



Appeal Decision

Site visit made on 14 February 2025

by **Lewis Condé BSc, MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/V1260/W/24/3347220

40 Brownsea View Avenue, Poole BH14 8LQ

- 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 Messrs Nisbett against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/01206/F.
 - The development proposed is demolition of an existing dwellinghouse, erection of a replacement dwelling and garage outbuilding and subdivision of the plot to erect a further single detached dwellinghouse with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing dwellinghouse, erection of a replacement dwelling and garage outbuilding. Subdivision of the plot to erect a further single detached dwellinghouse with associated access, parking and landscaping at 40 Brownsea View Avenue, Bournemouth, Dorset BH14 8LQ in accordance with the terms of the application, Ref APP/23/01206/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework was published on 12 December 2024. Main parties have been given the opportunity to comment on the implications of the revised Framework. Where received, comments have been taken into account.

Main Issues

3. The main issues are the effect of the proposal on: i) the living conditions of the neighbouring occupiers of no. 42 Brownsea View Avenue in respect of outlook; and ii) the integrity of European Designated Sites.

Reasons

Living Conditions

4. The proposed two replacement dwellings would be large, two-storey dwellings, that would be located close to the boundary with no.42 Brownsea View Avenue (no.42). No. 42 is a detached bungalow set within a fairly sizeable plot, still the proposal would entail a significant bulk of built form near its rear boundary.
5. The appeal site though is set at a slightly lower level than no. 42, whilst there is an existing mature mixed-species hedge along the boundary between the relevant

properties. From the evidence before me and my observations on site, the hedge is within the ownership/control of the appellant.

6. The hedge is currently substantial in height and depth and appeared to be robust in nature. Indeed, the appellant's arboricultural evidence highlights the hedge to be in a reasonable condition, while I have no reasons to find otherwise.
7. The existing hedge would almost entirely screen the proposed development from view from the neighbouring property. The proposed landscaping plans for the appeal scheme involve retaining the hedge along the boundary with no. 42. From my observations maintaining the existing hedge is also likely to be in the interests of both the future occupiers of the proposed dwellings, as well as the occupants of no. 42. Therefore, provided the hedge is to be retained as per the submitted plans, I do not consider the proposed development would result in any adverse overbearing impacts or harmful loss of outlook to the neighbouring occupiers of no. 42.
8. Furthermore, the appellant's arboricultural evidence also outlines that while hedge roots are likely to be lost to facilitate the proposed development, this is likely to be associated with the loss of stems that have extended far into the site and so are not crucial to the health of the retained bushes. There is no robust evidence before me to refute these findings.
9. Consequently, subject to relevant planning conditions in respect of the approved landscaping, as well as protection measures during construction, I am satisfied that the proposal would not cause harm to the living conditions of the neighbouring occupiers of no. 42 Brownsea View Avenue through a loss of outlook.
10. Accordingly, the appeal scheme complies with Policies PP27 and PP28 of the Poole Local Plan (adopted 2018). Together these policies amongst other matters seek to ensure that development is of a high standard of design that is compatible with surrounding uses and would not result in a harmful impact upon amenity for both local residents and future occupiers.

European Designated Sites

11. The appeal site is located within the zone of influence for 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.
12. 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.
13. Both the Dorset Heathlands and Poole Harbour are European designated sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). They are also both under significant pressure from increased public access and recreational use, resulting in disturbance to the habitat sites and threatening their integrity. Whilst 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.

14. The proposal would result in a net increase of one 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.
15. The Council's mitigation strategy is set out in the Dorset Heathlands Planning Framework and Supplementary Planning Document (adopted 2020) (DHPFSPD) and the Poole Harbour Recreation Supplementary Planning Document (adopted 2020) (PHRSPD). These seek to secure financial contributions from all new residential developments within close proximity of the protected sites. This includes developers contributions to be used towards Strategic Access Management and Monitoring Measures (SAMMs). Meanwhile, a proportion of the Council's Community Infrastructure Levy receipts are to be used toward funding of suitable alternative natural greenspace.
16. Provided the above mitigation requirements can be appropriately secured, 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.
17. Through the appeal 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. In this respect, I find that the financial contributions comply with Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (2010), as amended.
18. In light of the above, I am satisfied that with the proposed avoidance and mitigation measures in place, secured through a planning obligation and CIL contributions, the proposed development would not have an adverse effect on the integrity of the European designated sites. The proposed development would therefore comply with the Habitat Regulations. It would also accord with Poole 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

19. Dwellings in the surrounding area are diverse in their scale and appearance. As such, I am content that the contemporary design of the proposed properties would not cause harm to the character and appearance of the area. Meanwhile, the existing building at the site has not been demonstrated to be of such significant heritage value or design merit to warrant retention over the appeal scheme.
20. Neighbouring parties have expressed concerns over the cumulative effects of the appeal scheme alongside other development proposals nearby. However, from the evidence before me, I have no reasons to believe that the net increase in one dwelling subject of this appeal would result in any material harmful effects, should other developments nearby proceed. Furthermore, no robust evidence has been

provided to demonstrate that existing infrastructure in the area would be unable to cope with the increase demands of the proposed development.

21. From my observations on site and the evidence before me, including the comments of the local highway authority, I am satisfied that subject to conditions in relation to the provision of access, parking and turning facilities, the proposal would not result in any significant highway safety risks or accessibility issues.
22. Subject to a condition requiring the approval of and subsequent compliance with a construction method statement, I am also satisfied that there will be no undue highway or public safety risks associated with the construction of the proposed development.
23. Whether a right of access from the private drive to the appeal properties would be granted is a legal matter between the relevant parties and does not alter the outcome of this planning decision.

Conditions

24. In addition to the standard time limit, a condition specifying the approved drawings/documents is necessary for clarity and certainty.
25. It is necessary to attach a condition relating to investigating contamination risks, and the potential need for associated remedial works/mitigation measures on grounds of public safety. This is required to be pre-commencement so that the risks and any required mitigation can be understood/in place when development begins.
26. It is necessary to attach a pre-commencement condition relating to surface water drainage. This is to ensure that appropriate measures can be incorporated at the outset of development to mitigate the risks of surface water flooding.
27. A pre-commencement condition requiring the approval of a construction method statement is also necessary to ensure that development operations do not cause harm to highway safety, as well as to minimise any adverse environmental impacts on neighbouring occupiers
28. Conditions in relation to tree protections measures, including the method for constructing the proposed driveways, as well as a condition in respect of the provision of landscaping, are needed in the interests of the character and appearance of the development and the wider area.
29. Additionally, a condition requiring approval of details to protect the boundary hedge with no. 42 Brownsea View Avenue, during the construction phase, is needed in the interests of the living conditions of the neighbouring occupiers. This is required to be pre-commencement condition given the potential for construction works to damage the hedge without appropriate protection measures in place.
30. A condition requiring compliance with the mitigation and enhancement measures outlined within the appellant's Preliminary Ecological Appraisal and Phase 2 Bat Report is reasonable and necessary in the interests of biodiversity.
31. The requirement for sample materials to be approved is reasonable and necessary in the interests of the character and appearance of the development and the wider area.

32. It is necessary to attach a condition requiring the delivery of access, parking and turning facilities prior to the occupation of the proposed development on highway safety grounds. While a condition in respect of the provision of electric vehicle charging points is reasonable and necessary in the interests of promoting sustainable travel.

Conclusion

33. For the reasons outlined above the appeal scheme adheres to with the development plan as a whole, and there are no material considerations including the aims of the Framework, that justify a decision 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 three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
Site Location Plan & Existing Block Plan – Drawing no. SK101 Rev.B
Proposed Site Plan – Drawing no. LS-050 rev.G
Landscape Plan – Drawing no. LANDP001 Rev.003
Units 1 & 2 Proposed Ground Floor Plan – Drawing no. LS-100 Rev.D
Units 1 & 2 Proposed First Floor Plan – Drawing no. LS-101 Rev.D
Units 1 & 2 Proposed Roof Plan – Drawing no. LS-102 Rev.A
Proposed Garage Plan & Elevations – Drawing no. LS-103
Proposed North & South Site Elevation – Drawing no. LS-200 Rev.A
Unit 1-Proposed South & West Elevations – Drawing no. LS-201 Rev.A
Unit 1-Proposed North & East Elevations – Drawing no. LS-202 Rev.B
Unit 2-Proposed South & West Elevations – Drawing no. LS-203
Unit 2-Proposed North & East Elevations – Drawing no. LS-204 Rev.A
Section A-A – Drawing no. LS-300 Rev.A
Tree Protection Plans TC1, TC2 and TC3 and associated Arboricultural Method Statement - Drawing no. DS/83023/SC Rev A, dated 27 November 2023.
- 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) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been

submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:

- i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
- ii. the site has been remediated in accordance with the approved measures and timescale; and
- iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
- ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority

- 5) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 6) 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 arboricultural method statement, and shall be supervised by an arboricultural consultant holding a nationally recognised arboricultural qualification.

- 7) Notwithstanding the requirements of Condition no. 6, no development shall take place, including any works of demolition, until details of measures to protect the boundary hedge with no. 42 Brownsea View Avenue during the construction period have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 8) The proposed access driveway shall be constructed to a no-dig specification above existing ground levels, the details of which shall be submitted to, and approved in writing by, the Local Planning Authority, prior to the commencement of its construction. The construction of the driveway shall be carried out in accordance with the agreed details and thereafter retained.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) The development shall be implemented in accordance with the mitigation and enhancement measures outlined in sections 4.2 and 4.4 and appendix VII of the 'Phase 2 Bat Report' Dated August 2023, prepared by LC Ecological Services Ltd, as well as the recommendations outlined at Section 6 of the Preliminary Ecological Appraisal dated October 2023, prepared by ecosupport.
- 11) No development above ground level shall take place until details and/or samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details/samples.
- 12) 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.
- 13) Details of electric vehicle charging points to serve the proposed development shall be submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be provided on site in accordance with the approved details prior to occupation of the approved dwellings and thereafter maintained for such use.