
Appeal Decision

Site visit made on 7 December 2016

by Iwan Lloyd BA BTP MRTPI

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

Decision date: 02 February 2017

Appeal Ref: APP/Q1255/W/16/3146348

Land to the rear of 22 Bond Road, Poole BH15 3RT

- 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 Derrick Morris against the decision of Poole Council.
 - The application Ref APP/15/01568/P, dated 6/11/2015, was refused by notice dated 5/01/2016.
 - The development proposed is outline permission for a dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application was submitted in outline with all matters reserved for later determination.
3. The Council withdrew reason for refusal 2 in relation to ecology and nature conservation given that the appellant has signed an agreement and made a contribution towards Strategic Access Management and Monitoring of the protected sites. The objection has therefore been overcome and the issue no longer forms part of this appeal.
4. The Secretary of State has issued a direction on 29/04/2016 that the proposal is not an Environment Impact Assessment development within the meaning of the 2011 Regulations.

Application for costs

5. An application for costs was made by Mr Derrick Morris against Poole Council. This application is the subject of a separate decision.

Main Issues

6. These are; the effect of the proposal on highway safety, and whether adequate information has been provided to assess the effect of the proposal on the health and life expectancy of protected trees.

Reasons

Highway safety

7. The appeal site is located to the rear of dwellings facing onto Bond Road. The site is accessed via a narrow driveway from Bond Road which serves the rear of residential properties along Ringwood Road and Bond Road. The driveway
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access at its junction with Bond Road is narrow and immediately adjoins access gates for No. 126 Ringwood Road. At this point the access can only accommodate one vehicle. Beyond this point there is a widened area that facilitates parking for two properties with garages built next to this parking area. Parked vehicles occupied this area during the course of my visit but if unoccupied it could facilitate space for two cars to pass. Other garages are located adjacent to this drive which then turns ninety degrees passed the bungalow which shares a common boundary with the appeal site. The driveway is very narrow beyond this turn for the short length it travels to the appeal site.

8. There is a dispute concerning the existing lawful status of the site. The appellant refers to it as a private allotment. The Council concurs with this view in the statement of common ground but retracts that position in submissions. The Council point out that having researched the preceding use and aerial photography that there was no evidence showing this activity. The argument put forward by the appellant is that there would be no vehicle movement intensification of the access driveway when comparing the previous use (if accepted) and that of the proposed development.
9. The appellant argues that this fall-back position is a weighty material consideration in the consideration of this appeal which merits a different conclusion to the dismissed appeal¹ previously considered at this site. Other differences relates to the National Planning Policy Framework (the Framework) introducing at paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Further published guidance in relation to Manual for Streets also differs from the preceding appeal in relation to the requirement for wide visibility splays at private driveways in paragraph 7.8.3.
10. The appellant acknowledges that there is no apparent current use of the site, being covered as I observed in brambles. However, the appellant indicates that that should not rule-out determination of its potential use as an allotment. It is correct to assert that the use of land for agriculture and forestry are excluded from the definition of development and could resume therefore without planning permission. However, the reasonable prospect of such a use occurring should be greater than a theoretical possibility.
11. The appellant refers to the lawful use of the site for the growing of food and flowers and breeding and keeping of livestock, all of which would require commercial vehicles reversing along the lane to deliver feed, tools and livestock, because there is no parking and turning space within the site. The appellant refers to the possibility of 4 trips including morning/evening visits if attending to livestock, which would be comparable to the vehicle movements of the proposed development.
12. The available evidence before me does not indicate that the use would have a reasonable prospect of occurring. As the Council point out this a small site for agricultural activity and is unlikely to be operating at any significant scale and at this location. I do note the example of even a smaller site used to accommodate pigs, but that in itself, does not raise the prospect that this site would be used this way any higher than that of a theoretical possibility.

¹ APP/Q1255/A/06/2023157 dismissed on 5/01/2007

13. There is some disparity with what was presented with the application and the case now presented. The application form described the current use as derelict land and the last use unknown. The certificate and agricultural land declaration indicate that 'none of the land to which the application relates is, or is part of, an agricultural holding'. There is an absence of any documentary evidence such as an agricultural tenancy agreement/marketing to suggest that the prospect of the use occurring would be greater than a theoretical possibility. I therefore accord the fall-back use limited weight.
14. Even so, there remains the possibility that it would be used for agricultural activity. However, I am not satisfied that the traffic movements associated with such a use would be comparable to a residential use. If the site were to be used for growing food, flowers or keeping livestock, apart from deliveries, the occupier of the site could be living locally so as to have only cause to walk to the site, and so the movement pattern may not be confined to vehicles.
15. In my view the likelihood of a comparable and genuine fall-back use which would give rise to similar or significantly more harmful impact on highway safety grounds than the proposed residential use of the site has not been made out.
16. The preceding appeal indicated that since the proposed dwelling's sole means of access would be via the existing access driveway, it would lead to a significant increase in the level of vehicle movements at its junction with Bond Road. It also indicated that this increase would be likely to result in a greater incidence of conflicts between vehicles reversing into the road and presenting a hazard to the drivers of oncoming vehicles. I have no reason to depart from these views in the assessment of this appeal. The entry point onto Bond Road remains physically the same as before and the confined nature of this entrance could give rise to increased risk associated with vehicles meeting one and other, and drivers having to reverse onto Bond Road, where parked vehicles generally restrict visibility.
17. I consider that the potential residual cumulative impacts of the development would be severe in this instance, because an increase in traffic movement associated with the proposal would cause significant difficulties along a narrow lane already serving some eight existing properties. The parking of vehicles along the widened lay-by along the driveway and a number of garage doors opening onto the lane result in a narrow and confined area for vehicle manoeuvres. Whilst I acknowledge the lack of collision evidence that does not outweigh the unsatisfactory nature of the physical constraints of the access point and the sharp and the unsighted turn into the site between two garages having regard to the likely intensification of the access driveway associated with the residual effects of the proposed development. The additional increase in traffic from the proposal would make the existing situation worse tipping the balance in my view to a severe impact.
18. I accept that the pedestrian splay at the entrance to Bond Road may no longer be required as set out in Manual for Streets, but this point does not outweigh my other concerns. I also concur with the Council that the sites at Cranbrook Road and Balston Road are materially different to the appeal site in terms of the fewer number of properties the accesses serve and that these sites can be differentiated from the appeal development.

19. The Poole Site Specific Allocations and Development Management Policies Development Plan Document (DPD), was adopted in 2012, and Policy DM 7 indicates that proposals for new development amongst other things should not compromise or result in detriment to highway safety. The proposal would fail to comply with this policy.
20. The Framework indicates that decisions should take into account of whether safe and suitable access to the site can be achieved for all people. No improvements can be made to the restricted access point in this instance, and I consider that development should be refused on transport grounds because the residual cumulative impacts of development are severe. I consider that the proposal conflicts with this guidance. I regard DPD Policy DM 7 as being consistent with the Framework.
21. I conclude that the proposal would harm highway safety.

Protected trees

22. The Tree Preservation Order (TPO) includes a group of three trees adjacent to the rear of the appeal site. The previous appeal described the trees and the large protected oak tree which is within the site as a significant contributing feature to the sylvan character of the area. The previous appeal indicated concern over the proximity of the proposed dwelling to the crown spread of the tree, and that it would be difficult to protect the tree during construction. Furthermore, the appeal raised concerns about shading and that it could cause potential damage to the dwelling, and increase pressure on the Council from the occupiers of the site to seek remedial works to the tree which would reduce its amenity value.
23. The application provides no detail of layout of the development. It is merely a red-line application/appeal site. The appellant indicates that a smaller dwelling could be provided outside of the tree protection zone and construction methods could be instigated so as not to cause damage to the tree.
24. Relevant DPD Policy DM 1 (iii) seeks to protect TPO trees. In the absence of information on the location of the dwelling and whether it would encroach into the root protection area of the trees and whether site levels would change and result in compaction of potential areas where roots exist, I am minded to take a precautionary approach.
25. I consider that inadequate information has been provided to assess the effect of the proposal on the health and life expectancy of protected trees.

Other matters

26. The Council has also refused permission on the basis that no information has been provided to demonstrate that a dwelling could be situated on the site that would preserve the character and appearance of the area and the living conditions of nearby residents.
27. The Council notes that the area is residential in character and that the proposal would preserve this basic characteristic and is sustainable, and that the Core Strategy does not preclude residential development in the area. The fact that the additional dwelling cannot be fully assessed is not a reason against the development as it could properly be addressed in a reserved matters application. There is no substantive case made that a dwelling at this location

would harm the character and appearance of the area or the living conditions of nearby residents.

Planning balance and conclusions

28. I have found that the proposal would harm highway safety and that inadequate information has been provided to assess the effect of the proposal on the health and life expectancy of protected trees.
29. The benefits of the proposed development include no tangible and discernable harm to character and appearance and living conditions, and that the site is situated in a sustainable location. There would be some social and economic benefits with the provision of a dwelling to meeting housing need and supporting local facilities and businesses. The Core Strategy supports the location of this development.
30. The positive case for the development make it consistent with some of the Core Strategy policies, but the proposal is contrary to important policies relevant to the main considerations of this appeal, DPD Policy DM 7 and Policy DM 1 (iii). The proposed development would therefore be contrary to the DPD as a whole.
31. For these reasons, I conclude that the appeal should be dismissed.

Iwan Lloyd

INSPECTOR