
Appeal Decision

Site visit made on 15 July 2025

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/D1265/W/25/3363158

Land adj. 11 Brook Lane, Corfe Mullen, BH21 3RD

- 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 Mr Robin and Barry Wilcox against the decision of Dorset Council.
 - The application Ref is P/FUL/2024/05126.
 - The development proposed is erect a detached dwelling with associated parking and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024 the Government published its revised National Planning Policy Framework (the Framework). Although this was after the date that the Council made its decision, the appeal timetable allowed for the main parties to provide any relevant comments.
3. The Daylight and Sunlight Survey by GTree Ltd Ref SH2534 (D&S Survey) was submitted by the appellant with the appeal. I need to consider whether to accept this document as part of the appeal. Caselaw establishes substantive procedural tests. Regarding the substantive test, the document provides additional detail and evidence and does not seek to amend the scheme. Regarding the procedural test, the details provided would not ordinarily require further consultation. Therefore, both tests are satisfied. I shall take this document into account in my determination of the appeal and am satisfied that no party would be prejudiced by my doing so.
4. The emerging Dorset Council Local Plan and Corfe Mullen Neighbourhood Plan are both at an early stage. Their Policies were not referred to by the Council when it made its decision, and I am satisfied that they should attract little weight in my determination of the appeal.

Main Issues

5. The main issues are:
 - a) The effect of the proposal on the character and appearance of the area with particular regard to protected trees, and
 - b) Whether the proposal would harm the living conditions of the occupiers of the neighbouring dwelling, No. 11 Brook Lane.

Reasons

Character and appearance

6. The appeal site is close to the developed edge of Corfe Mullen, with the row of dwellings on the opposite side of Brook Lane dividing it from the undeveloped open countryside to the west. The site and surrounding land rises steeply from Brook Lane to the higher land to the east. The site has the appearance of a small woodland, made up of a mix of broadleaf and coniferous trees, and is contiguous with trees on the adjacent sites and other areas of mature trees to the east. The existing trees at the site are protected by an area Tree Preservation Order¹ (TPO). Because of the significant change in levels, which is 15 metres across the site, the trees are highly prominent to view. From Brook Lane the wooded character of the site is a dominant feature with the tree canopies extending over the road for the majority of the site's width.
7. From Broadmoor Road further to the west the site can be glimpsed from numerous locations, where the dense canopies of its trees, along with those adjacent, serve to break up the impact of development along Brook Lane and give the settlement a distinctive wooded character at this edge. From this perspective the mix of broadleaf and coniferous species can be appreciated, and this is reinforced by large scots pines that grow in the field alongside Broadmoor Road. For these reasons the trees at the site have considerable value in terms of the contribution they make to the wider landscape and the more immediate streetscene. The loss of trees that has already occurred in the area as a result of the development of the road does not justify further loss, but rather heightens the value of what remains.
8. Although the calculated extent of canopy loss proposed would be limited, the proposal would have the effect of extending built form into the site from the north and significantly diminishing the visual quality of the woodland. In distant views there would be an increase in built form and a reduction to the wooded character of the settlement edge. From Brook Lane the site's natural appearance would be compromised by the presence of a dwelling, which would change the character of the site from a small woodland to a domestic plot with retained trees. The impact would be felt most keenly when looking across the site from the north towards the area of the removed trees. From here the appearance of the site would change from that of a small woodland with a natural appearance, to a developed site with retained trees that are mainly around the site edges.
9. T19 is the most significant of the trees to be removed. This tree is substantial in height and prominent from the north as it is the most northerly of the trees at this end of the plot. It is given a category B1 rating in the submitted tree report. Its loss would cause visual harm, and the only justification put forward is that it would reduce impacts on other retained trees within the site in the situation where a dwelling is to be erected. In addition to this, the loss of the small oak (T5), the douglas firs and the other scots pine would significantly lessen the depth of tree cover across the site when viewed from the north. Although these are trees with a lower category, their loss would still add to the overall extent of visual harm.
10. The proposal would not incur the loss of all the douglas fir trees, and the refusal reason is incorrect in this respect. However, some of these trees would be removed and the justification given is that they have a habit of dropping large limbs

¹ The Dorset Council (Land adjacent to 11 Brook Lane, Corfe Mullen, Dorset, BH21 3RD) Tree Preservation Order 2021

and are not suited to urban areas. This conflict is however created by the proposed dwelling, and if undeveloped there would be limited justification for their removal. The same can be said for the loss of the other trees.

11. The proposal includes some additional tree planting. It would however take many years for the new trees to grow to a size where they would meaningfully contribute to the character and appearance of the wider area. Furthermore, new planting would be around the edge of the site, and would not address the loss of the trees that are proposed for removal that grow more centrally.
12. Details demonstrate the effort that has gone into developing a design that would have minimum impact on the retained trees in terms of the position of the building and the approach to foundations. However, the dwelling would appear entirely compromised by the presence of the retained trees. Whereas most nearby dwellings sit centrally within their plots, the proposed dwelling would appear pushed into the northwest corner of the site in an awkward manner and would thus be out of character.
13. In developing sites where trees are retained it is important to consider longevity, and the future pressures that may be placed on retained trees if buildings are erected close by. Future applications to fell or carry out extensive surgery works to retained trees has the potential to further harm the character and appearance of the wooded site.
14. It is correct that the Council would have control over the trees in the future owing to the TPO. However, with any application to carry out work to protected trees a balancing exercise would need to be undertaken. The reasons given for the works applied for would be weighed against the resultant loss to the amenity of the area.
15. In this case the retained trees would be large and would be to the south, east and west of the dwelling. British Standard 5837² states that open spaces such as gardens and sitting areas should be designed to meet the normal requirement for direct sunlight for at least a part of the day. Useful areas of garden would be limited to those directly around the house and two small raised decks. This would no doubt be of considerable frustration to future occupiers, especially as the dwelling would sit within a large plot. Whilst there would be some attractive views to the west from the raised deck areas and the terrace, the D&S Survey shows that they would be shaded by the trees at different times, and only two would be provided with adequate sunlight. Evidence shows that although other nearby plots are also steep, most can be used more effectively as they are not also constrained by the significant presence of retained trees.
16. Evidence submitted shows that some sunlight would reach areas of the plot at different times of day and different times of the year, but it also shows that significant shading would occur across the plot in general terms and the ability of the site to provide useful space for play or to grow plants would be significantly compromised by the presence of the trees. Whilst shaded areas may be desirable at very hot times of the year where dappled sunlight could be welcome, such days are usually limited and for much of the year the level of shade would not provide a pleasant environment for future occupiers. The difficulties of living in such an environment is reinforced by the comments of the occupiers of the neighbouring dwelling to the south who are of the view that living under trees is hard work.

² Trees in relation to design, demolition and construction. Recommendations 2012

Future occupiers are also likely to have concerns about retained trees coming down during high winds, given their scale and proximity to the proposed dwelling.

17. Therefore, although the amenity value of the trees is high, the reasons that could be given for future tree work could be strong and compelling and it may well be difficult for the Council to resist further loss. As a result, I am unable to be confident that the level of tree retention provided for in the scheme is realistic or sustainable and further loss would cause further harm to the character and appearance of the area.
18. The appellant has referred to other developments that have been approved or allowed at appeal for the erection of dwellings in close proximity to trees. I have reviewed these. There are many cases where development will be compatible with retained trees, and where these provide an attractive living environment. Common issues that could be expected to arise might be no more than the day to day nuisance of clearing debris, and in such cases it would be reasonable for a decision maker to rely on the fact that most future occupiers would consider the situation prior to moving in.
19. However, such issues need to be carefully considered on a case by case basis. No. 25 Brook Lane is nearby to the south and referenced in support of the proposal. Whilst this looks to be an attractive dwelling, it is surrounded by dense tree canopies, and the shade that these cast is likely to create a compromised living environment for much of the year.
20. In summary, the proposal would harm the character and appearance of the area. Furthermore, it would create an arrangement that could not be easily sustained in the future, resulting in a significant likelihood that further harm would occur through the loss of protected trees once the proposed dwelling is occupied. It would be contrary to Policies HE2 and HE3 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014 (LP), Saved Policies DES7 and DES11 of the East Dorset Local Plan 2002 and Paragraphs 135, 136 and 139 of the Framework. Together these seek to secure high quality design that is compatible with its surroundings, including its landscape setting and mature trees.

Living conditions

21. The entrance to the proposed dwelling would take the form of an external staircase that would be erected alongside the boundary with the existing neighbour to the north. The neighbouring dwelling is close to this boundary, but faces it only with two small high level windows. Therefore, opportunity to look into the neighbouring dwelling from the proposed access or cause any disturbance to the occupiers of the existing dwelling would be limited.
22. The front terrace for the proposed dwelling and the balcony of the neighbouring dwelling would be close to each other, but both relate to the front elevation, with no privacy and an open outlook onto the road. Therefore, overlooking from the proposed front terrace would not make the existing balcony any less private.
23. In summary, whilst the overall approach of pushing the proposed dwelling up against the side of the plot so that it would be close to the existing dwelling would appear unneighbourly, there are no characteristics of the proposal that would cause actual harm to the living conditions of the occupants of this dwelling. It would accord with Policy HE2 of the LP and Paragraph 135 of the Framework

insofar as they seek to ensure that development is compatible with or improves its surroundings in relation to nearby properties including minimising general disturbance to amenity, and creates places with a high standard of amenity for existing users.

Planning Balance and Other Matters

24. I note that the principle of developing the site for a dwelling was accepted by the Council and by the Inspector who decided the previous appeal³. Whilst I can agree that the site is suitably located for a dwelling as it is surrounded by similar residential development and in an area with good access to services and facilities, for the reasons given I find that it is not suited to the development proposed.
25. The Council is able to demonstrate a 5 year supply of housing and this position can be relied upon until 31 October 2025. Therefore Paragraph 11 d) of the Framework is not engaged. I note the appellant's submissions about the position, and the findings of the appeal at Marnhill⁴ where the Inspector referred to Dorset's serious level of housing need. The appeal proposal would secure the provision of a dwelling in a location that is well related to an existing large settlement and where there is no in principle objection to growth. This weighs in favour of the proposal, but the weight I give to these matters is no more than moderate, given that the proposal would only deliver a single dwelling. It would secure biodiversity net gain of 13.95%, which exceeds the statutory requirement. It would also secure the removal of invasive species. Taken together these matters are not sufficient to outweigh my findings on the first main issue of the appeal.
26. There are references before me to suggest that the site is within the zone of influence for recreational pressure impacts to one or more European Sites. Natural England advises that within this area additional dwellings will have a likely significant effect on the qualifying features of the European Sites through increased recreational pressure. However, as I am dismissing the appeal for other reasons, this impact would not occur and does not need to be considered further.

Conclusion

27. The proposal would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, that outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

A Tucker

INSPECTOR

³ Planning Inspectorate Reference: APP/D1265/W/20/3253888

⁴ Planning Inspectorate Reference: APP/D1265/W/24/3353912