



---

## Appeal Decision

Site visit made on 11 September 2018

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 November 2018

---

**Appeal Ref: APP/G1250/W/18/3193968**

**33 High Howe Lane, Bournemouth BH11 9QS**

- 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 T Fisher against the decision of Bournemouth Borough Council.
  - The application Ref 7-2017-10290-J, dated 27 April 2017, was refused by notice dated 19 July 2017.
  - The development proposed is a new dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The replacement National Planning Policy Framework (the Framework) was published on the 24 July 2018. The parties were given an opportunity to comment on the policies within it, and I have had regard to those received in my decision.
3. The appeal submission included a drawing that depicts revised elevations for the proposed bungalow (ref: 4267:1B). There are several differences between the appeal scheme and that considered by the Council. Whilst the Council have had an opportunity to comment, others have not. In the interests of openness and fairness the revised scheme has not been accepted as part of the appeal.

### Main Issues

4. The main issues are firstly, the effect of the new dwelling on the character and appearance of the area, including with regard to the loss of protected trees; secondly, the effect upon the living conditions of existing and future residents, with particular regard to privacy, outlook, noise and disturbance; and thirdly whether adequate provision is made for mitigation measures with regard to the effect of the proposal on the internationally protected habitats and species of the Dorset Heathlands.

### Reasons

#### *Character and Appearance*

5. 33 High Howe Lane is a detached bungalow within a residential area comprising a variety of ages and styles of mostly houses and bungalows. No 33 is part of a row of several bungalows that are set back from the road behind front

- gardens. Some infill development has occurred, including the houses that are to the rear of the appeal site in Gullivers Close.
6. The proposed bungalow would be positioned to front the access road of Gullivers Close. Although of a modest size and single storey, the close proximity of this bungalow to the site boundaries and parking area would make it appear unacceptably constrained and cramped within its plot.
  7. The bungalows along High Howe Lane occupy much of the width of their plots, but these properties and those in the nearby cul-de-sacs are set back from the roads behind front gardens and parking areas. The very narrow strip of garden that would separate the front elevation of the bungalow from the access road would appear as a contrived afterthought, and would harmfully exaggerate the congested nature of the scheme.
  8. Of the other developments that have been brought to my attention, from the evidence provided many are clusters of dwellings that have a cohesive and planned layout. The proposed bungalow would not be part of such a group. By reason of its positioning at the end of a garden, the bungalow would be unrelated to the properties around it, neither part of the Gullivers Close development nor of the row of dwellings along High Howe Lane. As such the bungalow would appear as an anomalous and incongruous addition to the area.
  9. There are also two protected trees within the site, a silver birch and an ash, both of which can be seen from a number of public vantage points. There are very few tall trees in the properties close to the appeal site. The height of the protected trees and their position upon a hillside is such that they make an important leafy contribution to the area, including being a verdant projection into skyline views.
  10. Consequently, the loss of the protected trees would remove the contribution they make to the area. Although replacement trees have been proposed, given the small size of the bungalow's garden areas I am not convinced that even fastigate trees could be accommodated within the plot. Such trees would have a narrow form, but if allowed to grow to a similar height as the existing trees, they would reduce the amount of usable outdoor garden space. Moreover, planting trees in such a small garden would be likely to impact on the living conditions of future occupiers, particularly with regard to light levels and outlook.
  11. The appellant has referred to the ash having honey fungus, with notice served upon the Council for the felling of the tree under Regulation 14(2)(b) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 in January 2018. However, neither of the parties has provided full details of the notice and it was apparent at my visit that the tree had not been felled. Honey fungus is often not visible above ground, and in this case no toadstools were apparent, and the tree appeared to have a healthy canopy showing no signs of wilting or dye back. Consequently in the absence of a substantiated and conclusive confirmation of the presence of the fungus, and because the tree remains on site, I have considered the appeal on that basis.
  12. Thus the proposed bungalow and the loss of protected trees from the site would unacceptably harm the character and appearance of the area. This would be contrary to Policies CS6, CS21, and CS41 of the Bournemouth Local Plan: Core Strategy (2012) (CS), Policies 4.25 and 6.8 of the Bournemouth

District Wide Local Plan (2002) (LP) and the guidance in the Council's Residential Design Guide (2008) (DG). Like objectives of the Framework these policies seek amongst other things, high quality development that contributes towards the character of an area and respects the site and its surroundings, including the provision of sufficient land for planting and landscaping.

### *Living Conditions*

13. There are houses to the north-west and south-west of the appeal site, and although at an oblique angle, the occupiers of 50 High Howe Close in particular would have elevated and close views into both the lounge and garden of the proposed bungalow. Having regard to this relationship, the users of the upper rooms of No 50 would also experience a loss of privacy. Consequently, both existing residents and future ones would experience an unacceptable level of overlooking.
14. Given my findings above with regard to trees within a small garden I am not convinced by the suggestion of the appellant that such planting would resolve privacy matters, particularly as the trees would have to grow to some height to afford any screening. A degree of mutual overlooking is already occurring over the site as is often the case in residential areas, with residents benefitting from a level of passive surveillance. However, the proximity of the proposed bungalow to existing homes would be such that neither existing nor future occupiers would experience an acceptable level of privacy.
15. Furthermore, the close proximity of the second bedroom window to the shared access would be such that the occupiers of this room would have a direct outlook onto a road, and would experience frequent noise and disturbance associated with the vehicular and pedestrian use of Gullivers Close. Other developments have been drawn to my attention as having similar juxtapositions. However, I do not have the full planning history of these schemes before me, and in any case each has to be treated on its own individual merits in accordance with the requirements of the current development plan and all other material considerations, as I have undertaken in this instance.
16. Thus the scheme would have an adverse impact upon the living conditions of existing and future residents. This would be contrary to CS Policies CS21 and CS41, LP Policy 6.8 and the DG. These seek amongst other things, high quality and good design that respects the amenities of existing and future residents, reflecting objectives of the Framework.

### *Dorset Heathlands*

17. The site is within 5km of the Dorset Heathlands and the national and international importance of these areas is reflected in their designation as a Special Protection Area, Special Area of Conservation, Ramsar site, and Site of Special Scientific Interest. CS Policy CS33 seeks the protection of the special interest and integrity of the heathlands, with further guidance provided in the Dorset Heathlands Planning Framework Supplementary Planning Document (2016) (SPD). These policies and SPD require the protection of the integrity of the heathlands through the provision of avoidance and mitigation measures that seek to address the increased recreational pressure occurring from future residents.

18. The Council requires and has provided justification for a financial contribution for these measures. The contribution required would be related directly to the development and fairly related in scale and kind, and would meet the requirements of Community Infrastructure Levy Regulations 2010 (as amended) and those of the Framework.
19. The appellant has stated a willingness to enter into a legal agreement, but despite this, none has been provided. In the absence of a means of securing such measures, the impact of the proposal on the internationally important heathlands would not be mitigated nor would their integrity be protected. The scheme would therefore have an adverse impact on the heathlands, and this would be contrary to the objectives of the CS Policy referred to above, the SPD, and also to those of the Framework that seek to conserve and enhance the natural environment.

### **Other Matters**

20. Local residents have raised a number of matters, including the nature, use and maintenance of the access, construction noise, property damage, and boundary issues. Some of these concerns are not directly connected with the planning considerations of the proposal before me, and of those that are, following my findings on the main issues I have no need to consider them further.
21. Finally, the appellant has expressed concern as regards the inconsistency of the Council's decision making. Such matters have to be pursued by other means separate from the appeal process and are not for me to consider with regard to the planning considerations of this case.

### **Conclusion**

22. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

*J J Evans*

INSPECTOR