

Town and Country Planning Act 1990

Town and Country Planning (Development Management Procedure) (England) Order 2015

Mr M Holmes
Spruce Town Planning Ltd
46 Chalvington Road
Chandlers Ford
Eastleigh
SO53 3DX

Refusal of Outline Planning Permission

Application reference no: **8/19/1589/OUT**

The Local Planning Authority in pursuance of powers under the above-mentioned Act hereby **REFUSE** to permit:

Construction of a care home with associated parking, access and landscaping (Outline)

at **Land at no.74 Hurn Way and to the rear of nos.66 - 72 and 76 Hurn Way Hurn
Way Christchurch BH23 2PD**

in accordance with the refused plans, for the following reasons:

1. The applicant has not demonstrated that there is a demand/need for further care homes in the area. In Christchurch there are a number of larger care homes already and occupancy levels would suggest that the demand for a further care home is not there. Looking at the whole of BCP Council's area, the latest ONS population statistics would suggest that there is already a 1/3 more care home places than the market requires, now or in the medium term. The proposal would therefore be contrary to Policies KS1, LN3 & LN6 of the Local Plan, and the provisions of the National Planning Policy Framework, particularly paragraphs 60, 118 & 122, & NPPG paras 003 & 012.
2. The proposal is within 400m of a Site of Special Scientific Interest (SSSI). This SSSI is also part of the designated Dorset Heathlands SPA (Special Protection Area) and Ramsar site and is also part of the Dorset Heaths SAC (Special Area of Conservation). The proximity of these European sites (SPA and SAC) means that determination of the application should be undertaken with regard to the requirements of the Conservation of Habitats and Species Regulations 2017.

If the Council had been minded to grant permission in all other respects it would have to carry out an appropriate assessment in accordance with the advice and procedure set out broadly in Circular 06/2005.

The applicant has failed to demonstrate in accordance with the Habitat Regulations that the proposals will cause no harm to the SPA and SAC heathland. There is insufficient evidence that the proposed C2 use and the staff and carers would not have an adverse effect on the SPA and SAC. It is clear, on the basis of advice from Natural England, that the proposed development would in combination with other plans and projects within close proximity to heathland, and in the absence of any form of acceptable mitigation, be likely to have an adverse effect on the heathland special features including those which are SPA and SAC features. Having regard to the Waddenzee judgement (ECJ case C-127/02) the Council is not in a position to be convinced that there is no reasonable scientific doubt to the contrary.

For these reasons, and without needing to conclude the appropriate assessment, the proposal is considered contrary to the recommendations of the Berne Convention Standing Committee on urban development adjacent to the Dorset Heathlands, and also:

- Policy ME2 of the Christchurch and East Dorset Core Strategy adopted 2014;
- the provisions of the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document; and
- the provisions of the National Planning Policy Framework (particularly paragraph 118), and
- the Conservation of Habitats and Species Regulations 2017.

The following Informative Notes are drawn to the Applicant's attention:

1. This refusal relates to the following submitted plans:
 - 5511-WLA-ZZ-XX-DR-A-0002 Location Plan
 - 5511-WLA-ZZ-XX-DR-A-0003 1 Block Plan
 - 5511-WLA-ZZ-XX-DR-A-0010 7 Proposed Site Plan
 - 5511-WLA-ZZ-XX-DR-A-0011 3 Proposed Site Plan with Roof Plan
 - 5511-WLA-ZZ-XX-DR-A-0012 1 Site Section A2
 - 5511-WLA-ZZ-XX-DR-A-0014 Site Section 02 A1
 - 5511-WLA-ZZ-01-DR-A-0110 1 Ground Floor Plan
 - 5511-WLA-ZZ-GF-DR-A-0111 1 First Floor Plan
 - 5511-WLA-ZZ-RF-DR-A-0112 1 Roof Plan
 - 5511-WLA-ZZ-XX-DR-A-0210 1 Elevations 1 of 2
 - 5511-WLA-ZZ-XX-DR-A-0211 1 Elevations 2 of 2
 - 5511-WLA-ZZ-XX-DR-A-0300 Refuse & Cycle Stores Plans & Elevations
 - 5511-WLA-ZZ-XX-DR-A-200 Courtyard Perspective
 - 16132-BT3 Tree Protection Plan
 - 5010960-RDG-ST-XX-C-2201 Large Refuse Vehicle Tracking

Signed

A handwritten signature in black ink that reads "Nick Perrins". The signature is written in a cursive, slightly slanted style.

Head of Planning & Building Control

Decision Date: 3 June 2021

NOTES TO THE APPLICANT

Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 39 and 40 of the National Planning Policy Framework (February 2019)

In accordance with the above, BCP Council has worked with the applicant in a positive and proactive way by offering to engage in pre-application discussions and, where possible, by enabling problems to be resolved. In responding to pre-application enquires and determining formal applications, BCP Council always seeks to look for solutions rather than problems so that applications for sustainable development can be approved, thereby resulting in improvements to the economic, social and environmental conditions of the area.

Policy considerations and reasons

In reaching this decision the policies in the Development Plan for the area, which currently comprises the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014, were taken into account. Saved policies within the Christchurch Local Plan 2001 were also taken into account. These include specifically the following policies:

KS1	Presumption in favour of sustainable development
KS4	Housing Provision in Christchurch and East Dorset
KS11	Transport and Development
H12	Residential Infill
H16	Crime Prevention and Design
HE2	Design of new development
HE3	Landscape Quality
ENV 1	Waste Facilities in New Development
ENV 5	Drainage and New Development
ENV 6	Connection of Development to Mains System
ENV 15	Protection of Green Corridors
ENV 21	Landscaping in New Development
T16	Access for those with impaired mobility
LN1	The Size and Type of New Dwellings
LN2	Design, Layout and Density of New Housing Development
LN3	Provision of Affordable Housing

LN6	Housing Accommodation Proposals for Vulnerable People
LN7	Community Facilities and Services
ME1	Safeguarding biodiversity and geodiversity
ME2	Protection of the Dorset Heathlands
ME3	Sustainable development standards for new development
ME4	Renewable energy provision for residential and non-residential developments
ME5	Sources of Renewable energy
ME6	Flood Management, Mitigation and Defence
KS12	Parking Provision
KS2	Settlement Hierarchy

Appeals to the Secretary of State

- If you are aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, or to grant it subject to conditions, then you may appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990. The appeal will be dealt with, on behalf of the Secretary of State, by The Planning Inspectorate.
- If you want to appeal your Local Planning Authority's decision then you must do so within 6 months of the date of this Notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application, and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.
- Appeals can be made online at <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy on tel: 0303 444 5000
- The Planning Inspectorate can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of the appeal.
- The Planning Inspectorate need not consider an appeal if it seems that the Local Planning Authority could not have granted planning permission for the proposed development, or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order, and to any directions given under a development order.

- In practice the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further information is available at:
<https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries>

Purchase Notice

If either the local planning authority or the Planning Inspectorate refuse permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.