The Planning Inspectorate

Appeal Decision

Site visit made on 8 May 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2019

Appeal Ref: APP/Q1255/W/19/3222875
2A, The Lodge, Burton Road, Poole BH13 6DU

- 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 Stephen Griffiths against the decision of Poole Council.
- The application Ref APP/18/01407/F, dated 24 October 2018, was refused by notice dated 21 December 2018.
- The development proposed is convert and extend the existing building into a chalet bungalow to be used as a holiday let.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The decision to refuse planning permission was made by the Borough of Poole Council, which ceased to exist on 1 April 2019, following a merger with Bournemouth Borough Council and Christchurch Borough Council to form the new Bournemouth, Christchurch and Poole Unitary Authority. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "plan, scheme, statement, or strategy" prepared by one of the merging authorities to be treated as if "it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates". The status of the Poole Local Plan, 2018 ('PLP') has not therefore changed as a result of the merger.

Main Issues

3. The main issues in this appeal are the effect of the development on (i) the character and appearance of the Branksome Park Conservation Area, including on protected trees; and (ii) its effect on the ecology of the following protected habitats: the Dorset Heathland Special Protection Area, part of the Dorset Heaths Special Area of Conservation, and the Poole Harbour Special Protection Area.

Reasons

Character and Appearance

4. The character of the Branksome Park Conservation Area (CA) is described in supplementary planning guidance[1] (SPG) as well-treed and sylvan where vegetation and trees dominate, where often large dwellings are set within generous plots, and as a peaceful residential area that contrasts with the more densely-developed and busier areas that surround it. It identifies the site as lying within Character Area 5, 'Western Road (Upper) and Burton Road'. It describes this as being characterised by large plots and abundant landscaping forming a low-density pattern of development. Having seen the site and its environs, I find the comments in the SPG accurately reflect the character and appearance of the CA.

5. The statutory duty[2] requires decision-makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This is reflected in the terms of PLP Policy PP30.

6. The site lies in a location where the principle of development, including the provision of holiday accommodation, is accepted. However, amongst its terms, PLP Policy PP27 requires development proposals to reflect or enhance local patterns of development, this is effectively repeated in that part of PLP Policy PP28 that relates to proposals for plot sub-division.

7. The appeal site comprises a very small, single-storey building with a low-pitched ridged roof. The parties agree that the building was erected under the terms of a planning permission for a garage within the very large garden to 2 Burton Road. It shares the access to this property and, although located at some distance from No 2, it appears as a small outbuilding with links to that property. Both parties agree that it is currently used for residential purposes, as I saw at the time of my site visit. The appeal building's size and appearance are such that it has a neutral effect on the CA.

8. The appeal building lies immediately adjacent to a small dwelling, 4a Burton Road. Due to its size and very limited road frontage, No 4a is an anomalous presence in the street scene. It is uncharacteristic of the dwellings I saw within the CA. The main parties agree that this dwelling arose from particular circumstances. These included its lawful use as an office that subsequently led to its change of use to a dwelling under the Prior Approval process.

9. The proposed new residential unit, albeit that the building is proposed for holiday use, would be created through the conversion and extension of the existing building. It would be of a similar size and design to No 4a and would include accommodation set within a new higher and steeper pitched roof. Its visual impact would be markedly greater than that of the existing building, which is not at all prominent. It would sit within a plot that would be very small relative to most in the CA.

10. Guidance given in the SPG in relation to development in Character Area 5 states that development should reflect the low-density pattern of the area, retaining detached houses in large well landscaped plots. I agree with the comments made by the Inspector in appeal reference APP/Q1255/W/17/3189976, regarding the general nature of development in the area and its relationship with trees and other vegetation.

[1] Branksome Park Conservation Area Character Appraisal and Management Plan, 2006
[2] In S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

11. There would be very little separation between No 4a and the proposed building, with that proposed sitting in a very small curtilage, relative to others in the area. The result would be that these two small residential buildings would not be seen as discrete compositions within their own settings, as the Inspector described in that appeal. They would, however, be seen to be at odds with the prevailing character and appearance of the CA, to its detriment. This harm could not be mitigated by boundary treatments to the front of the building, given that this area is used to access to the site and No 2 and for parking and turning.

12. I note the appellant's assertion as to the existing use of the appeal site as self-contained residential accommodation, and that it is, in his opinion, immune from enforcement action. However, as the lawful use of the appeal site has yet to be established, I attach little weight to this in my decision.

13. The site lies within Area A1 of The Borough of Poole (Branksome Park) Tree Preservation (No.1) Order, 1950 ('TPO'). Furthermore, the trees on the site are also afforded protection by reason of their siting within the CA.

14. In my judgement the trees in the area, including those on the site, make an important contribution to the character and appearance of the CA. The TPO was made on the basis of the amenity value of the area's trees. Amongst its terms, PLP Policy 27 requires development proposals to respond to natural features and to avoid the loss of trees that make a significant contribution to the area.

15. There are several trees in close proximity with the site of the proposed building. The Site Plan submitted with the application, Drawing No 1675-02 Rev B, purports to show their root protection areas. The Design and Access Statement submitted with the application stated that it would also be supported by an arboricultural method statement. This, it says, would demonstrate how the extension and roof alterations would be carried out without harming the nearby trees. This suggests that further evidence is necessary to show conclusively that no harm would result to the trees. The Council's report and decision indicate that the method statement was not submitted, and I have not been provided with one.

16. The appeal statement contains comments attributed to an arboricultural consultant. These relate to the value of the trees close to the building and considers their relationship with the proposed building to be acceptable. Given the vague nature of this evidence, and that the comments were anonymously made, I give it very little weight.

17. I have taken into consideration the comments made by the appellant that the Council allowed the redevelopment of the adjacent site, reportedly often allows the removal of U category trees without challenge and registered the application and without requesting additional information relating to trees on the site. However, these do not change the fact that I have been given insufficient evidence to be convinced that the important, protected trees close to the building would not be harmed. I have considered the use of a condition requiring information to be submitted relating to how the proposal would proceed without harming the trees. Given that I cannot be sure that there would be no harm, I do not find that such a condition would pass the test[3] of reasonableness.

[3] Paragraph 55 of the National Planning Policy Framework, February 2019

18. In the light of the above reasons, and in the absence of any justification to find otherwise, the proposed development would harm the character and appearance of the Branksome Park Conservation Area. This would be contrary to the statutory test, and PLP Policy PP30. As it has not been demonstrated that the scheme would not harm protected trees close to the building, I find the scheme to be contrary to the aims and intentions of PLP Policy 27(1)(b). Its failure to reflect or enhance the local pattern of development, means it would be contrary to PLP Policies PP27 and PP28.

19. The proposal would have a negative effect on the significance of the CA, a designated heritage asset, but would only affect its close surroundings and as such would result in "less than substantial" harm in the words of the National Planning Policy Framework, ('the Framework'). Nevertheless, such harm needs to be given considerable importance and weight.

20. As set out in the Framework, where a proposal would result in less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. In this case, the holiday property might make some contribution to the local tourism economy and there might be some social benefits to future holiday-makers using the accommodation. However, these benefits would be very limited and would not outweigh the harm that I have identified.

Effect on Protected Habitats

21. The appeal site lies within 5kms of the Dorset Heathlands Special Protection Area ('SPA'), which is also part of the Dorset Heaths Special Area of Conservation ('SAC'). These are European Sites of Nature Importance and are subject to protection under the Conservation of Habitats and Species Regulations 2010. Regulation 61(5) imposes a duty on me, as the 'competent authority', to consider whether any proposal may have a significant effect on such areas, either alone or in combination with other plans and projects.

22. Policy PP32 of the PLP requires that housing developments within 5kms will provide adequate measures to avoid or mitigate any potential adverse effects. A single dwelling or unit of holiday accommodation may cause this effect, based on its cumulative impact when taken with other developments.

23. The Council has adopted a Supplementary Planning Document[4] ('SPD') that provides a strategy to mitigate the adverse effects of development proposals on the SPA. This requires contributions to be made to the Council to be used in its two-pronged mitigation approach. This consists of the provision of Suitable Alternative Greenspaces, to attract people away from the heathlands, or Strategic Management and Monitoring (SAMM), to mitigate the effects of people visiting the heathlands.

24. The appellant has brought forward little evidence on this issue, save for stating that he would make the necessary contribution prior to my decision being made. This indicates that it is agreed that an adverse effect would arise from the development and that the payment is required to mitigate this effect.

25. I am not aware that an undertaking to make the necessary contribution has been made. Therefore, in the absence of any mitigation contribution in line with

[4] The Dorset Heathlands Planning Framework 2015-2020, January 2016

the guidance in the SPD, I conclude on this point that there would be harm to the Dorset Heathlands SPA, contrary to PLP Policy PP32.

26. Policy PP32 also refers to the effects that development proposals can have on Poole Harbour, another SPA. These relate to water quality and the pressures arising from recreational activities. The policy's parts (2)(a) and (b) set out that proposals should provide mitigation of these effects and that a Supplementary Planning Document (SPD) will be introduced to provide detailed guidance.

27. Whilst the effects on Poole Harbour were not referred to in the Council's reasons for refusal, they were referred to in the Council's statement. It states that it has brought forward Interim Guidance, pending the introduction of the SPD. Amongst its terms is a charging schedule, detailing the contributions that will be required to mitigate the adverse effects of development on the Poole Harbour SPA. The appellant was able to comment on this matter but has not done so.

28. I have not been given information as to the status of this Interim Guidance. However, as the evidence shows that the development would have an adverse effect on the Poole Harbour SPA and in the absence of any form of mitigation, I find that the proposed development would be contrary to PLP Policy 32 (2)(a) and (b).

Other Matters

29. I have taken into account the two appeal decisions referred to by the appellant[5], which have some parallels with this case. However, they have had limited influence on my decision as: with regards to the first main issue, the arguments are specific to this site; and, with regards to the second main issue, the protection of habitats was not an issue in the earlier appeal and the appellant made the necessary contribution to mitigation measures in the latter. I have been given insufficient details with regards to the Council's decision on development at Spencer Road to be able to draw any meaningful conclusions with regards to this appeal.

30. The site lies within a sustainable location and no objections were raised on highways grounds. In addition, the unit would provide appropriate living conditions for future residents and the Council did not find that the development would harm those of existing residents, (though objections were made in this regard). However, none of these outweigh the harm that I have identified.

Conclusion

31. In the light of the above reasons, and having regard to all other matters raised, the appeal is dismissed.

Roy Curnow

INSPECTOR

[5] APP/Q1255/A/12/2183683 and APP/Q1255/W/17/3189976