



Appeal Decision

Site visit made on 17 September 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/V1260/W/23/3334095

5 Oratory Gardens, Poole BH13 7HJ

- 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 M and J Charlwood against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00682/F.
 - The development proposed is demolition of existing house and construct three replacement detached houses with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and construct three replacement detached houses with associated access, parking and landscaping at 5 Oratory Gardens, Poole BH13 7HJ in accordance with the terms of the application Ref APP/23/00682/F and subject to the schedule of conditions attached to this Decision.

Main Issues

2. Although the Council's decision includes four reasons for refusal, I have distilled these into the following main issues:
 - i) The effect of the proposal on the character and appearance of the area, including the setting of the Branksome Park and Chine Conservation Area ('Branksome Park CA'), and
 - ii) The effect upon the integrity of the Dorset Heathlands Special Protection Area ('SPA'), Ramsar Site, and the Dorset Heaths Special Area of Conservation ('SAC') and the Poole Harbour SPA, Ramsar Site.

Reasons

Character and appearance

3. The appeal site comprises a large, detached dwelling located within a generous plot at the head of a cul-de-sac (Oratory Gardens) which is characterised by detached dwellings, variedly arranged within plots in a range of sizes, scales and designs. Some redevelopment schemes have been allowed in the area which include the subdivision of plots.
4. The eastern boundary of the appeal site faces Western Road and its southern boundary is adjacent to a walkway between Oratory Gardens and Western Road. To the north of the appeal site is a detached dwelling which is accessed off Western Road.

5. The northern and eastern boundaries of the appeal site are contiguous with the Branksome Park CA. As such, the appeal site is adjacent to but outside this conservation area.
6. The special interest of Branksome Park CA is derived from a number of characteristics. These include its spacious sylvan character resulting from its division into large building plots in the 19th century. The road layout, dense evergreen hedges, turf embankments and generous wooded plots all date from the original plan. Branksome Park is distinct from the surrounding urban landscape being noticeably lower in density and heavily wooded. The varied architecture within Branksome Park reflects its gradual development over more than 100 years and reflect the various architectural styles of the time.
7. In particular, the area adjacent to the appeal site falls within Character 12 Western Road (Lower). This area has a more open character, resulting from the large plots, the width of the road and the presence of reasonably wide footways. Building positions vary, with some buildings located close to site frontages and others set further back, however, in most cases the landscaping obscures views to buildings. Importantly, in all cases it is the trees that form the backdrop to buildings; equally, the trees and other planting along front boundaries form a cohesive character for the area which must be retained and enhanced where appropriate.
8. Because the existing dwelling at the appeal site is accessed off Oratory Gardens and is located in a generous landscaped plot, its Western Road frontage is dominated by the existing landscaping and this positively contributes to the setting and significance of the Branksome Park CA.
9. The proposal is to demolish the existing dwelling and redevelop the appeal site. One of the new dwellings (Plot 3) would be accessed from Western Road and the other two dwellings (Plots 1 and 2) would be accessed via the existing access onto Oratory Gardens.
10. Each of the proposed dwellings have individual layouts and designs, although their modern flat-roof designs and contemporary features would support a cohesive development.
11. Planning consent has already been obtained to demolish the existing dwelling and build two detached dwellings at the appeal site. Indeed, Plot 3, on the proposed scheme is near identical in form and layout to one of the dwellings on the consented scheme and this would occupy about half of the existing plot.
12. On the other half of the existing plot, the proposed scheme introduces two dwellings instead of the single dwelling approved under the consented scheme. Whilst this would result in the creation of smaller plots, these are not dissimilar to those associated with other redevelopments nearby. For example, the smallest of the three proposed plots is about 100sqm larger in area than the plot at 1b Oratory Gardens. Therefore, the proposed plots reflect the mix of plot sizes in the area. Although this arrangement introduces a shared drive for Plots 1 and 2, this would not be particularly apparent from Oratory Gardens.
13. As a consequence of the proposed layout, the new development would be closer to Oratory Gardens than the existing dwelling. Even so, the extent of new development would be located behind an extensive boundary. As such, and in the context of the varied arrangement of dwellings along Oratory Gardens, the

- proposal would not unacceptably undermine the layout, street scene and character along here.
14. Plot 3 is the larger of the proposed plots and this would be occupied by the largest dwelling in the proposed scheme. Therefore, and because Plot 3 would be directly accessed off Western Road, this would complement the generally larger and individually designed dwellings within spacious plots along this road. The proposed development would also secure the removal of the uncharacteristic chain link fence along the Western Road frontage of the appeal site for an improved boundary treatment. Thereby, enhancing the contribution the appeal site makes to the setting of the Branksome Park CA.
 15. The increase in quantum of development arising from Plots 1 and 2 relative to the consented scheme would be mitigated by the spacing between the proposed dwellings and their flat roof designs, which would limit their heights and scales.
 16. Compared to the consented scheme, there would be some increase in areas of hard standing. Even so, the proposed individual plots incorporate larger areas of soft landscaping. Also, due to the existing and proposed boundary treatments, the extent of the hard standing areas would not be readily apparent in views from the adjacent roads and footpaths.
 17. The proposed dwellings have been designed and sited so that the existing landscaping, trees and boundary hedges at the site are largely retained. Although some tree removal is required, on the information before me the extent of this is similar to the consented scheme. Furthermore, some replacement tree planting is proposed.
 18. The proposal is supported by an Arboricultural Method Statement. This along with the accompanying plans, demonstrate how the retained trees would be safeguarded during the construction of the development. Also, there is insufficient substantive evidence to support the Council's assertion that the retained trees would face increased future pressures as a consequence of the proposed development.
 19. Moreover, the dwellings on Plots 1 and 2 would form a backdrop to the retained landscaping along the site's Western Road frontage. Due to this arrangement the established landscaping along here would prevail and filter views of these dwellings. Thereby, retaining the sylvan character of Western Road and the setting of Branksome Park CA.
 20. For the above reasons, the proposed scheme has been designed to assimilate with the appeal site and its surroundings. Therefore, this would not harm the character and appearance of the area, including the setting of the Branksome Park CA.
 21. Consequently, the proposal accords with Policy PP27 of the Poole Local Plan (November 2018) ('LP') which says that development will be permitted provided that it reflects patterns of development and neighbouring buildings in terms of: layout and siting (including building line and built site coverage); height and scale; bulk and massing; materials and detailing; landscaping; and visual impact. Also, the proposal accords with LP Policy PP28, which says that residential proposals involving plot severances or plot sub-divisions will only be permitted where there is sufficient land to enable a type, scale and useable amenity space to be

accommodated in a manner which would preserve or enhance the area's residential character.

22. Accordingly, I also find no conflict with LP Policy PP30, which supports proposals that preserve or enhance the historic, architectural and archaeological significance of heritage assets, and their settings, in a manner that is proportionate with their significance.

Dorset Heathlands and Poole Harbour

23. The appeal site is within 5km of the Dorset Heathlands SPA and Ramsar Site and Dorset Heathlands SAC and the Poole Harbour SPA and Ramsar Site.
24. The Dorset Heathlands are an extensive network of lowland heath recognised for their importance for nature conservation. Poole Harbour is a natural harbour which is inhabited by important bird species. As such, both Dorset Heathlands and Poole Harbour are recognised by the Conservation of Habitats and Species Regulations 2017 (the Act) as areas of international importance.
25. Natural England advises that additional residential development within 5km of the above sites and associated recreational activity is likely to have a significant effect on the Dorset Heathlands and Poole Harbour either alone or in combination with other proposals.
26. Adopting a precautionary principle and without mitigation new residential development is likely to have a significant effect on the sensitive interest features of the habitat sites, from human pressures and increased nitrogen levels either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Act, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA, Ramsar and SAC sites.
27. The Dorset Heathlands Planning Framework Supplementary Planning Document ('DHPFSPD') and Poole Harbour Recreation Supplementary Planning Document ('HRSPD') provide a strategic mitigation framework to secure the appropriate avoidance or mitigation measures. The documents set out Strategic Access Management and Monitoring Measures which require a mitigation payment per residential dwelling from all new development within close proximity to the protected habitat sites.
28. Provided mitigation can be secured, in the form of a developer contribution, it can be concluded that proposals would not have an adverse effect on the integrity of the habitat sites from recreational disturbance, when considered either alone or in combination with other proposals.
29. The appellants have submitted a signed and dated Unilateral Undertaking ('UU') which commits them to making financial contributions towards measures outlined in the DHPFSPD and the HRSPD, which have also been paid to the Council. I have also consulted Natural England on this who have advised that that the UU provided by the applicant which is in accordance with the mitigation strategies for the Dorset Heathlands SAC, SPA and Ramsar and Poole Harbour SPA and Ramsar as set out in established Supplementary Planning Documents will secure the necessary mitigation.

30. As such, I am satisfied that the financial contributions would sufficiently mitigate the development's impact. As such, whilst the development would have a likely significant effect on the integrity of the above mentioned SPAs, Ramsar Sites and SAC, this would be adequately mitigated through the financial contributions secured by the submitted UU.
31. Therefore, the proposal would accord with LP Policies PP32 and PP39 which, amongst other things, set out that developments would be permitted where it can be ascertained that these would not adversely affect the integrity of nationally, European and internationally important sites.

Other Matters

32. A planning application for three dwellings on the appeal site was previously refused. On the information before me, the appeal scheme incorporates dwellings with reduced footprints and heights relative to the refused scheme. Therefore, the refused scheme is not directly comparable to the appeal scheme and does not alter my findings.
33. In addition to some of the matters addressed above, third parties have raised a number of other issues, including the effects of the proposal on neighbours and on highway safety. These were addressed in the Council's Report and did not form part of its reason for refusal. I am also satisfied that due to their siting the proposed dwellings would not affect the living conditions of neighbours. Each dwelling would be afforded sufficient parking and turning areas so as not to result in any adverse impact on local parking and highway safety.
34. Nevertheless, I acknowledge that because Oratory Gardens is a small residential cul-de-sac, which could be affected by activity, disturbance and inconsiderate parking associated with the construction of the development, it would be appropriate to manage this by requiring a Construction Management Plan if the appeal succeeds.
35. In reaching my decision, I have considered the revised version of the National Planning Policy Framework that was published in December 2024 but this does not alter my findings on the main issues.

Conditions

36. I have had regard to the conditions put forward by the Council considering the requirements of the Planning Practice Guidance and the Framework. In addition to the standard timescale condition for the implementation of the planning permission, I have imposed a condition specifying the approved plans and documents in the interests of certainty.
37. Notwithstanding that some details have been provided, in the interests of ensuring a high-quality development and safeguarding the character and appearance of the area and the setting of the adjacent conservation area, I have imposed a condition requiring the details of all external finishes, materials, boundary treatments and surfaces.
38. In the interests of safeguarding retained trees, I have specified a condition requiring the implementation and inspection of the proposed tree protection measures. To ensure that the scheme delivers the proposed biodiversity mitigation

and enhancements measures, a condition requiring a scheme and timetable for these is necessary.

39. For the reasons already given, it is reasonable and necessary to require a Construction Management Plan.
40. A condition relating to foul and surface water drainage is necessary to avoid local pollution, manage flood risk and to safeguard retained trees.
41. It is also reasonable to impose conditions to secure electric vehicle charging points, cycle storage facilities and on-site renewable sources to promote sustainable forms of development.
42. A condition for the provision of the shared turning area for two of the proposed dwellings is necessary in the interests of the satisfactory functioning of the development and highway safety.
43. As a precautionary measure and to protect site operatives, neighbours and future occupiers of the proposed development, a condition to deal with any unexpected contamination from the development is reasonable.
44. Conditions 3, 4 and 5 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for these to take the form of 'pre-commencement' conditions to have their intended effect. Where necessary and in the interests of clarity, flexibility and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

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

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings, plans and documents:
 - Location and Block Plan: Drawing No.01;
 - Amended site plan: Drawing No.04b;
 - Site Analysis: Drawing No. 05b;
 - Plot 1 Elevations: Drawing No.08;
 - Plot 1 Floor Plans: Drawing No.09;
 - Plot 2 Elevations: Drawing No.10;
 - Plot 2 Floor Plans: Drawing No.11;
 - Plot 3 Elevations: Drawing No.12;
 - Plot 3 Floor Plans: Drawing No.13;
 - Street Scene Western Road: Drawing No.15;
 - Self Build Plot Plan: Drawing No 17;
 - Cycle store: Drawing No.18;
 - Cycle store: Drawing No.19;
 - Plan TC1, Tree Protection Plan & Arboricultural Method Statement (Demolition or Pre-Commencement Stage): Ref: DS/73023/SC R1;
 - Plan TC2, Tree Protection Plan & Arboricultural Method Statement (Construction Stage) Ref: DS/73023/SC;
 - Plan TC3, Tree Protection Plan & Arboricultural Method Statement (Services, Surfacing and Planting Stage) Ref: DS/73023/SC;
 - Arboricultural Impact Assessment and Method Statement: Ref: DS/73023/SC and 'Ecological Impact Assessment, 5 Oratory Gardens, Poole' by Abbas Ecology (October 2022 (updated June 2023)).
- 3)
 - i. The development hereby permitted shall be undertaken in accordance with the approved tree protection measures set out in the Arboricultural Impact assessment and Method Statement, ref: DS/73023/SC including plans TC1, TC2 and TC3. This shall include the local planning authority being advised in writing when the tree protection measures have been installed so that these can be inspected on site before any development (including demolition) commences.
 - ii. In addition to the measures set out in the Arboricultural Impact Assessment and Method Statement, ref: DS/73023/SC including plans: TC1, TC2 and TC3, no fires shall be lit within 15 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.
 - iii. The approved tree protection measures shall be retained for the duration of the construction period of the development hereby permitted.

- 4) Prior to any development (including demolition and site clearance) commencing, a scheme and a timetable for the proposed biodiversity mitigation and enhancements measures as identified in the 'Ecological Impact Assessment, 5 Oratory Gardens, Poole' by Abbas Ecology (October 2022 (updated June 2023)) shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved biodiversity mitigation and enhancement measures shall be provided in accordance with the approved details and timetable and maintained for the life of the development.
- 5) No development shall take place, including any demolition, until a Construction Management Plan has been submitted to and approved by the local planning authority. Thereafter, the demolition and construction works shall be carried out in accordance with the approved Construction Management Plan.
- 6) Prior to commencement of any above ground works (excluding demolition), details of all external finishes, materials, boundary treatments and surfaces for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved materials and so retained.
- 7) Prior to commencement of any above ground works (excluding demolition), a timetable for the implementation of all proposed tree planting and landscaping as shown on Plan TC3, Tree Protection Plan & Arboricultural Method Statement (Services, Surfacing and Planting Stage) Ref: DS/73023/SC shall be submitted to and agreed in writing by the local planning authority. Thereafter, the proposed tree planting and landscaping shall be carried out in accordance with the approved timetable and so retained.
- 8) Prior to commencement of any above ground works (excluding demolition), a scheme for foul and surface water drainage for the development hereby permitted, along with a timetable for its implementation shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved foul and surface water drainage scheme shall be carried out in accordance with the approved timetable and so retained.
- 9) Prior to the first occupation of any of the two dwellings hereby approved which would be accessed off Oratory Gardens, the 'Shared Turning Area' as shown on the approved drawing: Amended site plan: Drawing No.04b, shall be completed and made available for use. Thereafter, the 'Shared Turning Area' shall remain free of obstruction and retained as a shared vehicle turning area for the life of the development.
- 10) Prior to the first occupation of any dwelling hereby permitted, details of the provision of Electric Vehicle Charging Points ('EVCPs') and associated infrastructure (including a timetable for implementation) shall be submitted to and approved in writing by the local planning authority. Thereafter, the EVCPs shall be installed in accordance with the approved details and timetable and maintained for the life of the development.
- 11) Prior to its first occupation, each dwelling hereby permitted shall include a cycle storage facility for the storage of a minimum of four bicycles. Thereafter, the cycle storage facilities shall be retained for the life of the development.

- 12) Prior to first occupation of any of the dwellings hereby permitted, a scheme of measures to provide 10% of the predicted future energy use of each dwelling from on-site renewable sources including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. Thereafter, the proposed scheme shall be carried out in accordance with the approved timetable and so retained.
- 13) In the event that unexpected contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the local planning authority and further development ceased. An investigation and risk assessment must be undertaken in accordance with the Environment Agency "Land contamination risk management (LCRM)" procedures and where remediation is necessary a remediation scheme must be prepared and approved in writing by the local planning authority in advance of the scheme recommencing. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority prior to development commencing other than that required to be carried out as part of an approved scheme of remediation.