
Appeal Decision

Hearing held on 3 June 2014

Site visit made on 3 June 2014

by Gyllian D Grindey MSc MRTPI Tech. Cert. Arb.

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 June 2014

Appeal Ref: APP/B1225/A/13/2209425

Former Swanage Grammar School, Northbrook Road, Swanage, Dorset, BH19 1QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Welfare Dwellings Residential Care Ltd against the decision of Purbeck District Council.
 - The application Ref 6/2013/0150, dated 12 March 2013, was refused by notice dated 29 May 2013.
 - The development proposed is the demolition of the existing house, and outline application for a residential development of 52 units (50/50 mix market and affordable housing) with access via Northbrook Road.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of the existing house and for residential development of 52 units (50/50 mix market and affordable housing) with access via Northbrook Road at the former Swanage Grammar School, Northbrook Road, Swanage, Dorset, BH19 1QE in accordance with the terms of the application, Ref 6/2013/0150, dated 12 March 2013, and the plans submitted with it, subject to the conditions in the Schedule at the end of this decision.

Preliminary matters

2. The application was made in outline, with all matters, save for access, reserved for later consideration. During the hearing Mr Brown, for the appellant, stated that they were content for all matters to be reserved, given the uncertainty of what visibility splays might be required at the entrance from Northbrook Road; I will deal with this later in the decision, bearing in mind that the illustrative layout on the submitted plans is a helpful indication of one way in which the site might be developed.
3. The Council's sixth reason for refusal relates to contributions for transport infrastructure. In the light of the adoption of its Community Infrastructure Levy Charging Schedule¹, the Council did not pursue this reason for refusal at the hearing.

¹ On 5 June 2014

4. An executed Unilateral Undertaking was submitted at the hearing dealing with the provision of affordable housing and public open space land on the west side of Northbrook Road - the Suitable Alternative Natural Green-space (SANG) land to divert recreational use away from the Dorset Heathland Special Protection Area. As a result of this the Council did not pursue reasons for refusal numbers 4 or 5.

Main Issues

5. From my inspection of the site and surroundings and the representations made at the hearing and in writing I find that the decision in this appeal turns on 3 main issues. These are (i) whether the proposed site for residential development would be appropriate, having regard to national and local policy, particularly concerning the location of sustainable development & housing land supply; (ii) the effect of the proposal on the character & appearance of the Dorset Area of Outstanding Natural Beauty (AONB) within which the appeal site lies and (iii) whether the development would result in satisfactory living conditions for future residents, with regard to noise & disturbance, bearing in mind the on-going construction of the school on the adjacent site.

Issue (i) whether the proposed site for residential development would be appropriate, having regard to national and local policy, particularly concerning the location of sustainable development & housing land supply

6. The appeal site lies outside the defined settlement boundary as shown on inset map 20 of the Purbeck District Local Plan 2012 (LP). Policy SE states that development will be managed through the use of settlement boundaries and that, to ensure that new development is focused in the most sustainable locations, proposals outside settlement boundaries will be strictly controlled in accordance with the countryside policy. Policy SE goes on to refer to the production of the Swanage Local Plan (SLP) which will determine the location of a settlement extension in conjunction with a number of associated facilities. The SLP is at a very early stage of preparation; an initial public consultation has been carried out and, in answer to my question at the hearing, Mr Bird, for the Council, said that the responses were being analysed at present.
7. Examining one of the objectives behind policy SE, I find that the proposal would not prejudice the aim of protecting the countryside for its own sake. Immediately to the north of the appeal site a new school building is nearing completion. To the south is the large imposing old Grammar School building. The site, when viewed from Northbrook Road and/or Ballard Down, does not appear as part of the open countryside now, so much as an edge-of-settlement space with built development on either side. Indeed, from some viewpoints the existing development along Ulwell, Whitecliff and Moor Roads to the north-east and D'Urberville Drive to the south-west extend the existing built up area around the appeal site. I think I can put that element to one side.
8. Next, policy SE is concerned that new development is 'focused in the most sustainable locations'. This may be dealt with shortly. In a previous planning public consultation,² on locations for new development, the Council favoured site "D" which includes the appeal site, as having the 'least impact' when assessed against ecology, flood risk, townscape, landscape, accessibility and highways. This preliminary assessment gave site "D" (including the appeal

² "Where shall we build in Swanage & Corfe Castle 2012 – 2026"? – undated, but labelled 'reply by 30 July 2010'

site) the highest score of the sites examined. I have no evidence that matters have changed in the intervening time except for the on-going construction of the school. This can only be likely to add to the public transport links running past the appeal site and thus enhances that element of its sustainability rating.

9. The Council is concerned that to grant permission for this proposal outside of the settlement boundary before the SLP is completed would be premature and prejudicial to the SLP achieving its objectives. I turn now to this element. Firstly Government advice on 'prematurity' contained within the *Planning Practice Guidance* states that arguments that an application is premature are unlikely to justify refusal of permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. The *Guidance* continues that such circumstances are likely to be limited to situations where the development proposed is so substantial or its cumulative effect would be so significant that to grant permission would undermine the plan-making process. It continues that refusal would seldom be justified where a draft LP has yet to be submitted for examination. These are the circumstances here, so this does not assist the Council's position.
10. So, the next question must be whether 'the development proposed is so substantial or its cumulative effect would be so significant that to grant permission would undermine the plan-making process'? In terms of cumulative impact, the Council refers to another appeal, currently undetermined³ for 35 dwellings in addition to the appeal before me. I do not find these together or, more particularly, the appeal before me separately would be so significant that it would undermine the plan-making process, due to a number of weighty material considerations regarding the appeal before me.
11. The first is that it already has an extant planning permission for residential development, as part of a larger scheme for the change of use of the former school buildings back to school use 'under the nationwide Free Schools initiative'.⁴ The terms of the permission and associated Obligation were such that the housing element could not be carried out without the free school development being undertaken by the Free School operator 'Education Swanage'. The 2 parties failed to reach agreement and so the housing element cannot proceed under that permission.
12. To my mind this weighs heavily in the balance as a demonstration of the site's inherent suitability for housing development. The Council dealt with that application as an 'exceptional'⁵ case to meet a pressing school need facilitated by the housing element. However, save for the break-down of negotiations, this housing element would be capable of implementation today. Indeed the LP Inspector, in the Report into the LP, referred to "the figure for 200 dwellings which would be allocated in the SLP (a figure that would now be nearer 150 following a permission having already been granted).⁶" This is clearly an acknowledgment of the commitment of this present appeal site to deliver housing.

³ APP/B1225/A/13/2198739

⁴ Council's statement, paragraph 1.5

⁵ Council's statement paragraph 1.5

⁶ Inspector's Report 68, quoted in appellant's statement para 6.4

13. Bearing those circumstances in mind and also the Council's own support for development here as a preferred site as part of an earlier consultation (my paragraph 8 above) I find that these point towards the inherent acceptability of this site for housing. I understand that the Council wishes to put the whole question again to the local community and to consider the Swanage settlement extension holistically through the SLP. But this is at such an early point of preparation that all that can be said is that while the appeal site is one of a number of potential sites which may be required to deliver the housing needs of the town, it is not Government advice to support a prematurity argument at this stage. Furthermore the site is one that has already been through a selection process not very long ago and was found to be a preferred site. I have no evidence that any relevant circumstances have changed in terms of determining where development should go since that previous favourable consultation.
14. The Council argues that the LP Inspector agreed that their approach to development site selection was sound but, as I have stated above, he acknowledged this site as a commitment anyway.
15. The appellant submitted that the Council does not have a 5 year housing land supply; the Council considers it has a supply of 6.2 years. Bearing in mind the guidance offered by the very recent *Gallagher Homes Ltd and Solihull Metropolitan Borough Council* judgement of 30 April 2014⁷ it may be that this subject will be revisited by the Council. I find it difficult to come to a firm view on the appellant's housing land supply arguments when the submissions are so wide, (like compliance with the 'duty to co-operate' requirements). I can make no sensible comment on the matter in the context of this individual application. The matters to potentially be investigated, such as the 'stepped approach to housing strategy' referred to in paragraph 73 of the judgement and assessment of need against the Habitat Regulations (for example) cannot be exhaustively gone through in the context of this single appeal⁸ as the information is, of necessity, not full. But, even if the Council has a 5 year supply and there is no overriding need to release the site, these circumstances would not dictate a 'cut-off point' where, as a consequence, no further permissions may be granted. In circumstances such as this case where I can find no adverse impacts, together with significant benefits like affordable housing, it is not a determining issue.
16. Pulling all these threads together, I find that a grant of permission for this site need not be prejudicial to the SLP achieving its objectives. I conclude that the use of the site for residential development would be appropriate, (and has indeed been judged so before) having regard to national and local policy, particularly concerning the location of sustainable development & housing land supply.

Issue (ii) the effect of the proposal on the character & appearance of the Dorset Area of Outstanding Natural Beauty (AONB) within which the appeal site lies.

17. It is clear from Inset map 20 from the LP that the AONB washes over the entire area of Swanage and the surroundings. Hence any development of new dwellings on the edge of Swanage will have some effect on the conservation of landscape and scenic beauty within the AONB. I have already referred to the Council's own favourable assessment of the appeal site (as part of a larger site)

⁷ Introduced by Mr Brown on 1 May 2014, discussed at the hearing

⁸ As *Planning Policy Guidance* states in the housing & economic land availability chapter

against landscape/townscape criteria in my paragraph 8 above. In addition, regarding this appeal application, the Council's Landscape officer stated that the development would be "well related to the existing former Grammar School and appears as a logical extension of the settlement". I agree.

18. The panorama from Ballard Down reveals the importance of trees and hedgerows in compartmentalising patches of built development and weaving them successfully into the attractive landscape. I have no evidence to suggest that this visual softening could not be achieved with the proposal on the appeal site. Indeed, the illustrative Landscape concept Plan⁹ indicates spaces for new native tree planting and the creation of planted boundaries. The Tree Protection Plan¹⁰ associated with the 2012 Barrell Report is somewhat dated now but does indicate the loss of only low value trees such as the inappropriate conifers around the swimming pool and others along Northbrook Road.
19. The Council describes the "important hedgerow boundary in terms of maintaining the rural character of Northbrook Road"¹¹. However, I found, while walking along the Northbrook Road boundary, that the trees/shrubs were almost entirely of poor quality with a significant amount of bramble supported on the old wire fencing. While the bramble is green, has some habitat/ecological value, and has the superficial appearance of a hedgerow I did not see anything that would not be vastly improved with some robust new structural native planting, introducing a new generation of vegetation to add value in the future for the longer term. This would be advantageous at close range but would also feature in the longer distance views from Ballard Down which I believe to be of equal importance.
20. For this reason, and because it is not clear whether visibility splays might be wholly accommodated within the existing verges, I agree that it would be better to reserve the details of the access for later determination, as discussed at the hearing.
21. Paragraph 115 of the National Planning Policy Framework (The Framework) states that great weight should be given to conserving landscape and scenic beauty in AsONB, which have the highest status of protection in those terms. I find that the appeal site would appear as a logical extension to the settlement. Furthermore it already has built development 'beyond' it (i.e. further from the current defined settlement edge). With adequate new landscaping and a sensitive design and layout – all of which would be in the hands of the Council, the scheme would not significantly harm the character or appearance of the AONB.

Issue (iii) whether the development would result in satisfactory living conditions for future residents, with regard to noise & disturbance, bearing in mind the on-going construction of the school on the adjacent site.

22. The Council is concerned that the illustrative plan indicates that "in order to accommodate 52 dwellings on the appeal site, dwellings will of necessity be located in very close proximity to the northern site boundary"¹². I bear in mind that this is an outline application, with layout reserved for later consideration.

⁹ Ref:448/01P2

¹⁰ Barrell Tree Consultancy

¹¹ LPA statement, paragraph 2.28

¹² LPA statement, paragraph 2.31

23. I understand a nursery has a planning permission as part of the school development and is to be built in the area between the school building under construction and the appeal site. This might result in extended hours of operation over and above typical school hours; maybe an earlier start to comings and goings. But it would seem to me most likely that not all children would be delivered and collected at the extreme beginning and end of the working day. I imagine that some children will not be brought to the nursery immediately it opens. Comings and goings are likely to be staggered through the peak hours. Dual use of school facilities might also be likely, with evening classes, sports fixtures and/or other activities using school premises after normal school hours. Clearly there will be the typical children-in-the-playground sounds regularly too. All these predictable sounds though, are part of society, just as children are, and do not represent anything odd or unexpected.
24. It seems to me that, up and down the country, schools and residential properties are located close together, to the benefit of both – ‘positively integrate’ as the LP puts it in policy D. While the new residents might well experience a level of general activity in and around the school/nursery buildings significantly greater than might be expected from say, another domestic use, the noise and disturbance is entirely typical of society, of which schools are a significant part. People who choose to live immediately adjacent to a school on the edge of a settlement cannot expect the same degree of tranquillity as those who live in a remote and isolated spot. The logical extension of the Council’s position must be that schools are to be positioned away from residential areas, with all the consequent greater travel times and social isolation associated with that.
25. I find on this issue that the objectives of policy D of the LP, to avoid adverse impacts, would be met by the development.
26. I intend to allow the appeal. The appellant has submitted an executed Undertaking. This would secure affordable housing and public open space land on the west side of Northbrook Road – the Suitable Alternative Natural Green-space (SANG) land – to divert recreational use away from the Dorset Heathland Special Protection Area.
27. I have considered the evidence provided in support of the matters. The affordable housing obligation accords with LP policies AH and AHT and the provision of affordable housing is an important consideration; without the affordable housing that the Undertaking would secure, the proposal would have an adverse effect on the provision of affordable housing within the District. With additional residential development near to the internationally important Dorset heathland it has long been a requirement to create or contribute to an alternative open space to ‘draw’ recreational pressure away from the heathland. The appeal scheme provides land nearby and Natural England have accepted that the proposed SANG would be satisfactory. Conservation policies in the Framework and in the LP and the Council’s Dorset Heathlands Planning Framework 2012 – 2014 Supplementary Planning Document would be met.
28. Having regard to the above I conclude that the Undertaking would meet the tests in CIL Regulation 122 and paragraph 204 of the Framework. Without the Undertaking the scheme would fail to accord with the relevant National and LP policies.

29. At the hearing we discussed what conditions would be appropriate in the event that I allowed the appeal. In addition to the standard outline conditions, a condition is required to specify the approved plans to avoid doubt and in the interests of proper planning. Landscaping conditions are required to ensure the satisfactory appearance of the site in the AONB landscape, while another is required to enhance the biodiversity of the development to further the objectives of chapter 11 of the Framework and policy BIO of the LP. A condition to require an assessment of the feasibility of a sustainable drainage system (SuDS) scheme and the practicalities of such is required to alleviate the possible risk of flooding in accordance with sustainable principles. A condition is required to ensure the submitted details comply with 'Lifetime Homes' and 'Buildings for Life' Standards together with the energy efficiency details set out in LP policy D in the interests of sustainable development.
30. I have considered all other matters raised, but find nothing that changes my decision on this appeal.

Gyllian D Grindey

Inspector

Schedule of conditions attached to planning permission Appeal Ref:
APP/B1225/A/13/2209425

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings nos 01, 02, 03; and Landscaping Concept Plan 448/01 P2.
- 5) The hard and soft landscaping scheme for the site required to be submitted under the terms of condition 1 shall include (i) indications of all existing trees and hedgerows on the land the subject of the application, and details of any trees and hedgerows to be retained, together with measures for their protection in the course of development; (ii) the position of all proposed planting, including species, sizes, planting distances, numbers and provisions for maintenance of trees and shrubs, areas to be grass seeded or turfed, details of the treatment of parking areas, drives, paths and other hard surfaces, and details of walling, fences and boundary treatments, minor artefacts and structures (i.e. refuse, waste recycling and similar storage units, meter boxes, hydrants

- signs and lighting); (iii) details of the existing and proposed ground levels of the site; (iv) details of a programme for the implementation of the landscaping scheme.
- 6) The landscaping scheme shall be implemented in accordance with the approved details and implementation programme. Any plants or trees, including those retained as part of the scheme, which within 5 years from the date of first occupation of the last dwelling on the site to be occupied, die or become in the opinion of the Council seriously diseased or damaged or are removed, shall be replaced during the next planting season following their demise with specimens of a similar size and species unless agreed otherwise in writing by the Council, and maintained for the remainder of the period of 5 years or for a period of 1 year which ever shall be the greater.
 - 7) Development shall not commence until a scheme for surface water drainage has been submitted to and approved in writing by the Council. Prior to the submission of those details an assessment shall be carried out into the potential for disposing of surface water by means of a sustainable drainage system (SuDS). The results of the assessment shall be provided to the Council. Where a SuDS scheme is to be implemented, 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 ground water and/or surface waters; (ii) specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation in relation to the programme of site development; (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.
 - 8) Development shall not commence until a Biodiversity Mitigation Plan has been submitted to and approved in writing by the Council. The plan shall take account of the information contained in the submitted Lowans Ecology & Associates Biodiversity Survey assessment dated 21 February 2012. The scheme shall be implemented and maintained in accordance with the approved mitigation plan.
 - 9) Development shall not commence until details have been submitted to demonstrate how the design of the development will meet the requirements set out in policy D Design –
 - 10) of the Purbeck District Local Plan Part 1 in relation to compliance with 'Lifetime Homes' Standards, meeting 'Buildings for Life' standards and having achieved Part L of the Building Regulations pass, further reduce its regulated greenhouse gas emissions (as predicted by SAP/SBEM) either by 10% via the use of on-site renewable energy generation or 20% overall. The development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Mr P Hensher	Appellant; of Welfare Dwellings Residential Care Ltd
Mr M Brown FRICS MRTPI	Of Gibbett Gregory

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Bird	Principal Planning Officer Purbeck District Council
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INTERESTED PERSONS:

Ms N Clark	For Swanage Town Council
Mr S Tooley	[part of hearing only]

DOCUMENTS

- 1 Attendance list
- 2 Response to LPA statement from Appellant & appendices
- 3 Executed Unilateral Undertaking dated 3rd June 2014
- 4 Expanded household formation/projections put in by LPA
- 5 Statement from Swanage Town council put in by Ms Clark
- 6 Purbeck's CIL Adoption Statement
- 7 Complete copy of Purbeck Local Plan Part 1 & Proposals Maps
- 8 LPA list of suggested conditions handed in at hearing

PLANS

- A The application plans: Small-scale 'Promap' with site coloured re; Dorset Land Surveying plan ref 3530; Drawings nos 01, 02, 03; and Landscaping Concept Plan 448/01 P2
- B Tree Protection Plan (at Inspector's request – incomplete in appeal documents)

PHOTOGRAPHS

- 1 Photograph taken from Ballard Down, general view across Swanage & appeal site, put in by the appellant at the hearing