



Appeal Decision

Site visit made on 27 March 2025

by **Laura Cuthbert BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th April 2025

Appeal Ref: APP/V1260/W/24/3354407

Land at Autumn Road, West Howe, Bournemouth, Dorset BH11 8NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by KLKR Properties Limited against Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2024-27846-A.
 - The development proposed is Erection of 2no. care home sheltered housing units (Class C2 learning difficulties and ABI occupants).
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Decision

1. The appeal is dismissed and planning permission for Erection of 2no. care home sheltered housing units (Class C2 learning difficulties and ABI occupants) is refused.

Preliminary Matters

2. Following the submission of the appeal against non-determination, the Council has submitted a Statement of Case, which provides clarity in terms of the main reasons why the Council would have refused planning permission had it been able to do so. Therefore, the main issues below are taken from this document.
3. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have taken the revised Framework into account as part of the determination of this appeal.
4. My attention has been drawn to the planning history related to the site where an earlier application for a 2 and 3 storey building for serviced offices was refused¹. I have had regard to this decision insofar as it is relevant to the proposal before me now.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area, notably the area of open space and the protected trees; and
 - the effect of the proposal on the Canford Heath Site of Special Scientific Interest (SSSI), the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and Ramsar site.

¹ Planning Application Ref 7-2020-27846

Reasons

Character and Appearance

6. The appeal site consists of a rectangular parcel of land, positioned immediately adjacent to the footpath alongside Autumn Road, which forms the entrance to a small residential estate now known as the Goldenleas Estate. When the estate was granted planning permission in 1997², the appeal site, alongside another plot of land, was set aside and marked as 'Area(s) reserved for Public Open Space'. A condition was attached to this historic consent for the areas of amenity space to be permanently retained and maintained. The reasoning for the condition was 'to ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the visual amenities of the locality'.
7. The parcel of land is maintained grassland, enclosed by established vegetation on 3 sides, including 3 trees which are protected with a Tree Preservation Order³ (TPO), 1 Scots Pine and 2 Beech Trees. It is a visually prominent parcel of land, situated close to the entrance to the residential estate. Consequently, by virtue of its position and lack of built form, it contributes positively to a sense of spaciousness in the street scene and softens the approach into the estate, in an otherwise built-up residential area. Furthermore, the protected trees, due to their height and age, have a good level of amenity value that contributes positively to the character and appearance of the area.
8. In regard to the effect of the proposal on the area of 'open space', by virtue of the introduction of built form and associated hardstanding, it would have a prominent and harmful impact on the recreational and visual value of the area of open space. This would in turn harm the local distinctiveness of the area. The siting of the proposal, with only a small set back from the highway, would create a 'pinch point' of built form, with the existing dwellings at Nos 1-7 Autumn Road on the opposite side of the road also sited close to the footpath. This amount of built form close to the entrance to the estate, would be out of character and cause permanent harm.
9. The appellant questions the age of the original permission and the associated annotation on the land, stating that the appeal site does not have any formal 'open space' designation in the development plan and that it has never performed any recreational or community role. The appellant has also drawn my attention to the proposal map identifying the open space designations, showing that 'some of the parcels are of a similar size to the application site and so there can be no allegation that the application land was considered too small to designate'.
10. However, the lack of any formal designations does not mean that the loss of the area of open space is not a material consideration. Notably, Policy CS31 of the Bournemouth Local Plan: Core Strategy (Core Strategy) (2012) supports the refusal of applications that results in the loss of public and private open spaces, including sports grounds and play grounds, which contribute to the recreational, visual, ecological or environmental value of an area or contribute to a network of green infrastructure, except where it is demonstrated to be underused and surplus to requirements and the benefits arising from development outweigh the loss of the space. It is not recognised as 'open space' on the diagram associated with Policy CS31 and the site is not specifically used for recreation, play or sports. However,

² LPA Ref: 7-1997-00016-BN

³ TPO 1255/2020

the reasoning to the policy also mentions 'local amenity areas', which I consider the proposal would fall under. Therefore, Policy CS31 would still be relevant.

11. The appellant has drawn my attention to the 'plentiful opportunities nearby for use of alternative open spaces'. However, although the appeal site is not large enough for formal recreation and sport opportunities, I do consider that it does offer opportunities for informal recreational use, particularly to young families with children and for dog walkers. This is particularly so given the smaller sized gardens of the dwellings on the estate. It continues to make a positive contribution to the character of the street scene, as well as being valued by existing occupants of the estate, which is supported by the numerous letters from local residents. It has not been demonstrated to be underused and surplus to requirements.
12. The proposal would also introduce hard surfaces constructed within the root protection zones of the Scots Pine tree (T1) and one of the Beech trees (T3). The corner of the parking bay of the northern dwelling would extend right up to the trunk of T1 and I observed that the Scots Pine tree was already enclosed to the north by a low brick wall. The parking bay to the south would also be in close proximity to the trunk of T3.
13. The Tree Report submitted with the application⁴ proposes the use of a 'Three Dimensional Cellular Confinement System', which is 'a no-dig solution used close to trees/within RPAs that ensures imposed loads are laterally dissipated rather than transferred to the soil and roots below'. However, based on the evidence before me, given the proximity of the hard surfacing to the trunks of T1 and T3, as well as the extent of the hard surfaces, I am unable to conclude with any certainty that this would be sufficient to allow the health, and the associated amenity value, of the protected trees to be unharmed by the proposal.
14. Soft landscaping is proposed in the form of a new hedge. However, this would not be sufficient to outweigh the potential harm to the existing protected trees on site. Consequently, I cannot be satisfied that the proposal would not have an adverse effect on any trees, most notably T1 and T3, harming the amenity value of the protected trees and the positive contribution they make to the character and appearance of the area.
15. Therefore, for the reasons set out above, the proposal would harm the character and appearance of the area, notably harming the visual amenity value afforded by the area of open space and the protected trees, notably T1 and T3. The proposal would be contrary to Saved Policies 4.25 and 6.12 of the Bournemouth District Wide Local Plan (2002), and Policies CS6, CS30, CS31 and CS41 of the Core Strategy. These policies, in combination, seek to retain and enhance the features that contribute to each places character and local distinctiveness, promoting a range of interconnected green infrastructure and increasing access to open space, formal and informal recreation and sport opportunities. Proposals should protect public and private open spaces where it has not been demonstrated to be underused and surplus to requirements.
16. These policies also state that development should, amongst others, through its siting be designed to respect the site and its surroundings and contribute positively to the appearance and safety of the public realm. New developments should also aim to conserve and improve landscape and townscape, biodiversity and habitats.

⁴ Prepared by KJF Consultancy Ltd

Development of sites for Use Class C2 will be permitted where, amongst others, the development is not harmful to the appearance or character of the area.

SSSI, SPA, SAC and Ramsar Site

17. The appeal site is situated within 400m of Canford Heath Site of Special Scientific Interest (SSSI), designated for its special interest of its heathland habitats and associated plant and animal species. Canford Heath SSSI is also part of the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and a Ramsar Site. I note that appendix B of the Dorset Heathlands SPD allows a C2 use in Dorset Heathlands where the use has a high dependency of care such as a dementia care nursing home or a residential institution, where occupants do not have any significant degree of independence.
18. The appellant has shown a willingness to prepare a legal agreement to avoid any significant effect on these European Sites. The legal agreement would include restrictions on no predatory pets are to be allowed in the facility, the site being secured in perpetuity for C2 use, as well as the payment of a mitigation contribution for the development as set out in the Dorset heathlands SPD, if required. However, no legal agreement has been submitted with the appeal.
19. Had I been minded to allow the appeal, I would have sought more information on this matter. However, given my conclusion on the main issues, it is not necessary or appropriate for me to do so as I do not need to carry out an 'Appropriate Assessment' as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I do not need to consider the matter any further.

Other Matters

20. The appellant raises concerns that under an appeal against non-determination 'they are always 'on the back foot' as the reasons for refusal are not known until the LPA Statement is issued and then there is a limited time to provide final comments'. However, whilst this might have been frustrating for the appellant, it does not materially affect my consideration of the planning merits of the appeal proposal.
21. I acknowledge the benefits that the proposal would provide including the provision of two new full time employment positions. The proposal would also meet the demand for the particular type of dwelling proposed, which would be supported by the Dorset and BCP Local Housing Needs Assessment (November 2021). However, any benefits would not be sufficient to outweigh the harm identified above.
22. The provision of electric charge points, bicycle storage, suitable building materials, the provision of the minimum 10% energy efficiency threshold, the use of a soakaway for rainfall run-off, and the fact that the site is well served by public transport would be a lack of harm rather than benefits.
23. Finally, the proposal has been reduced since the earlier refused scheme for serviced offices, and no longer involves the other parcel of land at the junction of Francis Avenue. I also note that the footprint has been reduced and 'the elevations now will have the appearance of a semi-detached pair of chalet bungalows'. Nevertheless, I have still found harm for the reasons set out above.

Conclusion

24. The development conflicts with the development plan as a whole. There are no material considerations, worthy of sufficient weight, that would indicate a decision otherwise than in accordance therewith. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR