



Appeal Decision

Site Visit made on 1 February 2021

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal Ref: APP/V1260/W/20/3260804

12 Eaton Road, Poole BH13 6DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by A J Land Consultancy Ltd against Bournemouth Christchurch and Poole Council.
 - The application Ref APP/20/00698/F, is dated 19 June 2020.
 - The development proposed is demolish existing garage, erect 1 No. 4 bed house with garage and new garage for existing house.
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Decision

1. The appeal is dismissed and planning permission to demolish existing garage, erect 1 No. 4 bed house with garage and new garage for existing house is refused.

Application for costs

2. An application for costs was made by A J Land Consultancy Ltd against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Main Issues

3. With regard to the evidence before me, I consider the main issues to be:
 - (i) Whether the proposal would preserve or enhance the character and appearance of the Chester Road Conservation Area;
 - (ii) The effect on the living conditions of future occupiers of the site and the occupiers of the existing No.12 Eaton Road; and
 - (iii) The effect on European Sites, designated for their nature conservation importance.

Reasons

Conservation area

4. The Chester Road Conservation Area contains relatively large detached dwellings in domestic scale plots. It has a cohesive urban structure and dwellings generally share a common style, reflective of the area's rapid development around the beginning of the 20th century. Mature landscaping including garden trees provides a verdant backdrop to the dwellings and softens the well-defined streets. Steeply rising ground around the appeal site means that the surrounding dwellings are raised up from the road against the

landscaped backdrop, their setback from the highway contributing to a spacious appearance.

5. The site is currently a wide plot with open, steeply rising garden land to the side of the existing dwelling. However, while this makes some contribution to the spaciousness of the area, the Chester Road Conservation Area Character Appraisal and Management Plan 2010 (CAA) indicates that the overall area has a closer, more regular grain than the adjoining Branksome Park Conservation Area. Thus, while the ratio of buildings to open spaces are important, the wide gap is not a defining component of the conservation area and its retention as open space is not necessary to preserve the character and appearance.
6. The proposed dwelling would have an architectural style reflective of the wider conservation area. Its siting relative to the highway would be similar to its adjoining neighbours, preserving the spaciousness of the street. The dwelling would be close to No.14 but it would clearly read as a detached dwelling within a landscaped context, reflective of the overall pattern of development. Gaps may be narrower than many others, but the dwelling would be sufficiently distanced from No.12 to avoid appearing cramped. The access arrangements with new replacement boundary walling and planting behind could preserve the well-defined street frontage, despite the required excavation.
7. There would be significant tree loss, which I understand follows a protracted period of gradual tree felling without replacement at the site. However, although local residents have pointed to inconsistencies in the submitted Arboricultural Impact Assessment & Method Statement, there is no substantive evidence to refute its conclusions that the existing trees now have a limited life expectancy. Therefore, I find that replacement planting, together with protection of any off-site trees, would mitigate the loss and provide a good long-term landscaping solution to maintain the balance of built form to vegetation on the site, and preserve the verdant appearance of the area.
8. Accordingly, I find that the proposal would preserve the character and appearance of the conservation area and would not harm its significance as a cohesive, early 20th century residential area. Accordingly, there would be no conflict with those aims of Policies PP27, PP28, and PP30 of the Poole Local Plan 2018 (LP) that require development to reflect local patterns of development, preserving the character and appearance of the conservation area and locality.

Living conditions

9. The main entrance door to No.12 is in the side elevation facing the site, alongside a bay window. The outlook from this window would be compromised by the development. However, there is another living room facing Eaton Road, so I conclude that the overall living environment within the dwelling would be adequate. Outdoor space would be small and the steeply rising land to the rear reduces the usability of the limited available space here. Nevertheless, there would remain some available space about the property for sitting out and there is access to other open space nearby.
10. A balcony at No.5a Motcombe Road, behind the existing dwelling, would afford some views over the rear garden space of the new dwelling. However, this area is currently part of the private garden for No.12 and, there is no substantive evidence that the arrangement is particularly harmful.

11. The dwelling would face towards the gardens of dwellings on the opposite side of Eaton Road. However, this is already the case with the existing and neighbouring dwellings and the distances are sufficient to avoid any additional harmful loss of privacy. I, therefore, find that there would be no conflict with those aims of LP Policy PP27 that require development to avoid harm to the privacy of existing and future residents and provide satisfactory internal and external amenity space.

European Sites

12. LP Policy PP32 sets out that development will only be permitted where it would not lead to an adverse effect, either alone or in-combination, upon the integrity of European Sites. The Policy indicates that the Dorset Heathland European Sites¹ and Poole Harbour European Sites² could be affected through recreational impacts, and also refers to effects on the Poole Harbour sites if developments are connected to the Poole Sewage Treatment Works, or within the catchment of the Harbour.
13. The Dorset Heathlands European sites host protected priority habitats and species. Qualifying features include Dartford Warbler, Nightjar, Woodlark, Hen Harrier and Merlin as well as other typical species of lowland heathland, wetlands and dunes. Their conservation objectives include ensuring the integrity of the sites is maintained, and that the sites contribute to achieving the favourable conservation status of their qualifying features.
14. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (DHPF), indicates that the associated increases in population, in combination with other development, are likely to place increased pressure upon the protected heathland, including through increases in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets.
15. The Poole Harbour European sites are designated for their internationally important populations of regularly occurring species and migratory species. Particular features of interest include Common Shelduck, Pied Avocet, Black-tailed Godwit, Mediterranean Gull, Common Tern, Little Egret, Eurasian Spoonbill, and Sandwich Tern. There is also an internationally important assemblage of waterfowl including Dunlin, Redshank and Brent Goose, as well as supporting habitats for seagrass, shallow inshore waters including coastal lagoons, intertidal sediments, saltmarsh, and reedbeds.
16. The DHPF and the Poole Harbour Recreation 2019-2024 Supplementary Planning Document set out that mitigation measures can be achieved through the delivery of Heathland Infrastructure Projects and Poole Harbour Infrastructure Projects, paid for through the Community Infrastructure Levy, and Strategic Access Management and Monitoring Measures (SAMMs).
17. The appellant in the Design and Access Statement and Appeal Statement has acknowledged the need to provide such mitigation and indicated a willingness to make the appropriate contributions towards SAMMs. However, while a draft heads of terms document has been provided setting out the proposed mitigation, no formal mechanism of securing it is before me.

¹ Dorset Heathlands Special Protection Area and Ramsar site, and the Dorset Heaths Special Area of Conservation.

² Poole Harbour Special Protection Area and Ramsar site.

18. As competent authority under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), I can only agree to the project having first ascertained that adverse effects on the integrity of the European Sites will not arise, alone or in combination with other development. In the absence of mitigation, and following appropriate assessment, I cannot reach that conclusion. Whatever the situation regarding nutrient enrichment of the Harbour, the proposal is, therefore, in conflict with LP Policy PP32.

Planning balance

19. Notwithstanding my conclusions on the first two main issues, the conflict with LP Policy PP32 results in a conflict with the development plan, taken as a whole. Given my responsibilities under the Habitats Regulations, the benefits arising from the delivery of additional housing do not outweigh this conflict.
20. I am mindful that the Government's recent publication of Housing Delivery Test Results may indicate that paragraph 11(d) of the National Planning Policy Framework (the Framework) falls to be considered. However, as set out at Framework Paragraph 177, the presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the integrity of the site would not be adversely affected. That was not the conclusion of my appropriate assessment.
21. I, therefore, conclude that material considerations do not outweigh the conflict with the development plan and the appeal is dismissed.

M Bale

INSPECTOR