

Appeal Decision

Site visit made on 3 April 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 13 April 2017

Appeal Ref: APP/Q1255/W/16/3163837
2A Talbot Drive, Poole BH12 5ED

- 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 Mr A Beal against the decision of Poole Council.
 - The application Ref APP/16/01153/C, dated 22 July 2016, was refused by notice dated 20 October 2016.
 - The development proposed is change of use from HMO (Class C4) to a 7 bedroom HMO (Sui-Generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and Dorset Heaths Special Area of Conservation (SAC).

Reasons

3. The appeal property is occupied as a house in multiple occupation (HMO) for up to six residents. The proposal is to bring an unused room into use as a bedroom, thereby bringing the capacity of the building to seven persons.
4. The parties agree that the site lies within 400 m of the Bourne Valley Site of Special Scientific Interest (SSSI) which forms a component part of the Dorset Heathlands SPA and Ramsar site and Dorset Heaths SAC. The proposal must therefore be assessed against the requirements of the Conservation of Habitats and Species Regulations 2010.
5. In order to grant permission I must be satisfied that it can be established, beyond reasonable scientific doubt, and having regard to the manner in which the development would be carried out and any conditions or restrictions to which it would be subject, that the proposal would not adversely affect the integrity of the European sites¹.
6. Relevant guidance is contained in the Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (SPD). This explains the problems surrounding the intensification of residential development in South East Dorset and the resultant pressures placed upon protected heathland by new occupants of developments in close proximity.

¹ Regulations 61 and 62

7. Various research studies have found that public access to lowland heathland has led to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets. All have a detrimental impact on the heathland habitats and species features of the designated sites.
8. According to the SPD, the effects are most marked for development within 400 m of the protected heathland. Within this zone Natural England advise that additional residential development is likely to have a significant adverse effect upon the designated site, either alone or on combination with other developments. The implication of this is that in the majority of cases it will not be possible to undertake an appropriate assessment of a proposal for residential development to be certain that any adverse effects could be avoided or alleviated.
9. The guidance makes clear that HMOs and private student accommodation are likely to have the same adverse effects as conventional housing development. To my mind, a bedroom within a HMO is indistinguishable from a one-bedroom flat to that extent that in each case the occupant would expect to access nearby open space, including heathland.
10. The appellant uses the now withdrawn Circular 08/2010² to argue that the addition of one person within a building already occupied by six people would not give rise to a substantive change to the character and intensity of that use. It is not for me to reach a finding on whether the proposal requires planning permission. It is open to the appellant to seek a determination under S192 of the Town and Country Planning Act to settle this point. I am required to deal with the appeal before me and must work on the basis that permission is necessary.
11. There can be no disputing the fact that the proposal would increase the number of persons living within the property. I recognise that occupants have access to a public sport and recreation ground directly in front of the site. However, this does not mean that the extra resident would not also utilise the Bourne Valley SSSI for activities such as walking, jogging and cycling. On the contrary, it seems to me that the close proximity and accessibility of the SSSI would encourage its use for recreation on a day-to-day basis.
12. I accept that it is difficult to quantify the effects and, in all probability, the harm arising from the proposal itself would be small. However, the effect would remain an adverse one and the cumulative effects with other similar scale developments are likely to be significant. The appellant has not offered any conditions or measures to offset the detrimental impacts on the Dorset Heathlands but, given the evidence put forward by Natural England, I am not persuaded that effective mitigation would be possible in any event.
13. Overall, I am not in a position to conclude beyond reasonable scientific doubt that the proposal would not have an adverse effect on the integrity of the European sites. For this reason alone, the appeal must fail.
14. The proposal would also conflict with Policy PCS28 of the Poole Core Strategy (2009) which makes clear that development will not be permitted where it would be likely to lead to an adverse effect upon the integrity of the Dorset Heaths international designations.

² Changes to planning regulations for dwellinghouses and houses in multiple occupation.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR