



Appeal Decision

Hearing held on 7 July 2015

Site visit made on 7 July 2015

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 13 July 2015

Appeal Ref: APP/F1230/W/15/3010716

Land to the North of Bradford Road, Sherborne, Dorset

- 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 Catesby Property Group against the decision of West Dorset District Council.
 - The application Ref WD/D/14/002286, dated 1 September 2014, was refused by notice dated 19 December 2014.
 - The development proposed is outline planning application for up to 35 dwellings together with associated landscaping, open spaces and SUDS attenuation feature.
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application for up to 35 dwellings together with associated landscaping, open spaces and SUDS attenuation feature, at Land to the North of Bradford Road, Sherborne, Dorset, in accordance with the terms of application Ref: WD/D/14/002286, dated 1 September 2014, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Catesby Property Group against West Dorset District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application has been made in outline, with full details in relation to access. Layout, scale, appearance and landscaping are to be considered as reserved matters. An indicative site plan has been provided, to which I have had regard.
4. At the Hearing the appellant sought to submit revised drawings, which I understand are those which accompany a revised planning application made to the Council. However, the plans were not accepted as I consider that consultees and interested parties would not have had a suitable opportunity to consider the revised plans and would have been prejudiced. For the avoidance of doubt, I have determined the appeal on the basis of the drawings that were considered by the Council at the time of their determination of the planning application.
5. During the Hearing, Sherborne and District Society Campaign to Protect Rural England (the CPRE) raised concern that they had not been able to gain a copy

of the appellant's Statement of Case and had therefore been prejudiced. A hard copy was provided and suitable time was given at the Hearing for the CPRE to consider the appellant's Statement of Case and I therefore consider that it has not been prejudiced.

6. The development description set out on the application form and the Council's decision notice refers to noise attenuation bunds. However, the scheme was revised prior to the Council's determination of the planning application to exclude such structures from the proposal. As a result, I have removed this part of the development description from the banner above.
7. The Council's reason for refusal No 2 relates to noise. The appellant has provided additional evidence as part of their appeal submissions, which the Council accepted, subject to conditions, has addressed their concern, as set out in the signed Statement of Common Ground (SOCG). From the evidence before me, I see no reason to take a different view and therefore I have not considered this matter further in my decision.
8. At the Hearing a signed Section 106 Agreement was provided that had been agreed with the Council. This makes provision for affordable housing and a management scheme for the proposed open space within the development. The Council confirmed at the Hearing that the Section 106 Agreement overcomes reason for refusal No 3 of the Council's decision notice. At the Hearing it was brought to my attention that the Section 106 Agreement had not been dated. I agreed that the appellant could provide a signed and dated copy of the Section 106 Agreement after the Hearing, which was subsequently provided. From the evidence before me, I consider that the requirement for these provisions meets the three tests set out in Paragraph 204 of the National Planning Policy Framework (the Framework) for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) (2010). Therefore, I have not considered such matters further in my decision.

Main Issue

9. The main issue of the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

Background and policy context

10. The majority of the appeal site is located outside the Defined Development Boundary (DDB) of Sherborne. Policy SS1 of the West Dorset District Local Plan (2006) (the LP) promotes development within the designated DDBs and Policy SS3 seeks to restrict development outside of such areas, to that requiring a rural location, which does not apply to the proposal.
11. The Government is seeking to significantly boost the supply of housing, as set out in Paragraph 47 of the Framework. Further to this, the Framework at Paragraphs 14 and 49 identifies that there is a presumption in favour of sustainable development. Paragraph 49 of the Framework sets out that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Council has accepted that it cannot currently demonstrate a five year housing land supply. Consequently, the Council's

policies that relate to the supply of housing, most notably in this case Policies SS1 and SS3 of the LP, are out-of-date.

12. In these circumstances, Paragraph 14 of the Framework advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This balancing exercise is undertaken at the end of my decision.

Character and appearance

13. The appeal site is an open field to the north of the existing residential dwellings on Bradford Road from which access would be gained. The proposal would utilise an existing splayed access between two properties. It was evident from my site visit that the appeal site is enclosed by well-established field hedges on its western, northern and eastern boundaries. The rear gardens of the residential properties on Bradford Road border the site to the south, although there are numerous mature trees on this boundary. The land slopes gently up to the A30 dual carriageway which runs along the northern boundary of the appeal site. The Sherborne Hotel site borders the appeal site to the east. The wider area consists of open countryside to the west and north and the urban area of Sherborne to the west and south. The appeal site is bordered on three sides by existing development and does not fall within any national or local landscape designation.
14. Policy SA3 of the LP sets out that development that significantly adversely affects the distinctive characteristics of the area's landscape will not be permitted. Policies ENV1 and ENV12 of the emerging West Dorset, Weymouth and Portland Local Plan (the eLP) has also been referred to in this regard. At the Hearing, the CPRE provided a copy of an appeal decision (APP/F1230/W/14/3001896, dated 30 June 2015) for a solar photovoltaic farm where the Inspector was of the view that the policies of the eLP could be afforded considerable weight. In contrast, the appellant also provided an appeal decision (APP/F1230/W/14/3002790, dated 30 June 2015) for a residential development in which the Inspector came to the conclusion that limited weight could be afforded to the policies of the eLP. The eLP has been through examination, however, the Inspector's report and overall findings has not yet been published. Consequently, from the evidence that is before me, I agree with the appellant that when considered against the guidance in Paragraph 216 of the Framework, the eLP and its policies must be afforded limited weight and the Council agree this position within the SOCG.
15. The appeal site lies within the Sherborne Hills Landscape Character Area of the adopted Landscape Character Assessment Supplementary Planning Document (2009) (the LCA SPD). This identifies the distinctive characteristics of this area as being long and open views across the Yeo Valley; large regular and small irregular shaped fields of predominantly arable and some improved pasture; herb-rich lowland meadows within small-scale valleys and coombes; fields that are defined by uniform trimmed hedgerow boundaries; and small regular native copses associated with built form and functioning as shelterbelts. Detrimental features are also noted as conspicuous hard urban edges to Sherborne, which are visible from open countryside and the presence of the A30 that 'severs' the landscape.

16. Given that the appeal site is bordered by development on three sides, is relatively small and is relatively visually contained from the wider landscape, it does not possess many of the distinctive characteristics of the Sherborne Hills Landscape Character Area, other than being regular in shape and having uniform hedgerows along its boundaries. Therefore, I consider that the contribution of the site in terms landscape character to the wider area is relatively low.
17. It is evident that the site does form part of the gateway into Sherborne. Whilst on the approach to Sherborne from the west along the A30 residential dwellings along Bradford Road are evident, they are set back from the road and are of relatively low density. In contrast, the proposed development would be located immediately adjacent to the A30 and with its higher density would form a hard urban edge, which the LCA SPD notes are existing negative aspects of the landscape character area. The Council's Design and Sustainable Development Planning Guidelines Supplementary Planning Document (2009) (the DSDPG SPD) at Paragraph 2.9.2 also notes that the treatment of the edge of settlements is also important and Policy H notes that the design of developments should be influenced by the need to define or soften the transition between areas of different character.
18. However, whilst I consider that the hard urban edge which would result from the proposal would cause some harm to the character and appearance of the area, this is largely only experienced by users of the A30 and this is accepted by the Council. As part of my site visit I drove into Sherborne along the A30 several times. It was evident that when entering the Town, the first experience of transition from open countryside is the Sherborne Sign, which is soon followed by traffic signs giving warning of the traffic lights at the impending junction and street lights in the central reservation of the A30. The existing dwellings on Bradford Road also come into view. It is at this point that the appeal site becomes most evident, with only fleeting views beforehand due to existing terrain and vegetation. Consequently, to a large degree I concur with the appellant that residential development on the appeal site would not come as a surprise to users of the A30.
19. I am also mindful that there are evidently new permitted and potential developments on the western approach into Sherborne, namely that permitted at Barton Farm, which will undoubtedly alter the character of the area and the gateway.
20. The CPRE has set out that the approach from Bradford Road which forms part of the National Cycle Route 26 would also be affected. I acknowledge that the proposal would widen the splay of development from this approach, however, this would be seen within the context of the existing dwellings on Bradford Road which extend a greater distance to the west. Therefore, I consider that views from this approach would not be unacceptably harmed.
21. The Council consider that the indicative belts of planting on the northern and western boundaries of the appeal site would appear incongruous. However, it was evident from my site visit that the site boundaries in these locations are currently defined by relatively large hedgerows running along each boundary. Therefore, I do not consider that the indicative planting would appear incongruous. Notwithstanding this, I am also mindful that the planting is

- indicative and that a sensitive landscaping scheme could be agreed at the reserved matters stage.
22. Given the above findings and that the appeal site is not subject to any landscape designation, I consider that the harm to the character and appearance of the area and the gateway into Sherborne from the west would be localised and relatively limited.
23. The CPRE has referred to four linked appeal decisions¹, however, it is clear that these are located a significant distance from the appeal site and therefore share a different context and landscape. The findings of the Inspector in regard to these cases therefore carries little weight and are not comparable to this scheme.
24. I acknowledge the concerns of the CPRE with regard to the Sherborne Hotel site and the related Policy NA2 of the LP. It was evident from my site visit that the site appears to be/will be the subject of redevelopment, which is sought by Policy NA2 of the LP. This would no doubt alter the current gateway appearance of the site. The Council has also set out within its appeal evidence that the current Sherborne Hotel site is a weak approach to the Town. Consequently, I consider that there would not be any harm in this regard and it does not alter any of my findings with regard to the proposal's impact upon the gateway into Sherborne.
25. In conclusion, the proposal would result in the urbanisation of an open greenfield site that would form a hard urban edge and would be clearly evident to users of the A30 entering Sherborne, causing harm to the character and appearance of the area and the gateway into the Town. However, for the reasons set out above, this harm would be relatively limited and I consider that the proposal would not significantly adversely affect the distinctive characteristics of the area's landscape. Therefore, the scheme complies with the specific criteria of Policy SA3 of the LP.
26. Notwithstanding this, there would evidently be some harm, which would conflict with one of the Framework's core principles to recognise the intrinsic character and beauty of the countryside. I am also mindful of the Ministerial Statement (27 March 2015) where the Minister of State for Housing and Planning, Brandon Lewis MP, set out that outside of designated areas the impact of development on the landscape can be an important material consideration. I also consider that there is some conflict with Policy DA3 of the LP, which seeks to ensure that development does not result in the loss of a feature which is an essential part of the character of the locality, such as the gateway and there is also conflict with aspects of the Council's LCA SPD and DSDPG SPD. Given my findings above, that the identified harm would be relatively localised as acknowledged by the Council and would not significantly alter the wider landscape, I consider that the identified harm carries a moderate level of weight against the scheme.
27. I acknowledge that the appeal site was rejected from the Council's Strategic Housing Land Availability Assessment exercise due to landscape concerns. However, this did not consider the specific development that is before me, which I have considered on its individual merits and in any event this point does not alter my conclusions on this matter.

¹ APP/J0405/A/12/2181033, APP/J0405/A/12/2189277, APP/J0405/A/12/2189387 and APP/J0405/A/13/2197073.

Other matters

28. The scheme would make a contribution towards much needed housing in the District in the form of up to 35 new dwellings of which approximately 12 (a provision of 35%) would be affordable housing units. The proposal also has good accessibility to local services and facilities in Sherborne and would provide increased patronage. There is no evidence to suggest that such local services, facilities and other infrastructure are incapable of accommodating more housing in the area. Further, the proposed development would provide some modest economic benefits, such as those generated from construction and the spending of future occupants. I consider that these social and economic benefits in combination attract substantial weight in favour of the proposal.
29. Sherborne and District Society CPRE has raised concern that the site lies within a minerals consultation area and the proposal would lead to the sterilisation of mineral resources. I accept that the site falls within the safeguarding/consultation area and therefore Policy SG1 and SG2 of the Bournemouth, Dorset and Poole Minerals Strategy (2014) (the BD&P MS) are of relevance. I also acknowledge that Dorset County Council as the Minerals Planning Authority (MPA) appear to have been consulted at a late stage.
30. However, it has been set out in the SOCG, which is signed by the County Council that it is considered that the underlying mineral would be Inferior Oolite, a limestone used as a building sand and that the requirement for prior extraction and backfill/compaction of the void would cause an unreasonable delay in bringing the development forward. It is also set out that there are adequate remaining reserves of Inferior Oolite elsewhere in the County and there is a relatively low level of demand for this type of minerals. The MPA therefore do not raise any objection to the proposal on this basis. I see no reason to take a different view, particularly given the evident need for additional housing in the District. Given the nature of the appeal site and that it is surrounded by development on three sides, I consider that it is highly unlikely that the site would be worked for minerals in the future in any event and Sherborne and District Society CPRE accepted this view at the Hearing. Consequently, I consider that there would not be any conflict with Policy SG1 and SG2 of the BD&P MS. These policies set out that where it cannot be demonstrated that the sterilisation of mineral resources will not occur or would not pose serious hindrance to future minerals development in the vicinity, prior extraction will be sought where practicable and that inappropriate schemes for non-minerals development will be resisted by the MPA.
31. Whilst the eLP is at a relatively advanced stage, given the size of the proposal, I consider that the development is not so substantial, or its cumulative effect would not be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the eLP. Consequently, in accordance with the guidance provided in the Government's Planning Practice Guidance (PPG) on this matter (Paragraph: 014 Reference ID: 21b-014-20140306) the proposal would not be premature to the eLP.
32. Concern has been raised that the proposal will impact upon the setting of the listed building known as Kenelm and also views of the nearby Sherborne Conservation Area. The application is supported by a Statement of Heritage

Significance, which demonstrates that the proposal would preserve the setting² of Kenelm and would not cause any harm to its significance. Further, it also concludes that the proposal would preserve the character or appearance of the Sherborne Conservation Area³. This view is shared by the Council and I see no reason to disagree.

33. There is also no evidence to suggest that the proposal would potentially impact on the neighbouring hotel business. In any event, as set out above, it was evident from my site visit and the Hearing, that the hotel site is due to be redeveloped, although it is unclear what this will actually entail. The appeal site is also not allocated for employment uses within the LP.
34. Interested parties have raised a number of concerns with regard to highways, access, flooding, drainage including the SUDS attenuation pond and the amenity of neighbouring residents. However, there is no substantive evidence before me to suggest that the proposal is unacceptable with regard to such matters. I am also mindful that the Council do not share such concerns.
35. The matter of precedence has been raised. However, I am mindful that each proposal must be considered on its own merits. Further, any other similar residential developments in Sherborne would be considered on their own merits, their accordance with the development plan at the time of determination and any material considerations, as part of a planning application.

Overall Conclusion and Planning Balance

36. The Council cannot currently demonstrate a five year housing land supply and therefore its policies that relate to the supply of housing are out-of-date. Consequently, Paragraph 14 of the Framework advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
37. I have found that the proposal would cause harm to the character and appearance of the area and that this environmental harm carries a moderate level of weight against the proposal.
38. On the other hand, the proposal would deliver a clear social benefit, and some modest economic benefits, from up to 35 new dwellings, including approximately 12 affordable housing units towards much needed provision in the District. I consider that these benefits in combination carry substantial weight in favour of the scheme.
39. As a result, I conclude that the identified harm does not significantly and demonstrably outweigh the benefits of the proposal and the scheme represents sustainable development, for which there is a presumption in favour. Therefore, despite the concerns of the local MP, the CPRE and local residents, I consider the appeal should succeed.

Planning Conditions

40. I have considered the 10 suggested conditions set out within the SOCG against the tests set out within the Framework and the advice provided by the PPG and

² Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

³ Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

have amended them where required. In the interests of sound planning and for the avoidance of doubt, conditions are imposed that require: the standard outline and commencement controls, as well as for the development to be carried out in accordance with the approved plans.

41. The CPRE requested that the commencement of development timescales be reduced to reflect the need for new housing and the Council's current housing land supply position. However, I concur with the appellant and the Council that these are suitable given the nature of the development and the appellant's deliverability concerns. Further, the CPRE also sought a condition to be imposed to ensure that the design of the dwellings and the site is agreed. I consider that this matter will be suitably addressed as part of the reserved matters.
42. In the interests of the water environment and flood risk, a condition is necessary that requires a scheme for surface water drainage to be submitted to and approved in writing by the local planning authority. To ensure the suitable living conditions of future occupants of the proposal a condition is imposed that requires noise insulation measures for the approved dwellings to show noise levels will not exceed 35dB(A) in living rooms and 30dB(A) in bedrooms (at night) in all dwellings in the development. The condition also requires the proposed acoustic fencing to the northern boundary to be implemented.
43. To safeguard the living conditions of the occupants of neighbouring properties, a condition is necessary that requires a Construction Management Plan, including the restriction of construction hours to be agreed with the Council. To ensure the suitable protection of trees a condition is imposed that requires an Arboricultural Method Statement to be agreed with the Council. In the interests of ecology and protected species a condition is necessary that requires the approved Biodiversity Mitigation Plan to be implemented.
44. To ensure the suitable appearance of the development, a condition is imposed that requires the dwellings to not exceed 2.5 storeys in height, with ridge heights no greater than 10 metres above finished floor level.
45. At the hearing it was agreed that suggested condition No 6 that relates to the highway layout, parking and turning areas of the site would be suitably addressed at the reserved matters stage. I have therefore not imposed the condition.

Jonathan Manning

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Harwood QC	39 Essex Chambers
Christopher Lindley	DPDS Consulting Group (Agent)
Duncan McInerney	EDP
Grant Stevenson	Catesby Property Group
Keith George	Catesby Property Group
Jon Babb	Catesby Property Group

FOR THE LOCAL PLANNING AUTHORITY:

David Hodges (BSc. DipTP MRTPI)	West Dorset District Council
Jacqui Sewell	West Dorset District Councillor (Broadwindsor Ward)
Margaret Lawrence	West Dorset District Councillor (Yetminster and Cam Vale Ward)

INTERESTED PARTIES

Jo Witherden	Dorset Planning Consultant (On behalf of Sherborne and District Society CPRE)
Peter Neal	Sherborne and District Society CPRE
Paul Austin	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Signed Statement of Common Ground, submitted by the appellant.
2. Signed Section 106 Agreement, submitted by the appellant.
3. Section 106 Agreement Summary, submitted by the appellant.
4. West Dorset, Weymouth and Portland Strategic Housing Land Availability Assessment, February 2015 (Including Appendix K), submitted by the appellant.
5. Extract from West Dorset, Weymouth & Portland Local Plan Schedule of Main Modifications, February 2015, submitted by the appellant.
6. Extract from West Dorset, Weymouth and Portland Strategic Housing Land Availability Assessment (Site References WD/SHER/002 & WD/SHER/003), submitted by the appellant.
7. Appeal Decision: APP/F1230/W/14/3002790, dated 30 June 2015, submitted by the appellant.
8. Appeal Decision: APP/F1230/W/14/3001896, dated 30 June 2015, submitted by Sherborne and District Society CPRE.
9. Sherborne Town Council Neighbourhood Plan Working Group Agenda and Minutes, 18 June 2012, submitted by Sherborne and District Society CPRE.
10. Extract from the West Dorset District Local Plan – Inspector’s Report (Page 19), submitted by Sherborne and District Society CPRE.

Schedule of Conditions

- 1) Approval of the details of the layout, scale and appearance of the building(s) and the landscaping of the site (hereinafter called the Reserved Matters) shall be obtained from the local planning authority in writing before any development is commenced.
- 2) Application for approval of any 'reserved matter' must be made not later than the expiration of three years beginning with the date of this permission.
- 3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: LC/001 (Site Location Plan); 16122-02 (Proposed Site Access); and AR/005 Rev A (Acoustic Mitigation Measures).
- 5) No development shall take place until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details. No dwelling shall be occupied until the drainage works required to serve it have been completed. The surface water drainage measures shall thereafter be retained.
- 6) No development shall take place until noise insulation measures for the approved dwellings to show noise levels will not exceed 35dB(A) in living rooms and 30dB(A) in bedrooms (at night) in all dwellings in the development has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details. The approved measures, including the proposed acoustic fencing to the northern boundary shall be carried out in their entirety prior to the first occupation of each individual dwelling and shall thereafter be retained.
- 7) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. No deliveries shall be accepted before 08.00 or after 17.00 Monday to Friday and; all works on the site shall be restricted to between 07.30 and 18.00 Monday to Friday and 09.00 to 13.00 on Saturdays. No works shall be carried out on Bank Holidays or Sundays. Development shall be carried out in accordance with the approved management plan.
- 8) No development shall take place until an Arboricultural Method Statement detailing the method of protecting trees on and adjacent to the site during the development has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved method statement.
- 9) The development shall be carried out in accordance with the approved Biodiversity Mitigation Plan by James Bird / The Environmental Dimension Partnership (EDP), dated 2 October 2014.
- 10) The dwellings hereby permitted shall not exceed 2.5 storeys in height, with ridge heights no greater than 10 metres above finished floor level (excluding chimneys).