



Appeal Decision

Site visit made on 2 December 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2025

Appeal Ref: APP/D1265/W/25/3372266

54 Pinehurst Road, West Moors, Dorset BH22 0AP

- 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 Jonathan Taylor on behalf of Taylen Developments Ltd against the decision of Dorset Council.
 - The application Ref is P/FUL/2024/05127.
 - The development proposed is sever plot, demolish garage and erect bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is accompanied by a Unilateral Undertaking (UU) securing the payment of a £400 contribution to the New Forest District Council towards strategic access, management and monitoring to avoid or mitigate against any adverse effect of the development on the New Forest Special Area of Conservation prior to commencement of development. I will return to this below.

Main Issues

3. The main issues are the effect of the:
 - relationship of the proposed development to trees, with particular regard to the living conditions of future occupiers; and
 - proposal on the integrity of the New Forest Special Area of Conservation, Special Protection Area and Ramsar (the New Forest Heaths).

Reasons

Trees

4. There are two oak trees (T1 and T2) overhanging the rear of the appeal site that make a significantly positive contribution to the character, appearance and amenity of the area. The trees are subject to a Tree Preservation Order, categorised A and B for quality and are proposed to be retained with good life expectancies. The planning application is accompanied by Arboricultural Impact Assessments (AIAs) dated November 2024 and June 2025. The AIAs state that the proposed dwelling would be partly within the Root Protection Area (RPA) of the oak T1 with a proposed patio partly under the RPA of oak T2. I have no reason to disagree.

5. The AIAs go on to state that the dwelling would only occupy a small part of the RPAs, but that special design and construction of foundations would be used. These would comprise small-bore piles or screw piles with the dwelling sat on bearers installed on the pile caps to limit harm to the retained trees and prevent the use of strip foundation excavations. Furthermore, the patio would be constructed using a no-dig specification and materials with a permeable finish with services entering from the front of the site. In light of this the AIAs state that this will limit the risk of harm to the retained trees to a very small and acceptable level.
6. While I acknowledge that the Council remains concerned that the pressure placed on the trees has not been correctly assessed with the RPA still adversely affected, this is not supported by any detailed substantive evidence. In light of this, given the minor encroachment into the RPA's that are significantly less than the 20% guidance tolerated in principle in British Standard (BS5387 (2012)), and subject to conditions to secure the construction methods detailed in the AIAs, I do not find that the encroachment into the RPA's would harm the trees.
7. Nonetheless, the Council raise concerns regarding the canopy spread of the trees resulting in heavy shading and detritus in the proposed rear garden leading to a poor living environment for occupiers of the proposed dwelling with resultant pressure to fell or prune the trees. The trees being positioned to the south/south-west of the appeal site.
8. In this regard, the AIAs state that the proposal has been designed considering the site factors with the main aspect to the rear served by large openings in addition to the provision of roof lights. Furthermore, the AIAs state that the crown of the trees would provide good levels of attenuation from direct midday summer sun, provide a filtered and dappled shade, and act as a screen to the properties to the south.
9. While this may be the case, and as viewed at my site visit, the canopies would overhang virtually all of the rear garden allowing little direct sunlight into it in months when the trees are in leaf with some shading for the remainder of the year. While some light may filter through to the garden early in the morning and late at night, this would be limited in extent given adjacent tree coverage. This would undermine the usability and enjoyment of the area despite the canopy level being approximately 5m above ground level and the light levels being suitable for photovoltaics on the roof.
10. Moreover, the extent of tree canopy cover would result in the shedding of leaves, twig ends and acorns across the whole of the rear outdoor space with the space feeling quite constrained and shaded with limited outlook. This would result in the provision of outdoor space with restricted usability harmful to the living conditions of future occupiers. These matters could be prejudicial to the future health and contribution that the trees make to the character, appearance and amenity of the area. These matters are particularly harmful in this instance given that little other green usable outdoor space is proposed within the site to help compensate for the canopy coverage.
11. While it may be possible to find occupiers who do not mind their rear amenity space being under the canopies of the trees, others may not. Furthermore, even if people accept the canopy spread to begin with, it is not certain occupiers would not subsequently change their mind at a later date and in any case, this does not overcome the poor quality of the outdoor space. Moreover, it is the role of the

planning system to ensure that suitable living conditions are provided at the outset with proposals designed to protect or improve relationships with valuable trees.

12. With regard to the risk of pressure for tree works, this is further complicated by the trees standing in land outside the direct management control and ownership of the new occupants. Although I acknowledge that the Council could resist any applications for harmful pruning and felling of the trees, and I have been informed that the Council has a good track record of not granting consent for unreasonable works with examples given, the granting of planning permission incorporating a rear garden area almost completely under the canopy of trees with detritus and heavy shading would inevitably put pressure on the Council to accept works it may otherwise have resisted. Due to the requirement to balance the effects of tree works with the justification for them in assessing any application, the fact that a tree is protected, does not give full certainty there would be no harmful works permitted to it, either in an application for consent, or any appeal.
13. I have had regard to the extent of the tree canopies covering the rear garden to No.22 Teasel Way, with no concerns raised following a proposed extension in 2022. Though I note the representation from the occupier of this property advising that they were unable to build out from the rear. However, at the time of my site visit the trees did not appear to cover all of the rear garden and even if they do, this does not overcome the harm to future occupiers of the proposal. Moreover, I am required to consider the proposal on its merits.
14. It follows that the relationship of the proposed development to trees would be harmful with particular regard to the living conditions of future occupiers. As such, it conflicts with Policy HE2 of the Christchurch and East Dorset Local Plan – Core Strategy April 2014 (LP). This states, among other things, that the design of development must be of a high quality, reflecting and enhancing areas of recognised local distinctiveness and that to achieve this, development will be permitted if it is compatible with or improves its surroundings in relation to mature trees.
15. The Council's first reason for refusal also references Saved Policy DES7 of the East Dorset Local Plan January 2002 (EDLP). However, as this relates to proposals for express consent to fell trees, it is not determinative in relation to this appeal that does not seek to apply to fell the trees.

Integrity of the New Forest Heaths

16. The appeal site lies within 13.8km of the New Forest Heaths. Within this area Natural England has identified that new additional residential development would result in likely significant effects from additional recreational impacts. While the appeal site also lies within 5km of the Dorset Heathlands, I note that appropriate mitigation would be funded through the Community Infrastructure Levy (CIL) such that there would not be likely significant adverse effects on the Dorset Heathlands.
17. Returning to the effect on the New Forest Heaths, and while new green infrastructure needs overlap with the above CIL contribution, there is no dispute between the main parties that further mitigation related to Strategic Access Management and Monitoring is required. I have no reason to disagree.
18. In this regard, during the course of the appeal the Council confirmed that Dorset Council's Cabinet resolved to approve the New Forest Strategic Access

Management and Monitoring Strategy November 2025 (SAMMS) in principle. This would secure contributions from developments to mitigate remaining likely significant adverse effects on the New Forest Heaths.

19. However, a legal agreement between Dorset Council and the New Forest National Park Authority needs to be signed before the SAMMS can be fully implemented to ensure that any monies collected are allocated appropriately by the relevant parties to the agreed mitigation measures. The Council state that at the point that this legal agreement is finalised, Dorset Council will be in a position to accept UU's for the £400 identified contribution to secure the necessary mitigation to avoid harm to the integrity of the New Forest Heaths. Currently the Council expect this agreement to be finalised by the end of January 2026.
20. As stated above, the appeal is accompanied by a UU securing the payment of the £400 contribution. However, in the absence of confirmation that the agreement between Dorset Council and the New Forest National Park Authority has been completed, and given that the UU references payment towards the New Forest District Council, the effect of the UU is uncertain and I cannot be sure at this time that the contribution would be put towards the necessary mitigation to avoid harm to the integrity of the New Forest Heaths. This is notwithstanding the expectation and likelihood that the local authorities in the area would work together in relation to this matter. As such, and given that the precautionary principle/approach applies, I cannot conclude with certainty from the evidence before me there would be no harm to the New Forest Heaths as an asset of particular importance.
21. Furthermore, given that the Planning Practice Guidance¹ (PPG) advises that no payment of money can be positively required by a condition, and states² that negatively worded conditions should only be used in exceptional circumstances where there is clear evidence that the delivery of the development would otherwise be at serious risk, which is not the case here, securing the contribution via a condition would not be appropriate or meet the tests of necessity and enforceability.
22. I have had regard to the comments and lack of objection to the Council's Appropriate Assessment from Natural England but note that the comments dated 18 June 2025 state that suitable legally binding agreements may be required. I have also had regard to the appeal decision referenced by the appellant³ but note that this appeal is within a different planning authority and in the absence of the full details of the appeal and wording within the referenced s.106 agreement, I cannot be sure that the situation is directly comparable with the current appeal proposal.
23. It follows from the above that I cannot be certain that the proposal would not have a harmful effect on the integrity of the New Forest Special Area of Conservation, Special Protection Area and Ramsar (the New Forest Heaths). As such, the proposal is contrary to LP Policy ME1 which, amongst other things, aims to protect, maintain and enhance the condition of all types of sites, habitats and species and their ecological networks including internationally designated sites.

Other Considerations

24. The appellant raises various concerns regarding the conduct of the Council's officers, but this is not a matter before me for consideration.

¹ Paragraph:005 Reference ID:21a-005-20190723

² Paragraph: 010 Reference ID:21a-010-20190723

³ APP/V1260/W/24/3351431

25. I have been advised that there are a number of similar developments in the area, but no specific examples have been drawn to my attention and in any case, I am required to consider the appeal on its merits.
26. I have had regard to the addition of a dwelling which would contribute towards the supply of homes in the area, is well located close to services and facilities, could be built out quickly and would provide benefits from spend and jobs associated with construction that weigh in favour of the proposal. However, these benefits are limited by the small scale of the proposal and must be considered in that context.
27. I note that the site can be safely accessed with no concerns raised regarding the design of the dwelling, impact upon the living conditions of neighbouring occupiers, size of outdoor space/the site, on site biodiversity, location of the site or flood risk. However, as these are requirements of local and national planning policy and guidance, I give them limited weight.
28. Conversely, I have found that the relationship of the proposed development to trees would be harmful and that it fails to adequately mitigate harm to designated habitat sites. The relevant policies are largely consistent with the National Planning Policy Framework (the Framework) where it states that planning proposals should have a high standard of amenity for future users and safeguard the natural environment. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with these policies.
29. There is no dispute between the main parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. However, I have found above that the proposal would cause harm to habitat sites, and this is contrary to the provisions of Chapter 15 of the Framework that protects such assets. Given footnote 7 to Paragraph 11 d) i. of the Framework, and the harm I have identified to an asset of particular importance in the form of a habitat site, this provides a strong reason for refusing the development and there is no need for me to carry out the assessment in Paragraph 11. d) ii. of the Framework.
30. In any case, and even if there were no harm to the protected asset, the benefits from a single dwelling are limited by its scale. Conversely, there would be harm from the relationship of the proposed development to trees, and I give this harm greater weight. Therefore, even if the balance outlined at Framework paragraph 11(d) ii were considered, the adverse impacts would significantly and demonstrably outweigh the benefits of the scheme.

Conclusion

31. Overall, for the reasons given above, the proposal conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR