



Appeal Decision

Site visit made on 5 February 2019

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI

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

Decision date: 28 February 2019

Appeal Ref: APP/G1250/W/18/3202564

36 Portland Road, Bournemouth BH9 1NQ

- 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 P Graham against the decision of Bournemouth Borough Council.
 - The application Ref 7-2017-15727-B, dated 25 October 2017, was refused by notice dated 23 February 2018.
 - The development proposed is demolish existing garage and replace with new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing garage and replace with new dwelling at 36 Portland Road, Bournemouth BH9 1NQ in accordance with the terms of the application, 7-2017-15727-B, dated 25 October 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4250:11, 4250:12 and 4250:13C.
 - 2) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 3) No development shall take place until details/samples of the materials to be used on the external surfaces of the proposed development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 4) No development shall take place until details of both foul and surface water drainage of the dwelling including its associated hard surfaced landscaping hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details, which shall thereafter be retained in operational condition.
 - 5) All on-site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8 a.m. and 6 p.m. Monday - Friday, 8 a.m. and 1 p.m. Saturday and not at all on Sunday, Public and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no windows shall be installed within the roof, or dormer windows shall be constructed without the grant of further specific planning permission from the Local Planning Authority.
- 7) Prior to occupation of the development hereby permitted, the proposed access, parking and turning areas shall be constructed and laid out in accordance with drawing no. 4250-13Rev C, and shall be permanently retained and kept available for the residents of the dwellings as indicated on approved plans.

Main Issues

2. There are three. They are the effect of the proposal on;
 - Trees at number 34 Portland Road, protected by a Tree Preservation Order
 - Highway safety
 - The Dorset Heathlands SPA and Ramsar site and the Dorset Heaths SAC

Reasons

Trees

3. The trees protected by a TPO lie on the western boundary of the property at number 34 Portland Road, away from number 36 which lies to the east. The canopy of the largest of the protected trees, a eucalyptus, barely reaches the boundary with number 36 and so its root protection area would hardly be affected by the development proposed, if at all.
4. Other, unprotected, trees lie closer to the boundary with the appeal site but do not overhang. In any event, the footprint of the proposal would relate closely to the footprint of the existing garage structure on the site, so would be unlikely to cause any more interference with their roots than they have already experienced.
5. I conclude that the proposal would have no unacceptably adverse effect on the protected trees at number 34 Portland Road. Policy 4.25 of the Bournemouth District Wide Local Plan adopted February 2002 which is quoted in the reasons for refusal requires development proposals to include sufficient land for planting and landscaping, about which there is no question and so is not relevant to the issue raised in the reasons for refusal.

Highway safety

6. There are two elements to the Council's concerns in relation to this issue. One is whether an adequate quantity of car parking in a usable layout would be provided to avoid the likelihood of the development leading to on-street parking. The second is whether the access to the site would be configured adequately to provide sufficient safety.
7. The development proposed would be a one-bedroomed bungalow. The Council's parking standards for this type of property in the area where it would

- be sited would require one allocated space, a fraction (0.2) of an unallocated space and a fraction of a space (0.2) for potential visitors. The council has rounded this up to a requirement for 2 spaces.
8. Two spaces are proposed to be provided. One would be somewhat larger than the Council's standard requirement in order to allow for the fact that the width of the site does not allow the standard space for turning movements which would have to be accomplished partly within the extra width of the parking space.
 9. Nevertheless, the Council has demonstrated by swept path analysis that large cars would have difficulty accessing the two spaces when both are in use. For difficulties to arise, both cars would have to be large and the occasion is unlikely to arise on a daily basis (an observation reflected in the fact that the Council only requires a fraction of a space to cope with the eventuality). In practice, users would be more likely to put up with the shunting manoeuvres required to make the layout work than to walk the 50m or so to or from the street.
 10. At present, the driveway to the site of the proposal is used on a daily basis for parking a car associated with the occupancy of number 36 itself. The Council is concerned that this would be displaced. There is no information about the number of habitable rooms contained within the existing house or how the Council's parking standards should be applied to it but my site visit demonstrated that the basement of the property contains a garage approximately 10m long and so capable of accommodating two cars. There is a hard surfaced area in the rear garden which provides turning space and access to the garage. It could accommodate at least one, if not two, additional cars whilst still providing some manoeuvring space.
 11. The Council has again demonstrated by swept path analysis that large cars would have difficulty accessing the two external parking spaces on the hard surfaced area in the configuration shown on the submitted drawing but that is not the only configuration in which the space could be used. The Council's analyses do not appear to take into account the existence of the basement garage in assessing the adequacy of parking provided and to be provided on site. From what I saw on my site visit, I am satisfied that the parking provision for the retained house at number 36 would be adequate.
 12. Turning to the second part of the Council's concern, the submitted drawings show that the proposed bungalow would share with number 36 the existing driveway to access their respective parking areas. Although the driveway would be shared between two dwellings, in essence it would remain a domestic access drive. It would normally be quite inappropriate to apply to such a domestic driveway accessing a lightly trafficked street such as Portland Road the visibility requirements set out in the government's Manual for Streets (MfS) applicable to junctions between adopted highways. The examples shown in figures 7.21, 7.22 and 7.23 of MfS show clearly acceptable direct frontage accesses with no more than a 2m x 2m visibility splay for pedestrian safety. Almost every property in the section of Portland Road to the east of the site is provided with such direct frontage access to the road and there are examples of shared accesses with little or no visibility splays between numbers 47 and 51, between 78 and 80 and, to the west of the site, the access to the rear of

number 28. There do not appear to be any exceptional circumstances applicable to the appeal site which should lead to a different outcome.

13. The view to the east along Portland Road from the access to the appeal site is good. Because of the topography, the land falls away from the entrance so there is a clear view over the top of the boundary wall. The submitted drawings show that this wall would be cut back to achieve a 2m visibility splay for pedestrian safety. No more would be necessary to achieve adequate safety. Such a splay already exists to the west across the access to the parking space on the front curtilage of number 34.
14. I conclude that the proposal would provide adequately for highway safety. It would comply with policy CS16 of the Bournemouth Local Plan Core Strategy which requires adherence to the Council's car parking standards and with Core Strategy policy CS41 which requires development to contribute positively to the safety of the public realm.

Habitats Regulations

15. The appeal site lies within a zone of proximity to the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and the Dorset Heaths Special Area of Conservation (SAC) where developments, either on their own or in conjunction with other proposals, are likely to have an adverse effect on the integrity of the SPA. An Appropriate Assessment under the Habitat Regulations is necessary in allowing the appeal. This need be no more than proportionate to the case.
16. In this case, the cumulative effects of potential development within the Bournemouth area on the protected sites have been assessed during the preparation of the Bournemouth Local Plan Core Strategy adopted 2012 (the Core Strategy) and (up to the year 2020) in the Dorset Heathlands Planning Framework 2015-2020, dated January 2016 (the Mitigation Strategy). These have resulted in an implementation plan to mitigate the impact of new housing development upon the Dorset Heaths Special Protection Area. The measures included within this Implementation Plan are funded partly by CIL receipts and partly by payments secured through planning obligations.
17. A Unilateral Undertaking, signed and dated 30 January 2019, provides for the appropriate contribution to be made in accordance with the Mitigation Strategy. With this in place, I conclude that the effects of this proposal on the protected areas would be sufficiently mitigated so that no harm to their integrity would result.

Conditions

18. In the event of the appeal being allowed, the Council suggested a number of conditions would be necessary. I have considered these in the light of advice contained in national Guidance preferring where appropriate the wording contained in the Annex to the otherwise superseded Circular 11/95 the Use of Conditions in Planning Permissions.
19. In addition to standard conditions limiting the time within which permission must be started and specifying the drawings which have been approved, I impose conditions requiring the parking and access arrangements to be constructed as shown for the reasons discussed earlier, the submission of details of the materials to be used and of the drainage arrangements which are to be made because these are not shown on the approved drawings and

conditions limiting the hours of work and withdrawing certain permitted development rights on account of the sensitive backland location of the development. With these conditions and the planning obligation provided by the Unilateral Undertaking in place there is no reason not to allow the appeal.

P. W. Clark

Inspector