
Appeal Decision

Site visit made on 23 November 2016

by Elizabeth Hill BSc(Hons), BPhil, MRTPI

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

Decision date: 16 December 2016

Appeal Ref: APP/Q1255/W/16/3152811

22-24 Recreation Road, Poole, Dorset, BH12 2EB

- 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 Mr Lee Cutler against the decision of Poole Council.
 - The application Ref APP/16/00053/P, dated 15 October 2015, was refused by notice dated 23 March 2016.
 - The development proposed is to sever the rear gardens of 22 and 24 Recreation Road and erect two pairs of semi-detached houses, utilising amended access from 22 Recreation Road to provide access and parking.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. An application for costs was made by the Council against Mr Lee Cutler. This application is the subject of a separate Decision.
3. The application is in outline form with only the access and layout to be determined at this stage.

Main Issues

4. The main issues in this case are:
 - a) the impact of the proposal on the character and appearance of the area;
 - b) the impact on the living conditions of future occupiers of the proposal in respect of private amenity space, the occupiers of 22-24 Recreation Road in terms of private amenity space and privacy and the occupiers of 38 and 38a Argyll Road and 9 Cecil Road in terms of privacy; and,
 - c) the impact of the proposal on the Dorset Heathlands Special Protection Area (SPA) and Special Area of Conservation (SAC).

Reasons

Character and appearance

5. The proposed development would take place on garden land to the rear of a pair of semi-detached dwellings which face onto Recreation Road. The area of Recreation Road closer to the recreation ground is characterised mainly by detached bungalows but the area around the site is more mixed with bungalows and two-storey detached and semi-detached dwellings. The plots

on the same side of the road as the host properties are long and quite uniform in length and, although there is some variation in width, this provides a spacious setting for the properties. Whilst there is the occasional garage, greenhouse or other small single-storey building to the rear of the existing properties, there is nothing to the height and size of the development shown on the illustrative plans. The amount of car parking required would take up a significant amount of space on the site and, together with the short back gardens to the proposed properties and the dwellings at 22-24 Recreation Road, would give a cramped appearance to the proposal. Although landscaping is a reserved matter, the proposal would leave little space for the planting shown on the illustrative plans, creating a harsh appearance to the area.

6. The new dwellings would be readily seen through the access to the side of 22 Recreation Road as an uncharacteristic intrusion in the garden land to the rear of the existing dwellings on the street. The proposal would be unrelated to the existing grain of development in Recreation Road and be seen as an incongruent form of development from other dwellings in the locality.
7. Therefore I conclude that the proposed development would be harmful to the character and appearance of the area, contrary to policy PCS5 of the Core Strategy, which seeks to ensure that, where plot severance is proposed, there is sufficient land to provide development that preserves or enhances the residential character of the area, and policy PCS23, which seeks a high standard of design for new development, respecting the setting and character of the site.

Living conditions

8. The site is proposed to be lowered by about 0.9m, to be at a level similar to the houses at 20-22 Recreation Road. The scale and appearance of the proposed dwellings is a reserved matter but the illustrative drawings show a lowered roof height with velux windows to the rear, which is intended to reduce the issues of visual impact and privacy on surrounding properties.
9. There would be over 14m between the proposed dwellings and the rear of the dwellings at 22-24 Recreation Road and over 13m between the dwellings and the rear of 38 and 38a Argyll Road and 9 Cecil Road. The proposed lowered ground levels and fencing/ landscaping shown on the illustrative section would protect the privacy of the ground floor levels of surrounding properties. The illustrative plans show first floor bedroom windows to the front of the proposed properties which would overlook the houses and their rear gardens at 22-24 Recreation Road. Although landscaping is a reserved matter, if it were to be provided to the boundary of these gardens as shown on the plans, this would impinge on the private amenity area available to these properties, which would be very limited at 22 Recreation Road in any event.
10. The rear of the proposed properties would be even closer to the properties at Argyll Road and Cecil Road. The reduced height of the proposed dwellings would mean that this would be confined to overlooking from their rear bedrooms and the illustrative plans show velux windows to the roofs of these rooms to overcome the issue of privacy and give sufficient daylight and sunlight. Whilst these are shown at a height which would prevent overlooking, they are the only windows to a habitable room and this would be unacceptable in terms of outlook for the future occupiers of the properties.

11. Various examples of situations in which velux windows have been used were cited by both main parties, including appeal ref. APP/Q1255/W/14/3001014, the relevance of which is disputed by the appellant. However, from the information available to me, none of these examples appear to be the same, in terms of their design or surroundings, as the proposal in this appeal. Therefore I have based my view on this proposal based on its own merits, including the illustrative design and the height and distance from neighbouring dwellings. To overcome the need for a velux window, the appellant has suggested that a standard window, partly obscure-glazed, could be used for the rear bedrooms but, although this might be preferable in design terms, the obscure glazing would mean that it would have the same issues with outlook.
12. The proposed development would have limited private amenity space, although it would potentially allow for an immediate sitting out area and drying washing. However, it would provide very limited space for small children to play and, with two bedrooms, the dwellings could be used by families. The appellant has said that there is a recreation ground nearby but this would not overcome the need to provide safe, readily supervised playspace necessary for small children, which would be appropriate to this scheme as an integral part of it. The size of the private amenity space for the occupiers of 22-24 Recreation Road is also adversely affected by the subdivision of their original gardens.
13. Therefore I conclude that the proposed development would have a harmful effect on the living conditions of future occupiers, in respect of private amenity space, the occupiers of 22-24 Recreation Road, in terms of private amenity space and privacy, and the occupiers of 38 and 38a Argyll Road and 9 Cecil Road, in terms of privacy. This would be contrary to policy DM1 of the Poole Site Specific Allocations and Development Management Development Plan Document (SSADMDPD) and policy PCS5 of the Core Strategy which seek to provide a high standard of design and sufficient amenity space in development and also to protect neighbouring amenity.

Impact on habitats

14. The site lies over 400m but within 5km of the Heathland Site of Special Scientific Interest which forms part of the designated Dorset Heathlands Special Protection Area (SPA) and Special Area of Conservation (SAC) and therefore the appeal has to be determined in accordance with the Habitats Regulations 2010. Had the other main issues above been addressed, then the decision-taker would have had to make an Appropriate Assessment, for which the appellant would have needed to have submitted the necessary material for the assessment to be carried out. However in this case, harm has been identified for both the other main issues and further consideration to the need for Appropriate Assessment of the European sites in accordance with the Habitats Regulations 2010 has not been necessary.
15. In addition to the statutory obligations under the Habitats Regulations 2010, set out above, the Council has an adopted Supplementary Planning Document (SPD), Dorset Heathlands Planning Framework 2015-2020. This requires an additional payment of £355 per dwelling for new dwellings in Poole as a contribution to fund Strategic Access Management and Monitoring (SAMM), either by unilateral undertaking or legal agreement in order to manage the adverse impacts of development on the Dorset Heathlands. Draft heads of terms for an agreement have been submitted with the appeal but the

undertaking/ legal agreement would have to have been completed, signed and dated and submitted with the appeal for it to be taken into account. Since no mitigation has been secured in respect of SAMM, it cannot be shown beyond reasonable scientific doubt that there would not be a harmful effect on the SAC and SPA features. As such, the proposal would be contrary to the Dorset Heathlands Planning Framework 2015-2020 SPD, policy DM9 of the SSADMDPD and policy PCS28 of the Core Strategy, which aim to protect the natural environment and, in particular, the Dorset Heathlands.

Other matters

16. The appellant has mentioned other sites locally where development in depth has been allowed and, in two of the cases, this was on garden land. The first of the cases, on Albert Road, is a scheme on a larger plot of land which allowed for more generous gardens to be retained for the host dwellings. In the second of the cases, the new dwellings off Wharfdale Road were part of a larger works to demolish and rebuild one of the host dwellings to provide access. In this development there are no dwellings to the rear which could be adversely impacted by the development and there is an open outlook to the rear over the recreation ground, even if the occupiers do not have direct access to it. The redevelopment of the care home at The Cedars was a comprehensive scheme for a much larger number of dwellings, which did not retain the original buildings on the site, and this has created a separate character for this area, different from that on Recreation Road. As such, I consider that these cases were substantially different to those proposed in this appeal.
17. Local residents have concerns about highways matters and parking but the plans show that the proposed access and parking spaces would meet the highway authority's standards. Other matters such as drainage, trees and the provision of refuse storage could be dealt with at reserved matters stage. However, these are neutral matters in the appeal.

Conclusions

18. For the reasons given above and having regard to all other matters raised, including a limited number of letters of support for the scheme, I conclude that the appeal should be dismissed.

E A Hill

Inspector