



Appeal Decision

Site visit made on 11 March 2025

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2025

Appeal Ref: APP/V1260/W/24/3349670

Land adjacent 431 Charminster Road, Bournemouth BH8 9QY

- 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 B2B Property & Development against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2024-20483-D.
 - The development proposed is construct 2.no two bedroom semi detached houses.
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Decision

1. The appeal is allowed and planning permission is granted to construct 2.no two bedroom semi detached houses at Land adjacent 431 Charminster Road, Bournemouth BH8 9QY in accordance with the terms of the application, Ref 7-2024-20483-D, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
3. During the course of the appeal an updated version of The National Planning Policy Framework (the Framework) was published on the 12 December 2024. In light of this, the main parties were given the opportunity to comment on any implications for the appeal. I have taken the responses into account.
4. The appeal is accompanied by a Unilateral Undertaking (UU) under S.106 of the Town and Country Planning Act 1990 to mitigate likely significant effects on the Dorset Heathlands Special Protection Area and Ramsar Site and Dorset Heaths Special Area of Conservation. The UU has been agreed by the Council and addresses the third reason for refusal. However, as the competent authority in relation to this appeal, this will form a main issue in my decision.
5. The appeal is also accompanied by revised plans (Drawing No. 1600R1/103c Proposed Elevations and Drawing No. 1600R1/104a Proposed Street Scene) and an updated Foul and Surface Water Drainage Report (23 May 2024). The revised plans and updated report detail a Water Exclusion Strategy including an associated minor increase in finished floor levels and corresponding ridge height. The changes relate to the second reason for refusal to which interested parties raise concerns. The plans and report have not been subject to formal public consultation but the Council and interested parties did have an opportunity to comment on them as part of the appeal process. Given this and given the very small changes to floor levels and height of the building, accepting this evidence at this stage would not be unfair or deprive those who should have been consulted the opportunity of such consultation. Therefore, having regard to the principles of Holborn¹, acceptance of the

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

plans and report would not be procedurally unfair and as a result I have therefore taken them into account in determining this appeal.

Main Issues

6. The main issues for the appeal are the effect of the proposal on:

- the character and appearance of the area;
- flood risk and drainage; and,
- the integrity of European, nationally and internationally protected sites.

Reasons

Character and appearance

7. The appeal site comprises an irregular-shaped corner plot located close to the junctions of Charminster Road with Charminster Avenue, and Charminster Road with Rutland Road. The immediate vicinity comprises a mix of commercial and residential uses.
8. 431 Charminster Road (No.431), adjacent to the southern site boundary, is a 2-storey flat-roofed detached property which is in retail use at ground floor level with residential use above. No.431 is also located adjacent to The Fiveways public house. The Fiveways is an attractive building with considerable architectural interest under a pitched roof. Nearby residential properties along Charminster Road are typically arranged fronting the road in detached or semi-detached form with pitched roofs. There is however a good degree of architectural variation to the design of buildings within the immediate vicinity.
9. The appeal site occupies a prominent corner location but by reason of its pitched roof, materials and ridge height, the Council conclude that the proposal would not appear to dwarf No.431 and in this regard would not be jarring with the street scene. I have no reason to disagree.
10. Nonetheless, the Council state that by reason of the size of the plot, detailing, footprint of built form, staggered building line close to the pavement partly comprising 1.8m high fencing, proposed parapet and close position in relation to No.431 the proposal results in a cramped and congested form of development. As a result, the Council finds that the proposal does not mirror the more spacious plots on the opposite side of Charminster Road detrimental to the streetscene.
11. In relation to this, I have had regard to the previous appeal decision for the site² for 3 dwellings. Notwithstanding, the proposal has been amended such that it now comprises 2 dwellings with a pitched roof, set back slightly further from the front boundary in a staggered formation with a smaller building footprint and relocated cycle store.
12. As a result, the current appeal proposal respects the building line created by No.431, creates more space to the frontage, and has a less bulky appearance. Furthermore, the gap to No.431 is not too dissimilar to the gaps between pairs of semi-detached properties on the opposite side of Charminster Road. The distance from the front of the building to the pavement is not dissimilar to that to No.431 and properties on Rutland Road.
13. The building is suitably detailed using brick and render materials to break up the mass of the building with suitable window and door detailing respecting the variation of design of buildings locally. The parapet adjacent to No.431, whilst unusual for a dwelling of this design, reflects the design of No.431 providing a suitable transition between the two sites.

² APP/V1260/W/22/3299555

14. Although the appeal site is smaller than other plots in the area, plots vary in size and shape. Moreover, the appeal site is on a corner and viewed in relation with No.431 and the adjacent buildings on Rutland Road that are commercial in nature and depart from the more regular plot sizes to the residential properties on the opposite side of Charminster Road. As a result, the differing plot size and coverage would not be harmful to the immediate streetscene.
15. I acknowledge that the provision of 1.8m high close boarded fencing facing the junction of Charminster Road with Rutland Lane could appear oppressive. However, should I allow the appeal, and as suggested by the Council, an alternative form of boundary treatment (for example hedging) could be secured by condition to soften this boundary edge.
16. It follows from the above that I conclude, subject to conditions, that the proposed development would not harm the character and appearance of the area. As such, it would comply with Policies CS21 and CS41 of the Bournemouth Local Plan: Core Strategy October 2012 (CS) and the Residential Development A Design Guide September 2008. Amongst other things, these state that proposals for residential development will be expected to contribute positively to the character of the neighbourhood and that development should, through its character and appearance be designed to contribute positively to the appearance of the public realm. The proposal would also comply with saved Policy 6.8 of the Bournemouth District Wide Local Plan (adopted 2002), which states that, amongst other things, development will be expected to complement and respect the character of neighbouring development.
17. The proposal would also comply with the provisions of Chapter 12 of the Framework that seeks to achieve well-designed places.

Flood risk and drainage

18. There is no dispute between the main parties that the site is located within Flood Zone 1, but that there is a low-risk pathway of surface water flood risk passing through the site. There is also a pathway of high risk of surface water flooding mapped to the south of the site boundary. These pathways could potentially be influenced by run-off from the proposed development, and it is understood that there have been recent incidents of flooding of the adjacent highway.
19. In this regard, the application is accompanied by a Foul and Surface Water Drainage Report³ and related correspondence. The Lead Local Flood Authority has assessed the submitted information and has identified matters that need addressing. These include the need to update the plans accompanying the report to show two dwellings, updating calculation inputs and to indicate that finished floor levels have a freeboard of 300mm from surrounding ground levels, updating the maintenance plan, Water Quality Assessment and rainwater harvesting details.
20. These changes have been adequately indicated on the revised plans and included within the updated report submitted with the appeal. The revised plans indicate the Water Exclusion Zone with the updated report detailing associated recommendations placing emphasis on minimising water entry whilst maintaining structural integrity and using materials and techniques to facilitate drying and cleaning. These recommendations and detail can be secured by condition should I allow the appeal.
21. Therefore, it has been demonstrated that the design, layout and drainage details would be capable of ensuring that the level of surface water leaving the site is no greater than that prior to the development as required by CS Policy CS4.
22. In conclusion, it has been demonstrated that the proposal would have an acceptable effect with regard to flood risk and drainage. As such, the proposal complies with CS Policy CS4,

³ Dated 23 January 2024 by CGS Civils.

the aims of which I have outlined above. The proposal would also comply with paragraph 181 of the Framework which provides that, amongst other things, when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Integrity of protected sites

23. The site falls within the 5km zone of influence around the Dorset Heathlands which comprises the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes (SAC), which overlap with various other environmental designations. The Dorset Heathlands are extensive areas of land including lowland heathland, wetlands, and dunes.
24. The Dorset Heathlands are protected via the Habitats Directive, which is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I am statutorily required to take appropriate steps to conserve biodiversity.
25. The Dorset Heathlands are designated in order to safeguard ecology and the habitat upon which various species are reliant, notably in this instance Dartford warblers, nightjars, woodlark, hen harriers, merlin, sand lizards and smooth snakes. Ecology can be disturbed by recreational activities, predation from domestic pets, and from habitats being unavailable from time to time by consequence.
26. Whilst not a precise correlation, the potential for adverse effects increases with the number of dwellings nearby, including within a wide zone of influence (and therefore the aggregate, or in-combination, implications of a number of smaller developments may be significant). Habitats Regulation 63(1) states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. I have sought to apply that requirement reasonably and proportionately relative to the nature and context of the development proposed.
27. The avoidance or mitigation of effects resulting from increased residential development would be achieved by the provision of alternative greenspace, to redirect those who would have made use of the Dorset Heathlands recreationally, and via associated monitoring and management arrangements. The contributions that individual schemes are expected to make in that context are established at a strategic level, such that a proportionate contribution is made in each instance. A signed Unilateral Undertaking has been submitted by the appellant and accepted by the Council. This would provide a financial contribution of £1,020, plus a £75 administration fee towards ecological monitoring and management arrangements in that context, consistent with the Council's approach. I have consulted with Natural England which has confirmed that the payment is sufficient to avoid adverse impacts on the integrity of the European Sites and their features.
28. Chapter 4 of the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (SPD) indicates the approach that it establishes towards ecological mitigation has been arrived at in conjunction between Dorset Council, Bournemouth, Christchurch and Poole Council with Natural England, the appropriate nature conservation body under Regulation 63(3). Consequently, subject to appropriate financial contributions being made via CIL, I am satisfied that likely significant effects to the ecological integrity of the SPA and SACs would be avoided.
29. In conclusion, I am satisfied that with the proposed avoidance and mitigation measures in place, the development would not have an adverse effect on the integrity of the nationally and internationally protected sites. The development would therefore comply with the Conservation of Habitats and Species Regulations 2017. It would also accord with CS Policy CS33 and the SPD which, amongst other things, seek to ensure that development

will not lead to an adverse effect on the integrity, directly or individually, of the Dorset Heathlands international designations.

Other Considerations

30. I have had regard to the comments from interested parties in relation to highway safety, car parking, provision of outdoor space, waste and sustainability. However, I have been advised that there is on-street car parking available nearby on Charminster Road and Charminster Avenue as determined as part of the previous appeal. Moreover, the site is in a sustainable location close to services and facilities such that occupiers would not need to own a car and an exception to the requirement for two spaces in the Parking Standards Supplementary Planning Document (2021) is appropriate. The plans detail adequate outdoor space and bin storage. Furthermore, it is noteworthy that the Council came to similar conclusions in relation to these matters.
31. I have also had regard to concerns raised in relation to harm to the living conditions of neighbouring occupiers at No.431 Charminster Road and to potential impacts on the future of the site at 2 Rutland Road. Given the detached nature of the building, there would be no detrimental impact on neighbouring occupiers from noise and disturbance. In relation to the access to the first floor flat at 431 Charminster Road, this is a civil issue rather than a planning matter. With regard to 2 Rutland Road, the development is set away from the site boundary and I see no reason why the appeal proposal would harmfully impact on any future development. Again, it is noteworthy that the Council came to similar conclusions in relation to these matters.

Conditions

32. I have had regard to the tests in the Framework in relation to conditions, and the planning conditions suggested by the Council. In addition to the standard reserve matters details and time conditions, it is necessary for a condition to confirm the approved plans in the interests of certainty.
33. Conditions are necessary to ensure the submission and approval of materials, landscaping and boundary treatment in the interests of protecting the character and appearance of the area.
34. A condition is required to ensure that the drainage details in the updated drainage report are provided in the interests of preventing the risk of flooding.
35. A condition is necessary to ensure that the cycle store is provided prior to first occupation of the building in the interests of promoting sustainable means of travel. Given that cycle store details are shown on the Proposed Site Plan, there is no need for the condition to require the submission of further details prior to first occupation as suggested by the Council.
36. Finally, a condition is necessary to remove permitted development rights for enlargements to the dwellings in the interests of protecting the living conditions of neighbouring occupiers and to protect the character and appearance of the area.

Conclusion

37. For the reasons given I conclude that the appeal should succeed.

C Rose

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: 1600R1/101 Block and Location Plan, 1600R1/100 Proposed Site Plan, 1600R1/102a Proposed Floor Plans, 1600R1/103c Proposed Elevations, and 1600R1/104a Proposed Street Scene.
- 3) Details/samples of the bricks, render, tiles and any other materials to be used on the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any superstructure works on site. Development shall be carried out in accordance with the approved details.
- 4) Within three months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, full details of landscaping proposals shall be submitted to and approved in writing by the Local Planning Authority. The details should include where appropriate:
Planting plans; Schedule of plants; surfacing materials; boundary treatments; Implementation timetable. The approved landscaping scheme shall be implemented in full prior to occupation or use of the development commencing and permanently retained unless otherwise agreed in writing by the Local Planning Authority.
- 5) The development hereby permitted shall be carried out and maintained in accordance with the details set out in the Foul and Surface Water Drainage Report by CGS Civils Consulting Civil Engineers dated 23rd May 2024.
- 6) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 1600R1/100 Proposed Site Plan for bicycles to be stored and that space shall thereafter be kept available for the storage of bicycles.
- 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 dwelling(s) shall be constructed without the grant of further specific planning permission from the Local Planning Authority.

END OF SCHEDULE