The Planning Inspectorate

Appeal Decision

Site visit made on 15 November 2016

by Alex Hutson MATP CMLI MArborA

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

Decision date: 9th December 2016

Appeal Ref: APP/Q1255/W/16/3154294
Land to the rear of 119-121 Longfleet Road, Poole BH15 2HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Pam Palmer – East Boro Housing Trust against the decision of Poole Council.
- The application Ref APP/16/00283/F, dated 18 February 2016, was refused by notice dated 20 April 2016.
- The development proposed is to demolish two double garages and build a two bedroom bungalow with garage and off road parking for 5 vehicles.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - The effect of the proposal on the character and appearance of the area;
   - The effect of the proposal on the living conditions of the occupiers of 119 and 121 Longfleet Road with particular regard to private amenity space provision and privacy;
   - Whether the proposal would provide adequate living conditions for any future occupiers with particular regard to private amenity space provision and privacy;
   - Whether the proposal would provide adequate parking provision and suitable pedestrian access and the effect of this on highway safety; and
   - The effect of the proposal on the Dorset Heathlands[1].

Reasons

Character and appearance

3. The appeal site comprises a pair of two-storey, semi-detached dwellings, 119 and 121 Longfleet Road, their respective rear gardens and two double garage blocks located to the rear, which are accessed via a narrow service road.

[1] Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heathlands Special Area of Conservation and Dorset Heathlands Special Area of Conservation (Purbeck and Wareham) and Studland Dunes

Dwellings in the locality tend to face the main highway, and along the access road, buildings tend to comprise garage blocks which appear ancillary to and subordinate to their host dwellings. This pattern of development is a strong and defining characteristic of the area, notwithstanding that some garages may be in a poor state of repair. Nos 119 and 121 and their associated garage blocks therefore conform to the prevailing pattern of development in the area and as such, positively contribute towards the character and appearance of the area. Moreover, the garage blocks to the rear of Nos 119 and 121 did not appear to me to be in a particularly poor condition and given the character of the access road, did not appear unsightly within their context.

4. The proposal would replace the garage blocks with a two bedroom, single storey dwelling and associated garage which would face the access road. Four parking spaces would also be provided within a space to the front of the proposed dwelling.

5. I acknowledge that the low height of the proposed dwelling and its design, which would include an inset panel to give the impression of an infilled garage door, would, to some extent, reflect the appearance of other buildings along the access road. It would also appear subordinate to Nos 119 and 121. Nevertheless, it would, in my opinion, clearly be recognisable as a dwelling due to its fenestration, front door access and integral garage. Any internal lighting would further differentiate the proposed dwelling from other garage blocks and ancillary buildings along the access road. Its domestic use and appearance would appeal alien in the context of its surroundings and would therefore fail to reflect the prevailing pattern of development in the area. Consequently, this would result in significant harm to the character and appearance of the area.

6. I note that the representations of a Senior Planning Officer within the Council's Planning Policy and Implementation Team are somewhat inconsistent with the views of the Planning Officer who determined the application in respect of the pattern of development along the access road. Nevertheless, I have not been pointed to any specific examples of other independent units of accommodation served off this access road, and during my site visit, I did not observe any such development. As such, there is no substantive evidence before me that would lead me to conclude that the principle for the type of development proposed has been established within the area. The comments of the Senior Planning Officer do not, therefore, justify a planning permission in this instance. Moreover the Council's decision notice, officer's report and appeal statement clearly set out why, in their opinion, the proposal would be at odds with the pattern of development in the area, which, as can be seen from my reasoning above, is a matter that I would concur with.

7. I therefore conclude that the proposal, by virtue of its failure to accord with the prevailing pattern of development in the locality, would result in significant harm to the character and appearance of the area. This would be contrary to Policies PCS5- Broad Locations for Residential Development and PCS23- Local Distinctiveness, of the Poole Core Strategy 2009 (Core Strategy). These policies require, amongst other things, development to respect the character and appearance of the area. These policies are consistent with the broad aims and objectives of the National Planning Policy Framework (the Framework) which seek planning to take account of the different roles and character of different areas.

8. The appeal site lies immediately adjacent to the Heckford Park Conservation Area (HPCA), the boundary of which runs along the access road. The appeal site therefore falls within the setting of the HPCA. The HPCA is largely characterised by its grid pattern layout of predominantly Victorian buildings. I note that the Council has not cited the effects on the setting of the HPCA within their reasons for refusal and that the Council's officer's report suggests that the proposal would not be harmful to the setting of the HPCA. Nevertheless, the Council's appeal statement does identify harm in this regard.

9. Paragraph 132 of the Framework makes clear that, when considering the impact of proposed development on the significance of designated heritage assets, great weight should be given to their conservation, and to their setting. The HPCA falls within the definition of a designated heritage asset as set out in Annex 2 of the Framework. In light of my reasoning set out above, with specific reference to my judgement relating to the failure of the proposal to conform to the prevailing pattern of development that would lead to harm to character and appearance of the area, I conclude that the proposal would harm the setting of the HPCA. This would be contrary to Policy PCS23 of the Core Strategy, which requires, amongst other things, development adjacent to conservation areas to preserve or enhance their character. The proposal would also be contrary to the expectations of Paragraph 132 of the Framework.

10. However, I would quantify the extent of this harm as being less than substantial when considered in the context of Paragraphs 133 and 134 of the Framework. Here, it is anticipated that the harm so quantified, needs to be balanced against any public benefits the proposal might bring. I consider this balancing exercise later in my decision.

Living conditions- existing occupiers

11. According to the evidence, No 119 provides living accommodation for up to 6 residents and No 121 provides living accommodation for at least 3 residents, by virtue of it containing 3 one bedroom units. The rear garden areas of each of these properties are modest in size and length and, as I understand it, are used communally by the residents of each respective property.

12. The appellant claims that given the proposed dwelling would occupy the same location as the existing garages, there would be no change to the rear garden areas of Nos 119 and 121. Nevertheless, according to the submitted plans, the footprint of the proposed dwelling would encroach within the rear garden areas of both No 119 and 121. Whilst the Council has not provided me with any local space standards in respect of external amenity space, I consider that the reduction in the size of the rear gardens of Nos 119 and 121 would considerably reduce the utility of these spaces for the occupiers of these properties. This would be particularly apparent in respect of the rear garden area of No 119 which would be reduced in size significantly.

13. Whilst used communally, the rear gardens of Nos 119 and 121 benefit from a reasonable level of privacy given that there is a considerable degree of separation between these gardens and dwellings along St Mary's Road to the west and Garland Road to the north. The proposed dwelling would introduce a rear facing bedroom window that would allow direct and immediate views into the rear garden of No 121 by any future user of this room. A rear facing living room window would have the same effect in respect of the rear garden of No 119. Given that these windows would be the primary windows for each of

these respective rooms, this matter could not be reasonably overcome through, for instance, the obscure glazing of these windows. I therefore consider that the increased level of overlooking that would arise into the rear gardens of Nos 119 and 121 would substantially reduce the privacy of the rear gardens of these properties for their users.

14. I therefore conclude that the excessively modest sized rear garden areas of Nos 119 and 121 and the considerable reduction in the privacy of these spaces as a result of the proposal would substantially reduce the occupier's of Nos 119 and 121 enjoyment of their rear gardens. Consequently, this would result a significant and harmful effect on their living conditions in this respect.

15. The proposal would therefore be contrary to Policies PCS5, of the Core Strategy; and Policy DM1- Design, of the Poole Site Specific Allocations and Development Management Policies Development Plan Document 2012 (DPD). These policies require, amongst other things, development to respect the amenities of the residents of neighbouring properties. These policies are consistent with the broad aims and objectives of the Framework which seek planning to provide a good standard of amenity for all existing occupants of land and buildings.

Living conditions- future occupiers

16. The layout of the proposal does not provide for a dedicated private amenity space for any future occupiers. Whilst the appellant sets out that any future occupiers would have access to the communal rear garden areas of Nos 119 and 121, there would be no direct access from any of the main living areas of the proposed dwelling. In addition, the presence of any parked cars to the front of the proposed dwelling, given their likely close proximity to the front elevation, would restrict the ease of access from the front door to the side gates that would lead to these gardens for any future occupiers.

17. As such, the rear garden areas of Nos 119 and 121 would not be well connected to the proposed dwelling and thus would limit the utility of these spaces for any future occupiers. Moreover, whilst there is a public park within reasonable walking distance, this would not provide the same role as a well connected and easily accessible private amenity space for everyday purposes such as sitting out and relaxing and the drying of clothes. The appellant makes reference to other recent developments in the area that do not provide private amenity space. However, no specific examples or further details of these schemes have been provided that would allow me to make any informed comparisons between them and the proposal I am to consider. As such, I afford limited weight to this assertion.

18. Turning to matters of privacy, the proposed rear facing windows would allow direct and immediate views into the bedroom and living room that they would serve by any users of the rear gardens of Nos 119 and 121. Given the close proximity of the proposed dwelling to Nos 119 and 121, there would also be the opportunity for the existing occupiers of these properties to overlook these windows, from a short distance, from any rear facing windows of Nos 119 and 121.

19. I therefore conclude that the proposal would provide wholly inadequate living conditions for any future occupiers in respect of external amenity space provision and privacy. I consider that this would be the case even if it is the

intention of the appellant to let the proposed dwelling on the basis of emergency and temporary need.

20. The Council's local planning policies referenced on their decision notice in respect of this main issue primarily relate to the living conditions and amenities of neighbouring occupiers. As such, these policies are of limited relevance to this main issue. Nevertheless, the proposal would conflict with the broad aims and objectives of the Framework which require planning to secure a good standard of amenity for all future occupants of land and buildings.

Dorset Heathlands

21. The appeal site is located within 400m-5km of the Dorset Heathlands. Policy PCS28- Dorset Heaths International Designations, of the Core Strategy; and Policy DM9- Green Infrastructure, of the DPD, require development not to adversely affect the integrity of international designations and that any necessary mitigation measures are provided. The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document 2016 (DHPF) sets out the measures required to avoid harm to the Dorset Heathlands, including in respect of the type of development proposed, setting out that financial contributions are required towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM).

22. The Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which would secure a contribution towards SANG. A contribution would also be required, secured through a legal agreement, in respect of SAMM. The appellant does not dispute the requirement for this contribution and indeed indicates a willingness to provide the contribution. I agree that the payment would be necessary to make the development acceptable in planning terms, would be directly related to the proposal and would be fairly and reasonably related in scale and kind. As such it would satisfy the policy tests in paragraph 204 of the Framework as well as the statutory tests in regulation 122 of the CIL Regulations 2010 (as amended). Nevertheless, no effective legal mechanism has been provided to secure this contribution.

23. Consequently, on the basis of the evidence before me, I cannot be confident that the proposal would not result in harm to the Dorset Heathlands. It would therefore be contrary to Policy PCS28, of the Core Strategy; Policy DM9, of the DMD; and the guidance of the DHPF. The proposal would also be contrary to the aims and objectives of the Framework which require the conservation and enhancement of biodiversity by applying the principle of adequately mitigating significant harm resulting from development.

Highway safety

24. An internal parking space within a garage would be provided for the proposed dwelling and 4 external parking spaces would be provided for the properties of Nos 119 and 121. The Council's parking standards are set out within their Parking and Highway Layout in Development Supplementary Planning Document 2011 (SPD).

25. I note that the advice of the Council's Transport Development Management Officer originally recommended 2 parking spaces each for Nos 119 and 121, but as part of the appeal revised this recommendation to 5 in total. Having regard to Table 3 of the SPD, to which the Council refers, I acknowledge that a

dwelling with 6 or more rooms, such as No 119, would require 2 parking spaces and No 121, which contains 3 units, would require 3 parking spaces. In addition, the proposed number of rooms within the new dwelling would generate a requirement of 1 parking space in accordance with Table 3 of the SPD.

26. However, I note that the SPD allows for reduced levels of parking provision for certain types of development, including sheltered accommodation. Appendix F of the SPD sets out a parking ratio of 1 space per 2 units for such accommodation. Whilst the term 'unit' is not defined within the SPD, 'sheltered accommodation' is defined within Appendix H of the SPD as covering a wide range of rented housing for older and/or disabled or other vulnerable people.

27. The current occupiers of Nos 119 and 121, as indicated by the appellant, clearly fall within the category of 'vulnerable people'. So too would any residents of the proposed dwelling, with the exception of the designated carer. It seems to me that No 119, given that it is shared communally, could reasonably be regarded as a single unit, No 121 as 3 units and the proposed dwelling as a single unit. Consequently, it appears that the parking provision in this instance would likely comply with the Council's parking standards. Whilst I note that the SPD recommends that an effective legal mechanism to justify reduced parking provision should be provided to prevent the sale of permanently rented accommodation to tenants, no such recommendation appears to made for sheltered accommodation.

28. Therefore, whilst I acknowledge that it is unlikely that the internal garage would be used for parking, given that it would likely be obstructed by any parked cars, the proposal would appear to provide an adequate number of parking spaces to comply with the Council's parking standards. Whilst there would be some conflict with condition No 2 of the original planning consent[2] to convert No 121 to flats, the proposed level of parking would be, in this instance, unlikely to result in harm to highway safety.

29. Turning to the access arrangements, the access road to which the proposed dwelling would front is narrow and has no footpaths. I acknowledge, therefore, that pedestrian facilities are limited. Nevertheless, during my site visit, which occurred between the hours of approximately 0845-0920, I observed very little vehicle movement along this road. There is no substantive evidence to suggest that this is likely to change considerably at different times of the day. As such, whilst not an ideal access arrangement, it is unlikely that any future occupiers of the proposal would be put at any significant risk when accessing the proposed dwelling along the access road. Moreover, if any future occupier had mobility issues, they would be supported by a carer. Furthermore, an alternative pedestrian access to the proposed dwelling would be available from Longfleet Road in any case.

30. As set out above, the proposal would be likely to provide adequate parking to meet the Council's standards and is unlikely to generate any significant additional vehicle movements over the existing situation. The proposal would therefore not pose any significant highway safety risks to other pedestrians who use the access road.

[2] Ref 02/09816/005/F

31. I therefore conclude that the proposal would not result in harm to the safe use of the highway and would therefore comply with Policies PCS15- Access and Movement and PCS26- Delivering Locally Distinctive, Self-Reliant Places, of the Core Strategy; and Policies DM7- Accessibility and Safety and DM8- Demand Management, of the DPD. These policies require amongst other things, development to provide safe and accessible places, including for people with restricted mobility and to maintain highway safety. The proposal would also comply with the aims and objectives of the Framework which requires safe and suitable access to the site for all people.

Other matters

32. I have no doubt that the proposed dwelling would be constructed using sustainable building techniques and would incorporate energy efficiency measures. I have also found no harm to highway safety. I also recognise the need for additional housing within the Borough, including the type of living accommodation proposed and the social benefits that it would provide to any future occupiers and their families. In addition, I acknowledge that it would occupy a location with good access to local services and facilities. Whilst in the broad scheme of things, one additional residential unit would make only a limited contribution to housing supply and housing mix within the Borough, it can be considered, in the context of Paragraph 134 of the Framework, a public benefit.

33. However, whilst the abovementioned matters weigh modestly in favour of the proposal, they would not outweigh the harm I have identified in respect of the character and appearance of the area, the setting of the HPCA, the living conditions of existing and any future occupiers and the Dorset Heathlands.

Conclusion

34. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR