner location). The proposed development is essentially three storeys, although the second floor is partly accommodated within the main roofspace and also in the proposed gable ends that project from the front, side and rear of the new building.
10. The proposal has been submitted as a revision to the 2023 Approval, a consent that remains extant and is referred to by the Appellant as a fall-back option. I

understand that the changes largely relate to the proposed second floor and roof, and are summarised in paragraph 1.2 of the Appellants Planning & Design Statement (August 2023) and section 5 of their Statement of Case (Appellant SOC). In comparison to the 2023 Approval, the main changes are highlighted as: a change in the pitch of the gable roofs to Dalmeny Road from 45 degrees to 40 degrees and resulting increase in height of the ridge to the gables by some 0.3 metres and eaves by some 0.9 metres; increase in the height of the ridge to the gable closest to the corner with Harbour Road by some 0.36 metres; increase in the height of the pitched section of the roof between the two front gables by some 1.26 metres; and replacement of the rooflights between the two front gables with standard windows.

11. In combination, all of these changes, when compared to the 2023 Approval, are, in my view, modest. I am also satisfied that the resulting changes to the design, scale, height, mass, articulation and form of the proposed second floor and roof are also thus modest. As such, I disagree with the Council and consider that the revised proposal would continue to secure an acceptable and sympathetic high quality design that would not be out of character with its surroundings or with its prominent corner location.
12. The Council contend that the changes result in a proposed building that is of “*excess 3 storey scale appearance*”. That is not a view that I share. As with the 2023 Approval the proposed building would include 3 storeys of accommodation, with the third storey partially within the roofscape. The proposed building would not exceed 3 storeys, and as is shown on the submitted plans and as I observed on site the resulting eaves and ridge heights would remain broadly comparable to those in Dalmeny Road. Moreover, the variety of ridge and eave heights and roof forms that exist in Dalmeny Road are part of its character, as is the presence of gabled roof forms. In this respect, I agree with the Appellant that the changes to the gable roof forms and roof pitch would enable the new development to better align and integrate with the Dalmeny Road streetscene.
13. I accept that the proposed revisions, when compared to the 2023 Approval, would result in changes to the ridge heights of the front gables and the pitched roof in between, but I am satisfied that all of these changes would not be more visually prominent than the design already approved. The ridge height to the pitched roof would still sit lower than the ridge height of the front gables and it would be set well back from the front face of these gables. As such, the recessed and pitched nature of this feature would not be visually prominent.
14. As I observed in viewing the site from Southbourne Coast Road and is shown on the submitted plans and sketches, the increase in height of the pitched roof within the mid-section to the new building would be visible, but would be subservient and proportional to the design and scale of the development, and thus it would not be harmful to the character and appearance of the area. In this respect, I agree with the Inspector in the 2020 Appeal when he referred, in paragraph 24, to a ‘key view’ of the appeal proposal being from Southbourne Coast Road. As I have found above, that ‘key view’ would not be materially changed when compared to the same view of the 2023 Approval. Moreover, as the previous Inspector also alluded to that view encompasses a character that is very varied as a result of the variation in the built form and design of existing properties on Dalmeny Road, including the flatted development to the south of the appeal site known as Ocean Point.

15. I am also satisfied that the proposed building would remain sufficiently articulated, bearing in mind that the overall design and pallet of materials remains similar to that in the 2023 Approval. The inclusion of projecting gables, recessed sections of linked roof, roof terraces (balconies) and vertical glazing would result in a highly articulated building that would sit comfortably on the appeal site.
16. Turning to policies CS22 and CS41 of the BLP, these seek, amongst other requirements, to ensure that new development: is of a high quality; that through its scale, density, layout, height, siting, character and appearance, development is designed to respect the site and its surroundings; provides a high standard of amenity for occupants; contribute positively to the appearance and safety of the public realm; and enhances character, local distinctiveness and amenities. For the reasons set out above, the appeal proposal would, in my view, comply with the aims and objectives of both policies.
17. In relation to part 3 (Achieving Good Design) and part 4.1 (Replacement development) of the Council's Residential Development: A Design Guide (September 2008) (Design Guide), for the same reasons given above I find that the appeal proposal would represent a high quality design that has evolved from a good understanding of the site and its context. The proposal also addresses and responds to key requirements that the guidance highlights as important considerations when promoting replacement development, as proposed.
18. In support of the above findings it is important to emphasise that the Design Guide and BLP predate the policies in the Framework. Whilst paragraph 135 of the Framework refers to new development being sympathetic to local character it also states that this should not prevent or discourage appropriate innovation or change. The National Design Guide (NDG) (January 2021) reinforces the Framework, for example, at paragraph 44, by emphasising that well designed places do not need to copy their surroundings and that it is appropriate for new development to include innovation and change to reflect how we live today.
19. Paragraph 123 of the Framework also states that planning decisions should promote the effective use of land in meeting the need for housing, reinforced by paragraph 124 c) which states that substantial weight should be given to using suitable brownfield land within settlements for homes. Also, paragraph 129 which states that in locations where there is a need for new homes and an anticipated shortage of land to meet those needs, decisions should ensure that developments make optimal use of the potential of each site, with minimum density standards for locations that are well served by public transport. These policies provide further support for my findings on this issue.
20. Accordingly, I find that the appeal proposal would not be out of keeping and would not be harmful to the character and appearance of the area and would thus accord with the aims and objectives of policies CS22 and CS41 of the BLP, the guidance within the Design Guide and the corresponding policies of the Framework and NDG.

Other Matters

21. As I confirmed earlier, the Appellant submitted a revised UU, dated 12 March 2024, to secure heathland mitigation contributions. Having reviewed this UU and the justification for these contributions set out in the Council's SOC, I am

satisfied that the obligations are reasonable and effective, and would meet the requirements of policy CS33 of the BLP and the provisions of the DHPF. The obligations are: necessary so as to make the appeal proposal acceptable in planning terms; they are directly related to the proposed development; and fairly and reasonably related in scale and kind to the development. As such, all three tests in paragraph 57 of the Framework are met, and all three statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 are also met.

22. I understand that, in line with the provisions of the UU, that the contribution has already been paid and that a similar undertaking, dated 11 April 2023, with the same obligations accompanied the 2023 Approval.

Planning balance

23. The Council's SOC accepts that they cannot identify a 5-year supply of housing land, with paragraph 2.6 indicating a supply (with 20% buffer) of 2.3 years. As such, paragraph 11 d) of the Framework states that where the relevant policies of the development plan are out of date (which footnote 8 states includes, for applications involving the provision of housing, where the local planning authority cannot identify a 5-year supply of housing land and where, as in this case, paragraph 226 does not appear to apply), planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or where policies in the Framework that protect areas and assets of importance provide a clear reason for refusing permission.
24. As I have already found, any impact on the European sites would be mitigated by the agreed heathland contribution already paid to the Council, and the appeal proposal would not result in any significant adverse impacts. In relation to benefits, compared to the house and flats that the appeal site currently accommodates, the proposal would secure a small contribution to future housing provision; there would be economic investment from the construction of the new houses; the site is in a sustainable location; and the proposal would make effective and optimal use of brownfield land. Combined, I accord these benefits moderate weight.
25. In the context of paragraph 11 d) of the Framework the appeal proposal would not result in any significant adverse impacts and the presumption in favour of sustainable development applies, which combined with the benefits of the scheme points towards the grant of planning permission.

Conditions

26. The Council has suggested a number of conditions which I have considered against the advice in the Framework and the Planning Practice Guidance (PPG) chapter on the use of planning conditions. I have also had regard to the Appellants Final Comments, dated 20 March 2024, which raised no objections to the conditions on the basis they replicated those imposed on the 2023 Approval.
27. Conditions requiring the development to be undertaken in accord with the approved plans and in relation to the details shown on those plans of materials, pipework, visibility splays, parking and turning areas, cycle and storage areas, bin presentation areas and fencing/boundary treatment, are reasonable and

necessary in order to secure a high quality development and to reflect the details shown in the application. Conditions requiring the submission and approval of on-site works and demolition, ground stability, a surface water scheme, a landscaping scheme and electric charging points, are also necessary and reasonable to safeguard the amenities of existing and future occupiers as well as neighbours, in the interests of highway safety, to promote sustainable transport, to ensure the development is satisfactorily drained, to secure a high quality development and to protect visual amenities.

28. I am satisfied that conditions requiring compliance with the mitigation and enhancement measures set out in the submitted ecological report and to restrict site clearance during the bird breeding season, are necessary to safeguard and protect biodiversity and ecological interests. Conditions requiring the use of obscure glazing and non-openable windows below a certain height within parts of the development are also reasonable and necessary to avoid overlooking and to protect the living conditions of the neighbouring occupiers.
29. Whilst the PPG advises that permitted development rights should only be taken away in exceptional circumstances, I am satisfied that those circumstances exist here. As such, conditions to prevent new extensions, alterations and outbuildings, to control the use of internal garages and to prevent development within the proposed visibility splays, are necessary and reasonable in order to protect the living conditions of neighbouring occupiers, to retain control over the development and in the interests of highway safety.

Conclusion

30. For the reasons given above and having taken all the matters raised into account I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex - Conditions

- 1) The development hereby permitted shall be begun 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 following approved plans: 2019-11-31; 2019-11-12; 2019-11-33; 2019-11-34; 2019-11-35; 2019-11-36; 2019-11-37; 2019-11-38.
- 3) All on-site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission, shall only be carried out between the hours of 8 a.m. and 6 p.m. Monday - Friday, 8 a.m. and 1 p.m. Saturday and not at all on Sunday, Public and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.
- 4) No site clearance or development work shall commence until there has been submitted to and approved in writing by the Local Planning Authority a Method Statement that includes the following measures:

- a) parking arrangements for operatives and construction vehicles working on-site;
- b) noise reduction measures including times of piling operations; and the
- c) details and siting of equipment, machinery and surplus materials on the site.

The parking arrangements for operatives and construction vehicles shall be implemented prior to development commencing and the development shall be carried out in accordance with the approved details.

- 5) The materials to be used on the external surfaces of the proposed development shall be as specified on plan reference 2019-11-36 unless otherwise agreed in writing by the Local Planning Authority.
- 6) No development shall take place until the applicant or their successors in title have submitted a ground stability geotechnical impact report that identifies the ground conditions in the context of the coastal zone, the impact of the development on ground stability and relevant mitigation measures including a construction methodology statement submitted to the satisfaction of the Local Planning Authority. The development shall be implemented in accordance with the approved mitigation measures unless otherwise agreed in writing by the Local Planning Authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements of the dwellings including, rear, side, porch extensions, roof dormers or outbuildings or new windows or rooflights at first floor level or boundary screening other than as approved shall be constructed without the grant of a further specific planning permission from the Local Planning Authority.
- 8) The proposed lower panes of the second floor windows in the rear north east elevation and the first floor window in the north west side elevation of the approved building shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and fixed shut as shown on the approved plans and shall be permanently retained as such unless otherwise agreed in writing by the Local Planning Authority.
- 9) The proposed rooflights in the rear roof plane serving the second floor lounges shall be of high level type (minimum 1.75m internal sill height above finished internal floor level of the associated spaces they serve) and shall be permanently retained as such unless otherwise agreed in writing by the Local Planning Authority.
- 10) The development shall not be occupied until details of a scheme for the collection of surface water utilising an attenuation tank and control of water outflow via a discharge flow regulator have been submitted to the satisfaction of the Local Planning Authority in conjunction with Wessex Water. Connection to the off-site network shall only take place with the consent of Wessex Water and the facility shall operate strictly in accordance with the approved details being implemented prior to occupation unless otherwise agreed by the Local Planning Authority together with Wessex Water. The facility shall be retained and maintained for the lifetime of the development hereby approved.

- 11) Unless shown on the approved elevational drawings, any pipework (with the exception of rainwater down pipes) shall be internal to the building.
- 12) Before the occupation of any part of the development hereby approved, the cycle storage facilities within the approved garages to each house shall be provided as shown on the approved plans and thereafter retained, maintained and kept available for the occupants of the development at all times.
- 13) Notwithstanding details shown on the submitted plans, within 3 months of the date of commencement of the development, details of the provision of electric vehicle charging points shall be submitted to the Local Planning Authority for approval in writing. The proposed charging points shall be installed in accordance with the approved details prior to first occupation and permanently retained and maintained for the residents of the development hereby permitted at all times.
- 14) Before the development hereby permitted is brought into use and notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modifications) the visibility splay(s) shown on the approved plans shall be cleared of all obstructions over 0.6m above the level of the adjoining highway, including the reduction in level of the land if necessary. Nothing over that height shall be permitted to remain, be placed, built, planted or grown on the land so designated.
- 15) Prior to the occupation of the development hereby approved, the access and areas for turning parking including the marking out of spaces garaging shown on the approved plan shall be constructed in accordance with the approved details and permanently retained and kept available for the residents and visitors of the development hereby permitted at all times.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), the garage facilities to each dwellinghouse shall not be converted to habitable accommodation and shall be retained for the parking of a vehicle, cycle storage facilities and electric vehicle charging point as shown on the approved plans unless otherwise formally agreed by the Local Planning Authority.
- 17) Within three months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, a scheme of landscaping which shall include details of all existing trees and hedgerows on the land, and details of any to be retained shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
 - a) the positions, species and sizes of all existing trees, shrubs and hedges to be retained;
 - b) the positions, species, initial sizes and planting densities of all new trees and/or shrubs;
 - c) any hard landscaping proposed including details of materials;
 - d) the programme of implementation of the scheme;
 - e) schedule of 5 year maintenance

The approved landscaping shall be carried out in accordance with those details and permanently retained unless otherwise agreed in writing by the Local Planning Authority.

- 18) Prior to the occupation of the development hereby approved fences/boundary screens shall be erected in the position(s) shown on the approved plans of the type and dimensions specified. The fences/boundary screens shall be thereafter retained unless otherwise agreed in writing by the Local Planning Authority.
- 19) The bin presentation area as shown on plan reference 2019-11-38 for plots 2, 3 and 4 shall be marked out utilising a contrasting surfacing material/block pavements and shall be constructed in accordance with the approved details prior to the occupation of the proposed development and shall be retained and maintained for that use thereafter. Bins shall be removed from the collection area(s) following the collection of waste and returned to the individual storage areas. No bins shall be returned to the collection point until the day of the next collection.
- 20) The mitigation and enhancement measures including for bats identified within the Ecological Appraisal Report dated 21 November 2022 and prepared by Sophie Smith of Cherry Tree Ecology Ltd shall be implemented in full and in accordance with the approved timetable and maintained and supervised until completion of the development and thereafter retained and maintained where applicable.
- 21) No vegetation clearance on the development site shall be undertaken within the bird breeding season of 01 March to 31 August inclusive unless it can be demonstrated to the satisfaction of a qualified ecologist that nesting birds are not present to the satisfaction of the Local Planning Authority.

End of Annex.