
Appeal Decision

Site visit made on 28 June 2016

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/Q1255/W/17/3169008
36 Sterte Esplanade, Poole BH15 2BA

- 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 Purbeck Design Consultants Ltd against the decision of Poole Council.
 - The application Ref APP/16/00907/F, dated 7 June 2016, was refused by notice dated 15 August 2016.
 - The development proposed is to demolish the existing building and erect a terrace of 3 town houses.
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Decision

1. The appeal is dismissed.

Costs application

2. An application for an award of costs has been made by Purbeck Design Consultants Ltd against Poole Council. This application is the subject of a separate decision.

Procedural matters

3. The appellants have submitted a planning obligation under Section 106 of the Town and Country Planning Act 1990, dealing with contributions towards arrangements for Strategic Access Management and Monitoring (SAMM) of the Dorset Heathlands Special Protection Area, Ramsar site and Dorset Heaths Special Area of Conservation. This overcomes the relevant reasons for refusal and I shall refer to this in more detail below.
4. The appellants have submitted amended plans with the appeal. The plans show the townhouses sited at a level of 3.6m above Ordnance Datum, some 310mm (about 1 foot) higher than shown on the application plans submitted to the Council. I am mindful of the advice that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
5. However, in my view, this is not a significant amendment which would materially alter the nature of the development. The Council, immediate neighbours and others further away have been notified of the appeal by the Council, and have had the opportunity to comment on the revised plans, and therefore no-one's interests have been prejudiced. I shall therefore take the amended plans into account in my decision.

Main Issues

6. The main issues are:

- i) the effect of the proposal on the character and appearance of the surrounding area, and
- ii) the implications of the proposal for flood risk.

Reasons

Character and appearance

- 7. Sterte Esplanade is a wholly residential road with buildings only on the north-east side of the road, facing an area of open space, the A340 road and Upton Lake. The dwellings along the road have a mixed character, but bay fronted semi-detached houses from the early 20th century predominate. Other dwellings include bungalows and individual houses, including contemporary designs such as the one under construction at the time of my visit at No 40, the upper storeys of which are finished in dark grey stained timber cladding, with a glazed balcony at first floor level.
- 8. The appeal site is occupied by a detached bungalow in a large plot, flanked by a bungalow on one side and a two storey house on the other. It is proposed to replace the bungalow with a terrace of three two-storey townhouses with rooms in the roofspace, lit by dormer windows. The Council has no objection to the basic form of the townhouses, as they would have a central entrance that would give the front elevation an approximate appearance of a pair of semi-detached dwelling of a form which would accord with those nearby.
- 9. The houses would possess large areas of glazing in the front elevations with groups of three tall windows in the ground and first floors, together with a central first floor balcony. Glazed panels around the balcony would add to the predominance of glass in the front elevation. The remainder of the front elevation would be finished in timber cladding.
- 10. The Council's concerns are that the cumulative effect of the front roof dormers, the extensive use of glazing and the use of timber cladding would be dominant and incongruous and would harm the character and appearance of the street scene. It is proposed to site two triangular dormer windows close to each other in a central part of the front roof slope. They would be as high as the main ridge and set back slightly from the eaves. The shape and position of the dormers would have some similarity to the pitched roofs over the projecting bays of the adjacent house at Nos 32 and 34 Sterte Esplanade, which, although lower, are further forward. I consider that these would fit into the street scene reasonably well, and would not be unduly dominant.
- 11. Extensive glazing is not found in other dwellings nearby, even on more modern properties. However, the windows possess similar proportions to the long, tall windows of the bay-fronted houses which predominate in the road, and although the proportion of glazing to timber cladding would be far greater than the bay-fronted properties, I consider that the design would fit in satisfactorily with the mix of dwellings in the road. The amount of timber cladding would be small in relation to the new dwelling at No 40, and would provide interest as part of a mix of materials which would include the glazing, white render and grey panels.

12. I have also considered whether the cumulative impact of these different features would be harmful to the street scene, and although I accept that this issue is fairly finely balanced, I do not agree that it would. I therefore conclude on this issue that the proposal would not result in material harm to the character and appearance of the area, or conflict with Poole Core Strategy (CS) Policies PCS 5 & PCS23, which respectively deal with broad locations for residential development and local distinctiveness.

Flood risk

13. CS policy BCS 34 deals with flood risk. However, this makes reference to policy contained in Planning Policy Statement 25, which was cancelled on publication of the National Planning Policy Framework (the Framework). It is therefore out of date, and the Framework carries considerable weight in these circumstances.
14. The Framework aims to ensure that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. One of the means of achieving this is through the application of the sequential test, the aim of which is to steer new development to areas with the lowest probability of flooding. It says that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
15. It goes on to say that the Strategic Flood Risk Assessment will provide the basis for applying this test, and that a sequential approach should be used in areas known to be at risk from any form of flooding. The Council has carried out a Strategic Flood Risk Assessment, which identifies the front part of the site as being at risk of future flood risk, being within the 1 in 200 year and 1 in 1000 year risk areas. The flood risk area extends from the west of the site and covers the first 15m of the appeal site, on which the access and front parking spaces and the front part of the dwellings would be situated.
16. In my view, the proportion of the site falling within the risk zone is not so small as to be disregarded, and I consider that a sequential test is required in this case to demonstrate that the development could not be reasonably accommodated on sites elsewhere in the Borough. The Environment Agency's consultation response supports this approach.
17. No such information has been provided, and the Council says that there are other sites on which the proposal could be provided. As this is a relatively modest scheme, I consider that in the absence of evidence to the contrary, it is likely that there would be sites capable of accommodating the proposal. In any event, there is no evidence that it could not.
18. The appellants suggest that by ensuring that the proposal were sited above the level of the 1:200 year flood level, it would adequately safeguard occupiers, and that a safe refuge could be provided. However, this misses the point of the sequential approach towards flood risk – the objective is to divert development, where possible, away from areas of highest risk. Measures such as raising the height of the dwellings above the flood level, and providing safe refuge are only appropriate once the sequential test is satisfied. As the test is not satisfied in this case, the proposal would conflict with national advice and one of the core planning principles of the Framework, to take full account of

flood risk. The appeal decision referred to by the Council in respect of land at East Delph¹ accords with this approach.

19. The appellants have referred me to a number of appeal decisions and cases approved by the Council. The application site in the appeal relating to Lemonford Caravan Park² incorporated land in Flood Zones 2 and 3, but houses proposed were to be built on land not susceptible to flooding. However, in this case, the dwellings would be built partly on land at risk of flooding, and this distinguishes the two cases. The proposal at The Manor House, West Camel³ involved the conversion of a building, for which a sequential test is not required, unlike this case where it is. The Inspector in the appeal relating to 23 Station Street, Boston⁴ acknowledged that the sequential test was required, but the need to regenerate the town centre was an overriding consideration, which does not apply here. I therefore do not consider that these appeal decisions lend significant support to the appellants' case.
20. The appellants have also referred me to some decisions of the Council, of which I consider only APP/14/01603/F relating to 59-61 Lulworth Avenue to be comparable to this case. Whilst the Council did not appear to have applied the sequential test when perhaps it should, this does not justify my not doing so in the light of clear national policy.
21. It is important to the integrity and effectiveness of the planning system that like cases should be determined on a like basis. However, the government has made it plain that development should be diverted away from areas at risk of flooding wherever possible. The need to secure consistency in this case is outweighed by the importance of avoiding inappropriate development in areas at risk of flooding.
22. I therefore conclude on the second main issue that the proposal would have unacceptable implications for flood risk and would conflict with the clear intentions of Government policy set out in the Framework.

Other matters

23. The appellants have submitted an obligation which provides for contributions to be made to mitigating the effect of the increased recreational pressure on protected habitats arising from the proposal. The need for mitigation is set out in CS Policy PCS28 and Policy DM9 of the Site Specific Allocations and Development Management Policies (April 2012), together with the Dorset Heathlands Supplementary Planning Document. I am satisfied that the obligation is necessary and would overcome the relevant reason for refusal.

Conclusion

24. Although I have found that the proposal would not result in material harm to the character and appearance of the surrounding residential area, this is outweighed by the conflict with the Government's flood risk policy. The proposal would fulfil the social role of sustainable development by helping to meet the demand for housing in the borough. The economic dimension would also be addressed through the benefits arising from the construction and

¹ APP/D0515/A/14/2210915

² APP/P1133/A/13/2209715

³ APP/R3325/A/14/2215075

⁴ APP/Z2505/W/15/3033330

occupation of the dwellings. However, the avoidance of flood risk is an important plank of Government policy, and the failure to comply with the sequential approach means that the environmental dimension is not fulfilled and that, when looked at in the round, the proposal is not a sustainable form of development.

25. Accordingly, for the reasons given above, the appeal must fail.

JP Roberts

INSPECTOR