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# Appeal Decision

Site visit made on 2 June 2020

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 June 2020**

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**Appeal Ref: APP/V1260/W/20/3245552**

**49 Langdon Road, Poole BH14 9EQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr O & R Gomes against the decision of Bournemouth, Christchurch and Poole Council.
  - The application Ref APP/19/01053/P, dated 15 August 2019, was refused by notice dated 13 November 2019.
  - The development proposed is side extension and first floor extension to existing property, new proposed roof to create semi-detached houses.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The proposal has been made in outline, with landscaping reserved for future consideration. I have therefore considered the landscaping proposals shown on the plans on the basis that they have been included for illustrative purposes only.

## Main Issues

3. The main issues are:
  - a) The effect of the development on the character and appearance of the area;
  - b) The effect of the development on the living conditions of the future occupiers of the proposed dwellings with regard to outdoor amenity space; and,
  - c) The impact of the development on European Nature Conservation Sites.

## Reasons

### *Character and appearance*

4. The appeal site comprises a detached house on a bend in Langdon Road, near to its junction with Alexandra Road. It lies in a predominantly residential area that is classified by the Borough of Poole Characterisation Study (2010) as being within the Urban Detached Housing typology. However, although the house backs on to detached houses in Alexandra Road to the north, I saw that the immediate context of the appeal site also includes a variety of other

building types. The adjacent building to the west is a bungalow with roofspace accommodation, whilst on the opposite side of Langdon Road there are two three-storey blocks of flats and a pair of semi-detached houses. There is a range of architectural styles and building materials, and a variety of boundary treatments. The bend in the road also results in there being no regular pattern to the arrangement of the buildings. Consequently, the close surroundings of the appeal site do not have a coherent character or appearance.

5. The existing house has a roofslope that extends down to single storey eaves level along part of its front elevation, with a dominant flat-roofed dormer facing the road. The asymmetric nature of the roof design is apparent in the street scene when approaching from the north, and the prefabricated concrete garage is readily visible from the pavement in front of the site. Consequently, the appeal site does not currently make a positive contribution to the character and appearance of the area.
6. Planning permission<sup>1</sup> was granted last year for extensions and a new roof to the house, which would result in it having a more cohesive appearance, which would improve the street scene. The appeal proposal involves extensions of ostensibly the same scale and design, so would similarly improve the appearance of the building. However, it would be divided to provide two semi-detached houses, which would necessitate the sub-division of the plot and the creation of a second vehicular access.
7. The resultant plots would be smaller than is characteristic of much of the surrounding development. However, this would not be immediately apparent in the street scene. The entrance doors to the houses would be on different elevations, so would not both be easily visible from any one viewpoint. The two vehicular accesses would be some distance apart, and at right-angles to each other. With judicious landscaping along the frontage and in the space between them, it would not always be evident, from any one viewpoint, that there were two accesses serving the building. The same landscaping would also serve to conceal the bin stores and any other domestic paraphernalia. Consequently, from most views it would only be the upper part of the building that would be readily evident in the street scene, and it would still have the appearance of a single dwelling.
8. Being on a bend in the road, at the end of two converging rows of houses, the existing dwelling already occupies a plot that is of a different shape and size to most others in the area. Whereas the surrounding houses generally have quite long back gardens, the house on the appeal site is relatively close to its rear boundary. This is apparent in views from the east, where the depth of the garden can be seen over the flat-roofed garages on, and adjacent to, the site. The distance to the rear boundary would not change as a result of the current, or previously permitted scheme, and the subdivision of the rear garden space, to facilitate the appeal proposal, would not be visible from the road. When looking from this direction, it would not be readily apparent that the space served two dwellings. Consequently, the proposals would not result in the plot appearing more restricted.
9. For these reasons, I conclude that the development would not harm the character and appearance of the area. The development would therefore accord with the aims of Policy PP28 of the Poole Local Plan (2018) (the Local Plan),

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<sup>1</sup> Local planning authority reference: APP/19/00208/F

which seeks to ensure that plot subdivisions are accommodated in a manner which preserves or enhances the area's residential character.

#### *Outdoor amenity space*

10. Each of the houses would have two bedrooms, so could only be occupied by a small family. Plot 1 would be reliant on the external space at the rear of the house for outdoor amenity purposes, as the front garden would be taken up by car-parking and a narrow strip of landscaping. Although the back garden would be of limited depth, it would span the width of the house and would be level. It would be of sufficient size to fulfil the essential outdoor requirements for a small family, such as drying clothes, as well as comfortably accommodating a table and chairs. It would face north, so would be shaded by the house for long periods, particularly in the winter, but I saw that it was partially sunlit during my visit on a summer morning. Despite its limited size, it would be a quiet, private area that would provide a satisfactory external space for the occupants of the house.
11. The rear garden area for Plot 2 would be a little smaller, and would be less private, as it would be overlooked, to some extent, by the first-floor bedroom window in Plot 1. However, this overlooking would not be so intense as to render the space uncomfortable to use. In any event, this house would also have an outdoor area to the front, which, with well-considered landscaping, could be made reasonably private. This area would benefit from a higher level of sunlight, so could provide an alternative outside seating area. I am therefore satisfied that the occupants of this house would also have access to an acceptable level of external space.
12. The Council has not provided evidence of any locally adopted standards for outdoor amenity space. In the absence of such guidance I find that, whilst the gardens would be smaller than most others in the locality, they would provide for the essential day to day needs of the limited number of occupants in each of the houses. In coming to this view, I am also mindful that the entrance gate to Alexandra Park, is a safe 120 metre walk from the appeal site, so more extensive public outdoor space is readily available to meet the occupants' requirements.
13. I therefore conclude that the proposed gardens would provide suitable living conditions for the future occupiers of the dwellings. The proposal would therefore accord with Policy PP27 of the Local Plan which seeks to ensure that, amongst other things, development provides satisfactory external amenity space for new occupiers.

#### *European Nature Conservation Sites*

14. The appeal site lies within 5km of the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and the Dorset Heaths Special Area of Conservation (SAC). The site is also within easy reach of the Poole Harbour SPA. Evidence shows that these protected sites are under significant pressure from an increase in the level of recreation, and disturbance of bird species, as a result of urban development. In the case of Poole Harbour SPA, additional pressure arises from nutrient enrichment from within the harbour catchment, including that arising from the increasing population related to additional residential developments.

15. The proposal would result in an additional dwelling within the area of influence of the SPAs. Whilst the impact of a single dwelling would be small, in cumulation with the 14,200 new homes identified in the Local Plan up to 2033, it has the potential to impact on the integrity of the SPAs, through increased recreational disturbance and nutrient enrichment. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment (AA) is carried out, and that permission may only be granted after having ascertained that development will not affect the integrity of the SPA. As there is no dispute between the parties regarding the need for mitigating measures to avoid harm to the SPAs, I have carried out my AA on a proportionate basis with regard to the evidence before me.
16. The Dorset Heathlands Planning Framework Strategy Supplementary Planning Document (SPD), sets out that mitigation for the impacts of development will be delivered through a combination of Heathland Infrastructure Projects (HIPs), and Strategic Access Management and Monitoring (SAMM). The HIPs will be funded by the Council using Community Infrastructure Levy (CIL) receipts, whereas SAMM funding will be through individual contributions from all developments that involve an increase in dwellings. In the case of Poole Harbour SPA, the mitigation strategy is set out in the Nitrogen Reduction in Poole Harbour SPD and the Poole Harbour Recreation SPD. Under these strategies, nutrient enrichment mitigation will be funded through CIL, and recreational impacts via individual contributions from developments.
17. The appellant has made a payment to the Council in accordance with the terms of an Agreement under Section 111 of the Local Government Act 1972. The Council has confirmed that the payment would accord with the SAMM contributions required by the SPD mitigation strategies. However, the Section 111 Agreement does not bind the Council to spend the money it has received on mitigation measures, or in a timely manner, to offset the impact of the development.
18. I am mindful that the Council has indicated that, if it had received the SAMM contribution prior to determination of the application, it would have concluded, through AA, that the proposed development would not affect the integrity of the SPA. However, it would have made that assessment based on its own knowledge of its budgeting and auditing procedures, and being the authority that is responsible for both planning and expenditure decisions. In the case of this appeal, though, I am the competent authority under the Habitats Regulations, and I cannot satisfy myself, in the same way, that there would be a robust link between the effect of the development and the delivery of the mitigation. The Agreement does not give me certainty on how, or when, the money would be spent.
19. For these reasons, following AA and adopting a precautionary approach, I am unable to conclude that the development will not affect the integrity of the SPAs. The proposal would therefore be contrary to Policy PP32 of the Local Plan, which seeks to ensure that development does not lead to adverse effects upon the integrity, either alone or in-combination, of European sites.

### **Planning Balance**

20. I have found that the proposal would not result in harm to the character and appearance of the area, and would provide acceptable living conditions for

future occupants. The proposal would therefore accord with Section 11 of the National Planning Policy Framework (the Framework) in making effective use of land to deliver homes. In accordance with Paragraph 68 of the Framework I give great weight to the benefits of using a suitable site within an existing settlement for homes.

21. However, Paragraph 175 says that if significant harm to biodiversity resulting from a development cannot be avoided, then planning permission should be refused. Furthermore, Paragraph 177 makes it clear that the presumption in favour of sustainable development does not apply where the development is likely to have a significant effect on a habitats site, unless an AA has concluded that it would not adversely affect its integrity. Therefore, notwithstanding the appellant's comments regarding the Council's performance against the Housing Delivery Test, the presumption in favour of sustainable development is disapplied, so cannot weigh in favour of the proposal. My finding of harm to the integrity of the European Sites therefore outweighs the benefits of the development to the supply of housing.

### **Conclusion**

22. For the reasons given above, I conclude that the appeal should be dismissed.

*Nick Davies*

INSPECTOR