
Appeal Decision

Site visit made on 19 November 2018

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2019

Appeal Ref: APP/G1250/W/18/3208566

21 Priestley Road, Bournemouth BH10 4AW

- 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 & Mrs Price against the decision of Bournemouth Borough Council.
 - The application Ref 7-2018-15647-C, dated 6 December 2018, was refused by notice dated 25 April 2018.
 - The development proposed is a new dwelling – revised scheme.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect on the character and appearance of the area; (ii) the effect on the living conditions of future occupiers of the proposed dwelling and the occupiers of No. 23 Priestley Road with particular regard to noise and disturbance from traffic accessing the site; and (iii) the effect of the development on the Dorset Heathlands Special Protection Area, Ramsar Site and Dorset Heaths Special Area of Conservation ("the European Sites").

Reasons

Character and appearance

3. The site is in a predominantly residential area and on a street where most dwellings address the road. Many of them, particularly on the side of the road containing the appeal site have long gardens behind the properties. However, very few of these are visible from the public realm due to relatively narrow gaps between the buildings or the presence of intervening structures, such as garages. The rear gardens, therefore, make a limited contribution to the overall character and appearance of the area.
4. Where there are views into the areas to the rear of the dwellings, the presence of other structures and buildings is apparent. There are also examples of expanses of hard surfaced areas with parking visible to the rear, alongside various outbuildings. The presence of a further building to the rear of No. 21 as proposed would not therefore appear totally alien in context of the immediately surrounding environment.
5. It may well be that the proposed site arrangement has been heavily dictated by measures to safeguard the off-site protected tree and the need to provide a

total of 4 parking spaces. However, this would not make the dwelling appear cramped when viewed from the street as it would simply be seen alongside the tree and parking areas. From within the site, it would be seen as a dwelling with parking to the side and front. This is not unusual and would not appear particularly cramped and congested in the street scene.

6. I, therefore, find that the proposal would not harm the character and appearance of the area. As such, there would be no conflict with those aims of policies CS21, CS38 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) ("CS") and Policy 6.8 of the Bournemouth District Wide Local Plan (2002) ("LP") which seek to ensure that development is well designed, respects and and contributes positively to the character and function of the neighbourhood, maintaining and enhancing the quality of the street scene and public realm.

Living Conditions

7. Access to the new dwelling would be provided alongside the existing dwelling. It would be via a private drive that would extend deeper into the site and along a greater length of the boundary with No. 23 than the existing arrangement. As such, vehicles could be manoeuvring alongside more of the garden space to the rear of No. 23 than they are presently able to do. However, the access would only serve two dwellings and so there would not be a significant amount of traffic in the area. There is no substantive evidence that the noise that may be generated from this limited amount of traffic would be so significant as to harm the living conditions of the occupiers of No. 23.
8. The parking area would be close to the bedroom windows of the proposed dwelling. As such, people within the bedroom could be disturbed by the movement of vehicles directly outside the property, particularly if they were in connection with the existing No. 21. However, there would only be a limited amount of traffic in the area and the situation would not be very different to any dwelling that faced directly onto a street. Therefore, I attribute this issue limited weight.
9. In light of the above, whilst there would be limited space to allow for any landscaping between the parking areas and the proposed dwelling such is not necessary to protect living conditions. Overall, I find that there would be no harm to the living conditions of the occupiers of No. 23 or the proposed dwelling. As such, there would be no conflict with those aims of CS Policies CS21, CS38 and CS41 or LP Policy 6.8 that seek to avoid the impact of noise pollution and protect the living conditions of existing and future residents.

European Sites

10. It is common ground between the appellant and the Council that the increase in the number of people living at the site is likely to result in a significant adverse effect on the conservation interests of the European Sites in combination with other proposals. Appropriate Assessment under the Habitats and Species Regulations 2017 is, therefore, required.
11. The Council's Supplementary Planning Document: The Dorset Heathlands Planning Framework 2015-2020 ("SPD"), sets out that the provision of Heathland Infrastructure Projects, funded through the Community Infrastructure Levy and Strategic Access Management and Monitoring (SAMM)

- funded through individual planning obligations can mitigate the adverse effects. A planning obligation making the required payment to the Council, commensurate with the scale of development, has been provided.
12. As the process of securing mitigation set out in the SPD has been drawn up in consultation with Natural England I am satisfied that, theoretically, a planning obligation could meet the necessary SAMM requirements so as to avoid significant adverse effects on the European Sites. However, the obligation that is before me is a Unilateral Undertaking. As such, the obligation does not bind the Council to spend the SAMM contribution on the SAMM measures set out in the SPD.
13. I note that the Council has previously used Unilateral Undertakings in order to secure SAMM contributions. It may well be that in these situations, as the competent authority in terms of the planning decision and being in receipt of the contribution, the Council has been able to satisfy itself that the mitigation measures were appropriate. However, whilst I am not suggesting that the Council would use the contribution in the way intended by the appellant, I am the competent authority in respect of this appeal and, and taking a precautionary approach, I cannot be satisfied that the obligation provided will ensure that significant adverse effects are avoided.
14. The Council considers that the use of a Unilateral Undertaking has the support of the Planning Inspectorate. In this regard, my attention has been drawn to a recent appeal decision¹ which also fell to me. However, in that decision, whilst I noted in my preamble that the Council had removed an objection to the scheme based on the submission of the obligation, I did not express an agreement with the approach. Moreover, I noted in paragraph 20 that there was no need for me to undertake an Appropriate Assessment as I was dismissing the appeal for other reasons. My earlier comments in respect of that other appeal, therefore, do not indicate that the use of a Unilateral Undertaking at appeal stage is an appropriate mechanism for securing a SAMM contribution.
15. For the above reasons, and following Appropriate Assessment, I find this proposal to be in conflict with CS Policy CS33 which requires that residential development takes all necessary steps to avoid or mitigate any adverse effects upon the heathland sites' integrity.

Conclusion

16. I have found no harm in respect of the first two main issues. However, in light of guidance in the National Planning Policy Framework, the harm that would arise in respect of the effects on the European sites is the determinative issue in this case. The conflict with CS Policy CS33 brings the development into conflict with the development plan when considered as a whole.
17. For the reasons given above I conclude that the appeal should be dismissed.

M Bale

INSPECTOR

¹ APP/G1250/W/18/3203472