The Planning Inspectorate

Appeal Decision

Site visit made on 3 January 2019

by J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 1st February 2019

Appeal Ref: APP/Q1255/W/18/3201891
45 Brixey Road, Poole, Dorset BH12 3EZ

- 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 Mrs Vicky Wallis and Mr Tony Phillips against the decision of Poole Council.
- The application Ref APP/18/00028/F, dated 30 December 2016, was refused by notice dated 5 March 2018.
- The development proposed is the change of use of a double garage to a unit of accommodation.

Decision

1. The appeal is dismissed.

Preliminary matters

2. In July 2018, the revised National Planning Policy Framework (The Framework) was published. The main parties have had an opportunity to comment on the significance of the changes and I have had full regard to the revised Framework in determining this appeal.

3. On 13 November 2018 the Council adopted the Poole Local Plan (Local Plan). Policies in the Core Strategy (2009) and the Development Management DPD (2012) have therefore been superseded. Policies in the Poole Local Plan now have the weight of fully adopted policies. The main parties have been afforded the opportunity to make representations on this change.

4. The appellants refer to an amended plan submitted with the appeal (J.1.2018.06) which revises the layout of parking, as this plan was not part of the submission considered by the Council I cannot be sure that all those who may wish to comment on it have been afforded the opportunity to do so. The appeal process should not be used to progress alternatives to a scheme and regard should be had to the 'Wheatcroft' principles including whether amendments would materially alter the nature of the application. In this case, the amendments would make a significant change to the access arrangements and I therefore deal with the appeal based on the same plans the Council used to make their decision.

Main Issues

5. The main issues are the effect of the development on: a) the character and appearance of the area; b) the living conditions of the adjacent residents

and on the future occupiers of the unit of accommodation; c) highway safety; and d) the Dorset Heathlands Special Protection Area

Character and appearance

6. The building has already been constructed. Located in the rear garden of No 45 Brixey Road it is in a similar location to a garage which was granted permission in 2015[1] which was restricted to an ancillary use to No 45. It is not however the same in terms of its dimensions. The structure which exists now was also the subject of a planning appeal which was dismissed in 2017[2] when it was concluded that the building would fail to integrate well with the surrounding dwellings and that it would have an adverse effect on the living conditions of No 45.

7. The use of the building as a separate dwelling would introduce an additional residential unit onto the site in a relatively cramped and confined space which was previously associated with the main building[3]. From a visual perspective the appearance of the garage would be physically larger than the earlier consented garage[4]. The introduction of a separate dwelling, albeit a compact one, would change the character of the site and the area in general; the prevailing character of which is of detached buildings and dwellings fronting the highway.

8. The building has a very close relationship with No 45 set to the side and projecting behind it. It has a very confined setting which would be exacerbated by boundary treatments between the two. The use of this building as a dwelling would fail to respect the prevailing residential character of the area and would impact negatively on its surroundings. I consider the separate occupation of the building would have a significant and negative impact on the character of the site than its use as a garage separate to No 45, a scheme which has previously been dismissed at appeal. Moreover, the Local Plan seeks to ensure that where plot severances do occur they are only permitted where there is sufficient land to deliver development which would preserve or enhance local character.

9. For these reasons the proposal would conflict with Policies PP27 and PP28 of the Local Plan and to the aims of the Framework. These seek to ensure a good standard of design and where plot severances take place they are only permitted where there is sufficient land to enable a type, scale and layout of development to be accommodated in a manner which would preserve or enhance the area's residential character.

Living conditions

10. In the appeal dismissed in 2017 the Inspector concluded that severance from the main building would be likely to result in unacceptable levels of noise and disturbance to the occupiers of No 45 Brixey Road by reason of the activity associated from a separate unit. The current appeal proposal has very similar physical arrangements to the garage in the earlier appeal whereas the use of the building would be more intensive with a greater level of activity from residents coming to and leaving the dwelling. The impact on

[1] APP/15/00801/F
[2] APP/Q1255/W/16/3165969 and APP/Q1255/W/16/3165890.
[3] Now subdivided into flats.
[4] Planning permission now expired.

No 45 would increase and I consider that the use of the building as a separate residence would have a significant effect on the occupiers of No 45 and that effect would be harmful to their living conditions.

11. The Framework places emphasis on the quality of living conditions including a high standard of amenity in order to promote health and wellbeing. The limited floor space is below that indicated in national standards. Whilst it is unclear whether the Council have adopted those standards through their recently adopted Local Plan the space is confined. That on the mezzanine level is so restricted in relation to headroom that it would not reasonably provide adequate bedroom or living space.

12. This scheme would result in a poor standard of accommodation which would have a harmful impact on the amenity of existing residents and fail to provide satisfactory standards of space and amenity for future residents.

13. For these reasons the proposal conflicts with Policy PP27 of the Local Plan and the Framework which together place considerable emphasis on achieving a good standard of design considering, amongst other things, the amenity of residents.

Highway safety

14. The existing parking arrangements serving No 45 involves the use of land proposed for parking to serve the appeal proposal. Alternative access to those spaces is restricted due to existing traffic calming such that an alternative would conflict with it. Parking for the appeal proposal would compromise access to the existing parking spaces which already have restricted access due to roadside bollards. I have explained why I am not considering the amended plan referred to by the appellants. Even I was to do so, the reworking of the access in the manner suggested would require a change to the wider traffic calming arrangements in the area which could not be secured through this proposal.

15. The appellants say that the site is in a sustainable transport location which is well served by public transport and as such a parking space should not be required for this unit. In contrast the Council say that this location is within Zone 3[5] which is not considered to be a particularly sustainable location and the nearby bus services are not all encompassing. In this context residents are more likely to be reliant on the private car and the proposal, in the absence of adequate car parking arrangements would increase the pressure for on street parking which is already restricted, and which would be prejudicial to highway safety.

16. For these reasons the development would conflict with Policy PP35 of the Local Plan which requires new development to provide safe access to the highway and contribute positively to the creation of safe and accessible places.

Special Protection Area

17. The appeal site lies within 5 kilometres of the Dorset Heathlands Special Protection Area (SPA) where development in combination with other dwellings would have a significant adverse effect on their heathland

[5] The Council's Parking and Highway Layout in Development SPD (adopted July 2011)

interests. To overcome this impact the Council has adopted the Dorset Heathlands Supplementary Planning Document (SPD) which requires new development within 5 km of the SPA to make a financial contribution towards heathland mitigation measures. This has become an accepted means of ensuring the protection of the Dorset Heathlands habitats as required by the Habitats Regulations.

18. The appellants have indicated a willingness to enter into an agreement however procedural guidance makes clear that such agreements should be submitted alongside the original appeal or within the prescribed period. As no agreement is before me my decision must be based upon its absence. Therefore, as measures have not been secured to mitigate against harm to the SPA the development would be contrary to Policy PP32 of the Local Plan and the SPD I that it would not secure the required mitigation.

Other Matters

19. The appellants suggest that a condition could be imposed enabling a right of access to the occupiers of the ground floor flat to the meters on the side elevation and the rear garden however this would not overcome the harm in relation to the main issues and in any event could not be achieved via a planning condition.

20. It has been argued that the site is very similar to a unit allowed nearby at appeal[6]. From the evidence it is clear that a different set of circumstances applied in that case including an existing commercial use such that it does not appear to be comparable. In any event I have made my decision based on the individual merits of this case.

21. It is acknowledged that the addition of one unit of accommodation would make a small contribution to the supply of housing in the area and this would be a benefit. At this time the Council does not currently have a shortfall in the supply of land for housing and the benefit gained from an additional unit would not outweigh the harm which has been identified in relation to the main issues.

22. The appellants have advised that the external amenity space would be planted to support wildlife and encourage biodiversity and to make it an enjoyable space for residents. This would be a benefit however it does not change my findings in relation to the main issues.

23. Representations have been made about control over the access and parking spaces. Such matters are civil rather than planning matters. I have reached my decision in relation to planning matters and the control over the access matter has not affected my conclusion.

Conclusion

24. For the above reasons, and having had regard to all other matters raised, the appeal should be dismissed.

Janet Wilson

INSPECTOR

[6] APP/Q1255/W/14/3001171