



Appeal Decision

Site visit made on 18 June 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/Q1255/W/19/3225062

20 Leicester Road, Poole BH13 6DA

- 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 D Russell against the decision of Poole Council.
 - The application Ref APP/18/01330/F, dated 5 October 2018, was refused by notice dated 4 December 2018.
 - The development proposed is described as '*Sever land and erect a 4-bedroom detached house with integral garage and parking*'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council's decision notice contains four reasons for refusal. However, as two are interlinked, I defined the main issues as:
 - whether the proposed development would preserve or enhance the character or appearance of the Branksome Park and Chine Gardens Conservation Area (CA), with particular regard to trees;
 - the effect of the development on the integrity of the Dorset Heathlands and Poole Harbour Special Protection Areas; and,
 - the effect of the proposed development on the living conditions of future occupiers with reference to outlook, light and heat.

Reasons

Conservation Area

3. The appeal site is the front garden of No 20, which is a detached dwelling set well back from the highway in substantial grounds. Heavily wooded, it contains a number of trees of public amenity value protected by Tree Preservation Orders. The significance of the CA is derived from its low-density residential development with detached dwellings set back into large gardens and angled away from public view, often only glimpsed through abundant woodland, to which the buildings have clear subservience.
4. I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. As heritage assets are irreplaceable, any harm or loss requires clear and convincing justification. Paragraph 196 of the National Planning Policy Framework (the Framework) also

advises that any harm which is less than substantial must be weighed against the public benefits of the proposal.

5. The Branksome Park Conservation Area Character Appraisal and Management Plan (the Appraisal) divides the CA into sections on the basis of their individual characteristics. The Appraisal identifies that the appeal site is in a section containing an unusually dominant carriageway, but that the height and depth of planting, together with the size of front gardens, ensures that the area maintains a sylvan character which dominates the built form. The Appraisal therefore places particular emphasis on the undeveloped quality of front gardens in this area and, on this basis, I find that the appeal site makes an important contribution to the significance of the CA.
6. The predominance of woodland in the area can blur site boundaries, and for this reason the relatively small plot size would not be discernible. Similarly, as it is common for buildings to be somewhat shrouded in woodland, there would be no perception of restricted amenity space in this case. However, the property itself would have a direct orientation and close proximity to the highway which would cause it to sit forward of its neighbours with an uncharacteristic boldness and dominance over its natural surroundings.
7. Despite some modern additions and a degree of architectural variety, it remains clear that Branksome Park originated in the mid-19th century. As such, the Georgian influence of the dwelling's design would lead it to incongruously appear to predate the area's development. I note that the existing dwelling at No 20 was granted planning permission with a similar style, however that property is hidden from public view and therefore, unlike the appeal proposal, its architecture has no perceptible effect on the CA.
8. The roadside railings are an existing feature which would be retained independent of this proposal. Although the augmentation of the front boundary vegetation would, in isolation, provide a degree of enhancement, the proposed dwelling would be visible through the site access, and would likely be glimpsed through the vegetation. Consequently, additional planting would not adequately mitigate the overall harmful effect of the development.
9. I have been provided with appeal decisions at other sites¹. However, I note that they relate to different subsections of the CA, and there were different circumstances in each case. At 2 Western Avenue the Inspector's decision was based on the judgment that the set-back position of the building, behind planting, would ensure that it would not be prominent or jarring. At Wildwood the Inspector gave weight to the low profile of the dwelling and the relative 'knot' of development in the surrounding area. Lindsay Road is characterised by an untypical and uniform row of bungalows, and the appeal development was significantly different in that case. As such, these appeal decisions are not directly relevant to this proposal and carry limited weight in its favour.
10. I acknowledge that trees of individual merit would be protected and retained, and I agree that there is no substantive evidence that occupation of the site would lead to further tree works in the future. However, I nonetheless find that the proposed development would diminish the positive contribution of the site within the CA.

¹ Refs 3138244, 3183246 and 3189976

11. I consider the level of harm to the Conservation Area to be less than substantial. The proposal would provide some social, environmental and economic benefits through the provision of an energy efficient family home in a location where occupants would make use of accessible local services. There would also be a small and time limited economic boost during the construction phase. However, due to the scale of the proposal these benefits would be modest and would not outweigh the harm to the designated heritage asset that I have identified.
12. I therefore conclude, on this issue, that the proposed development would fail to preserve or enhance the character or appearance of the Branksome Park and Chine Gardens Conservation Area, with particular regard to trees. The proposal would therefore conflict with the heritage and design aims of Policies PP27, PP28 and PP30 of the Poole Local Plan (adopted 2018) (PLP) and paragraph 196 of the Framework.

Special Protection Area

13. Last year the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment rather than at the screening stage².
14. The site is located within influence of the Dorset Heathlands and Poole Harbour Special Protection Areas (SPAs) which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Regulations). They are respectively designated due to the heathland habitats and associated plant and animal species, and the provision of feeding grounds for internationally protected populations of overwintering waders and wildfowl.
15. Both are used for public recreation. There is no dispute between the parties or Natural England that the proposed development is likely to have significant effects on the features of interest of the SPAs due to the increased recreational use generated by the proposal, in combination with other development. I have no reason to disagree with this conclusion.
16. The Regulations require that permission may only be granted having ascertained that the development will not affect the integrity of the SPAs. I may give consideration to any restrictions which could secure mitigation and so provide certainty that the proposal would not cause harmful effects. There is an agreed strategic solution to mitigate the effects of proposals of this scale pursuant to the Council's Community Infrastructure Levy Charging Schedule, the Dorset Heathland Planning Framework Supplementary Planning Document (the SPD) and the Poole Harbour Recreation Mitigation Interim Scheme, which require contributions to fund Strategic Access Management and Monitoring.
17. However, no legal agreement to obligate the parties to deliver the non-infrastructure mitigation has been supplied. Without one, I cannot certify that there won't be a significant effect on the SPAs through recreational disturbance. I therefore conclude, on this issue, that the proposed development would result in harm to the integrity of the SPAs and fail to accord with Policies PP32 and PP39 of the PLP and the SPD.

² People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

Living Conditions

18. The dominance of the area's woodland and the placement of buildings within small clearings has created a residential environment where it is common for dwellings to be largely surrounded by tree coverage, with limited access to light and outlook. In this sense, I do not consider that future occupants of the proposed dwelling would suffer restrictions to their living conditions above or beyond other properties in the area.
19. Although the rear garden space adjacent to the dwelling is limited, I note from the appellant's evidence that a more substantial clearing would be available to the south west. Furthermore, there are a number of tall trees within the appeal site with high canopies, which would reduce their effect. There is also no substantive evidence before me that the location of the dwelling would lead to an overreliance on artificial heating.
20. I therefore conclude, on this issue, that the proposal would have an acceptable effect on the living conditions of future occupiers with reference to outlook, light and heat. It would accord with Policy PP27 of the PLP and paragraph 127 of the Framework insofar as they require development to achieve an appropriate standard of residential amenity.

Conclusion

21. I have found no harm from the appeal scheme in relation to living conditions. This is outweighed, however, by the harm that I have found in relation to the scheme's impact upon the CA and the SPAs. Considering the international importance of the SPA designation, and my responsibilities as competent authority in this regard, in addition to my duties in relation to the CA, I find that the proposal would conflict with the development plan when read as a whole. There are no other matters, including the Framework, that outweigh this harm.
22. For the reasons outlined above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR