



Appeal Decision

Site visit made on 26 January 2021

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2021

Appeal Ref: APP/V1260/W/20/3257810

41 Longfleet Road, Poole, BH15 2HW

- 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 and Mrs Bradshaw against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/20/00403/F, dated 6 April 2020, was refused by notice dated 30 July 2020.
 - The development proposed is demolition of side covered porch and conservatory, erect a single storey at rear, carry out internal alterations to increase from 2 no flats to 4 no flats (revised scheme).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of side covered porch and conservatory, erect a single storey at rear, carry out internal alterations to increase from 2 no flats to 4 no flats at 41 Longfleet Road, Poole, BH15 2HW in accordance with the terms of the application, Ref APP/20/00408/F, dated 6 April 2020, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Bradshaw against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was refused for three reasons. Reason 1 related to inadequate parking provision. Reasons 2 and 3 related to the lack of any contribution towards mitigation of the likely significant effects of the proposed development on the integrity of the Dorset Heathlands Sites of Special Scientific Interest (SSSI), Special Protection Area (SPA), Special Areas of Conservation (SAC) and Ramsar site and the Poole Harbour SSSI, SPA and Ramsar site.
4. However, on 6 January 2021 the Council adopted a revised Parking Standards Supplementary Planning Document (SPD). Under the provisions of this new SPD the parking provision in the appeal scheme is acceptable. The Council has confirmed that it has therefore withdrawn its first reason for refusal¹. In addition, during the appeal process, the appellants submitted a S111 undertaking with Heathland and Harbour Recreation Strategic Access

¹ Email dated 8 January 2021

Management and Monitoring contributions. The Council has confirmed the receipt of these payments and that their submission addresses the second and third reasons for refusal². I return to this matter below.

5. Furthermore, also in January 2021 the Council approved an application for the conversion into four flats and extension of the appeal property which was submitted after this appeal process began³. I have had regard to this in my decision. During my site visit I noted that the single-storey extension to the rear elevation has been constructed apparently with a balcony surrounded by a wall and obscure glazing on top. This arrangement differs from the scheme before me. For the avoidance of doubt, I have determined this appeal on the basis of the submitted plans.

Main Issue

6. The main issue is the effect of the proposed development on the integrity of the Dorset Heathlands SSSI, SPA, SAC and Ramsar site and the Poole Harbour SSSI, SPA and Ramsar site.

Reasons

Dorset Heathlands

7. The Dorset Heathlands are an extensive and complex network of lowland heaths including multiple SSSIs. The heaths are designated as the Dorset Heathlands SPA and Ramsar site, the Dorset Heaths SAC and the Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC because of their biodiversity interest.
8. The qualifying features of the SPA are its use by Hen harrier, Merlin, European nightjar, Woodlark and Dartford warbler. The conservation objectives are, in summary, to ensure that the integrity of the site is maintained or restored as appropriate by maintaining or restoring the qualifying features' habitats, populations and distribution within the site.
9. The qualifying features of the SACs include North Atlantic wet heaths with *Erica tetralix*, Temperate Atlantic wet heaths, European dry heaths, the depressions on peat substrates of the Rhynchosporion, bog woodlands, dune systems and humid dune slacks, with populations of Southern damselfly and Great crested newt. The conservation objectives are, in summary, to ensure that the integrity of the sites is maintained or restored as appropriate and to ensure that the sites contribute to achieving the Favourable Conservation Status of their qualifying features.

Poole Harbour

10. Poole Harbour is a large natural harbour comprising extensive tidal mudflats and saltmarshes together with associated reedbeds, freshwater marshes and wet grasslands. It is designated as an SSSI, SPA and Ramsar site because of its biodiversity interest.
11. The qualifying feature of the SPA is its waterbird assemblage including Little egret, Eurasian spoonbill, Common shelduck, Sandwich tern and Common tern. The conservation objectives are, in summary, to ensure that the integrity of

² Emails dated 21 January 2021 and 5 February 2021

³ APP/20/01197/F

the site is maintained or restored as appropriate by maintaining or restoring the qualifying feature's habitats, populations and distribution within the site.

Likely significant effects

12. It is known that the habitats and species of these sites are vulnerable to disturbance from human activities, including recreation, within the zones of influence of the SPAs and SACs. Any net increase in residential development within 5 km of the Dorset Heathlands or within the Poole Harbour Recreation Zone is considered by Natural England (NE) to have an adverse effect on the integrity of the designated sites. The appeal site is within both zones and the proposal would result in two new dwellings. I therefore conclude that, in combination with other residential development projects, the proposal would have a likely significant effect on the integrity of these designated sites.
13. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of a designated site, either alone or in combination with other plans and projects.
14. Recreational activities by the occupiers of the proposed two new dwellings could disturb the habitats and species of these designated sites, with a resulting adverse effect on their integrity, compromising the achievement of their conservation objectives. However, in undertaking this AA, I can have regard to potential mitigation measures.
15. Policy PP32 of the Poole Local Plan (2018) (the Local Plan) sets out that residential development involving a net increase in dwellings between 400 m and 5 km from a heathland will provide mitigation in accordance with the Dorset Heathlands Planning Framework SPD (the DHPF). For Poole Harbour, the policy sets out that development proposals will provide a Strategic Access Management and Monitoring (SAMM) contribution. Policy PP39 of the Local Plan sets out that funding will be collected by Section 106 Agreement or Section 111 to provide mitigation for internationally important sites.
16. Both the DHPF 2020-2025 and the Poole Harbour Recreation 2019-2024 SPD have been prepared with advice from NE. These strategies explain that SAMM contributions will be used to raise awareness of issues and the value of the protected sites, which includes employing wardens to manage visitor pressure on the heathland and Poole Harbour SPA, provide information and deliver education programmes in local schools. Contributions will also be used for ongoing monitoring. Given NE's endorsement of these strategies I am satisfied that these measures would provide adequate mitigation for the potential adverse effects of the proposed development on the integrity of the designated habitats sites.
17. The appellants have made the requisite SAMMs contributions for both the Dorset Heathlands and Poole Harbour through a Section 111. The Council has confirmed that the payments have been received. NE was afforded 28 days to comment on these contributions but no response was received within that period⁴. In the absence of any objection from NE I am satisfied that adequate mitigation has been secured through the appellants' contributions.

⁴ Email sent to Natural England 8 February 2021

18. I therefore conclude that the proposal would not have an adverse effect on the integrity of either the Dorset Heathlands or Poole Harbour designated habitats sites. Accordingly, in this respect, there would be no conflict with the Habitats Regulations or Policies PP32 and PP39 of the Local Plan.

Other Matters

19. Objections were made to the application by two local residents, one representing a number of other local residents. The parking provision conforms with the guidance in the recently adopted Parking Standards SPD, is deemed satisfactory by the Council and planning permission has been granted for the conversion of the property to four flats with the same level of parking. I am therefore satisfied that the concerns over parking no longer justify withholding permission for the proposal.
20. Damage to the communal flower bed, unauthorised use of a private parking area and, if the boundary wall is not in the appellants' ownership, its reduction in height, are private matters outside the scope of this appeal and my jurisdiction. These matters have therefore not been determinative.

Conditions

21. I have not imposed the standard time limit for commencement as the development has already been commenced. The Council has suggested a number of other conditions were planning permission to be granted. I have considered these against the tests for conditions set out in paragraph 55 of the Framework and amended them to reflect the commencement of the development.
22. I consider the materials used in the development as built to be acceptable and I have no evidence that they are not so to the Council. Accordingly, I do not consider it necessary to impose a condition regarding the approval of materials. However, compliance with the submitted plans is necessary in the interests of certainty.
23. The appellants have contended that it would be difficult and expensive to comply with the Council's suggested condition regarding renewable energy but have provided no evidence to demonstrate this. Policy PP37 of the Local Plan seeks the incorporation of a proportion of future energy use from renewable energy sources as renewable energy technologies can make a major contribution to reducing CO₂ emissions.
24. Although the proposal is a small-scale scheme, in combination with other similar schemes, the incorporation of renewable energy measures can make a significant contribution to tackling climate change. This is consistent with the Government's objectives for climate change as set out in the National Planning Policy Framework. Paragraph 153 of the Framework specifically sets out that new development should be expected to comply with development plan policies on local decentralised energy supply unless it can be demonstrated that this is not feasible or viable. I therefore consider the condition to be necessary.
25. Measures are necessary to avoid harm to the living conditions of the occupiers of neighbouring properties from overlooking and consequent loss of privacy. However, I have revised the condition from that suggested by the Council as there is a clear discrepancy between the approved plans and the development as built. The access, vehicle parking and cycle parking as shown on the

submitted proposed site plan have been implemented but I have imposed a condition to retain these in the interests of highway safety.

26. A condition restricting the use of the roof of the extension was imposed on the recent permission. I consider that a similar condition is necessary in respect of this scheme in order to protect the living conditions of the occupiers of neighbouring properties through loss of privacy. I have therefore imposed it.

Conclusion

27. For the reasons given above, and having regard to the other matters raised, the appeal is allowed and planning permission is granted subject to conditions.

Martin Small

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: LMA.20.001 Dwg No: 001 Location and Block Plans; LMA.20.001 Dwg No: 002 Rev A Proposed Site Plan; LMA.20.001 Dwg No 100 Existing Ground Floor Plan; LMA.20.001 Dwg No 101 Existing First and Second Floor Plans; LMA.20.001 Dwg No: 200 Rev A Proposed Floor Plans; and LMA.20.001 Dwg No: 250 Rev A Proposed Elevations.
- 2) Within 3 months of the date of this decision details of the use of on-site renewable energy sources to meet a minimum of 10% of predicted energy use of the residential development hereby permitted shall be submitted to the local planning authority for its approval in writing. The development hereby permitted shall not be occupied until written approval is given and the approved details have been implemented. The approved details shall thereafter be retained and maintained.
- 3) Notwithstanding condition 1, within 3 months of the date of this decision details of measures to ensure privacy for the occupiers of neighbouring dwellings from the use of the first floor balcony to the rear elevation hereby permitted shall be submitted to the local planning authority for its approval in writing. The development hereby permitted shall not be occupied until written approval is given and the approved measures have been implemented. The approved measures shall thereafter be permanently retained.
- 4) The access, vehicle parking and cycle parking shown on the approved plan and implemented on site shall be retained and kept available for these purposes at all times.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no part of the roof of the extension hereby permitted other than the balcony shown on the approved plans shall be used at any time for any recreational purpose.

End of Schedule