



Appeal Decision

Site Visit made on 26 March 2021

by L McKay MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2021

Appeal Ref: APP/V1260/W/20/3262866

45 Brixey Road, Poole BH12 3EY

- 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 Mrs Victoria Phillips against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref APP/20/00388/F, dated 11 March 2020, was refused by notice dated 14 October 2020.
- The development proposed is to convert existing garage into a 2 bedroom residential property.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has raised concerns about the validity of the appeal due to differences in how the appeal site is identified on the proposed drawings, however this does not appear to have been raised during consideration of the application. Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) sets out the information required with an application. This includes, "a plan which identifies the land to which the application relates", and "any other plans, drawings and information necessary to describe the development which is the subject of the application". The Planning Practice Guidance (PPG) sets out that an application site should be edged with a red line and other land in the same ownership by a blue line.
3. The submitted location plan outlines an area of land in red, however that area does not include the garage subject of this appeal or any other aspect of the proposed development including the access or parking. Those are shown in an area outlined in blue, which also includes 32 Highview Gardens. The site layout plan shows the garage, an area of land around it, the proposed parking and most of the access outlined in red, with only a small area of the driveway to No 32 outlined blue. It also shows other aspects of the proposed development including extensions and alterations to the garage. Consequently, the site layout plan is the only drawing which includes the proposed development in a red line, and therefore identifies the land to which the appeal relates. I have therefore determined the appeal on this basis.
4. The appellant has submitted an amended elevation drawing as part of the appeal (Ref. J.46.2015.14.C). The amendment adds a height dimension to the drawing and does not alter the proposal. Therefore, no party would be prejudiced by my accepting this drawing.

Main Issues

5. The main issues are:

- i) the effect of the proposed development on the character of the area;
- ii) the effect of the proposed development on the living conditions of neighbouring occupiers in respect of outlook, privacy, noise and disturbance;
- iii) whether the proposal would provide satisfactory living conditions for future occupiers in respect of outside space and outlook; and
- iv) the effect of the proposed development on the integrity of the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and the Dorset Heaths Special Area of Conservation (SAC) ("the Dorset Heathlands"), and the Poole Harbour SPA, Site of Special Scientific Interest (SSSI) and Ramsar sites ("the Poole Harbour Habitats Sites").

Reasons

Character and appearance

6. The existing garage is screened from view from Brixey Road by houses and another garage, referred to in submissions as Garage A. However, due to its scale and siting it is noticeable in views from Highview Gardens.
7. Although it would be only slightly higher than the existing ridge, the proposed mansard-type roof form would considerably increase the massing of the building, creating a bulky and boxy structure. The resulting large side elevation and flat central roof section would be clearly visible from Highview Gardens and would significantly increase its prominence in that street scene. The roof form would be out of keeping with the gabled roofs which predominate in the area and the addition of dormer windows would further increase its bulk. While there are some dormer windows locally, such as at 61 Highview Gardens, they are not a common feature in the area and would give the building a distinctly residential appearance, at odds with the character of the outbuildings around it.
8. The proposed dwelling would only occupy a modest proportion of the appeal site overall, however it would be sited in a narrow and relatively small part of the L-shaped site, close to the side and rear boundaries and to neighbouring outbuildings and extensions. As a result, it would appear cramped within a much smaller area of land than other dwellings in the area. It would also be sited behind Nos 45 and 32, in stark contrast to the prevailing pattern of development, which is of dwellings of similar scale and design, fronting the highway.
9. Consequently, due to its siting, bulk and residential appearance, the proposal would appear cramped and contrived and would be a prominent and incongruous feature when seen from Highview Gardens. Therefore, it would not integrate well with surrounding development and would not respect the character of the area.
10. There is other infill development nearby, however No 32 reflects the alignment and general appearance of properties along Highview Gardens and No 61 fronts the road at the head of the cul-de-sac. As such, these properties conform to the general pattern of development and have a very different relationship with the road and neighbouring properties to the appeal proposal.

11. The appellant suggests that the proposed dwelling would be lower than might be allowed under permitted development rights which allow construction of additional storeys. However, those rights relate to dwellinghouses, not outbuildings, and would not therefore apply to this building.
12. Accordingly, the proposal would harm the character and appearance of the area. It would conflict with Policies PP27 and PP28 of the Poole Local Plan (LP), which require a good standard of design that reflects or enhances local patterns of development; and permit plot severances or subdivisions only where there is sufficient land to enable a type, scale and layout of development which would preserve or enhance the area's residential character.

Living conditions – neighbouring occupiers

13. The garden of the first floor flat of No 45 is already enclosed by vegetation, fencing and the side elevations of this garage and Garage A, which restrict its outlook somewhat. The much larger side elevation now proposed would extend along a significant part of the southern side of the garden, creating an overbearing and oppressive feature that would materially and harmfully increase the sense of enclosure and reduce the outlook from the garden, to the detriment of the living conditions of the occupiers.
14. From the windows of No 45 the proposed dwelling would be largely screened by Garage A and as such it would have a limited impact on the outlook from those flats. Outbuildings in the rear garden of No 47 would also partially screen the proposal from view from that extended dwelling, such that although visible, it would not be overly dominant. Consequently, it would not significantly adversely affect the living conditions of the occupiers of Nos 45 and 47 in respect of outlook.
15. The scale of the proposed dwelling would be apparent from No 32 but it would be seen at an angle and as such would not significantly affect the outlook from its windows. The proposed dormer windows would however have a direct and relatively close view down into the garden of No 32 and at an angle towards a large window in the rear elevation. Although the garden of No 32 is partially overlooked by windows in No 30, this is at an acute angle, whereas the proposed dormers would face directly towards the garden. Consequently, the proposal would result in a significant and harmful loss of privacy to No 32, to the detriment of the living conditions of the occupiers.
16. The dormer windows could be obscure glazed and fixed, however this would severely restrict outlook from the main bedroom and as such would not provide an acceptable standard of accommodation for future occupiers. It would not therefore be appropriate to require this by planning condition.
17. The proposed bathroom rooflight would overlook the garden and rear of No 47 however this could be mitigated by a planning condition to require it to be obscure glazed and have restricted opening. The roof of Garage A would screen views from the other rooflight towards No 47 and No 45. The proposed dormers would have only limited views of the gardens of other neighbouring properties and as such would not result in a harmful reduction in privacy. However, this does not justify the harmful impact on the privacy of No 32.
18. The proposal would generate domestic activity alongside No 32, particularly in the front garden which would provide access and the largest outside space for the dwelling. However, this activity is likely to be similar to people using the other gardens around No 32 and as such would not be unduly intrusive. The proposal would also reduce vehicular traffic passing No 32 as the existing garage would no

longer be in that use. Access to another garage adjacent to the appeal site would still be required, therefore it is unlikely that cars would park alongside No 32.

19. There is room to store bins close to the proposed dwelling, such that they would only need to be taken out to the road on collection day. While moving bins may be noisy it is only a brief activity, one expected in a residential area and one which would occur when the other residents of Highview Gardens would also be putting their bins out. The proposed refuse collection arrangements would not therefore result in a harmful level of noise and disturbance.
20. Consequently, while there would be a greater level of activity from residents going to and from the dwelling, the proposal would not result in an unacceptable increase in noise and disturbance adjacent to No 32 compared to the existing situation. It is therefore materially different to 2016 and 2019 appeal schemes for this garage and Garage A¹.
21. Nevertheless, the proposal would harm the living conditions of the occupiers of No 45 in respect of outlook and No 32 in respect of privacy. Therefore, it would conflict with LP Policy 27 which requires development to be compatible with surrounding uses and not result in a harmful impact on amenity for local residents.

Living conditions – future occupiers

22. The proposed dwelling would have a very small garden to the rear which, due to its size and very limited outlook onto boundary fences and the side of Garage A, would not provide good quality outside space. It would however provide space for bins and other domestic storage such as a cycle store or shed.
23. The proposed front garden would be larger and mainly enclosed by fencing rather than buildings, and as such would have a more pleasant outlook than the rear garden. It would not be directly overlooked and there would be sufficient space for sitting out, hanging washing and other day-to-day activities, as well as some planting. It would therefore provide a reasonably private and useable garden for future occupiers. In combination, while modest in size, I consider these two areas would be sufficient for the day-to-day need for outside space of the occupiers of the 2-bedroom dwelling proposed.
24. Consequently, overall, I find that the proposal would provide satisfactory living conditions for future occupiers in respect of outside space and outlook. Therefore, it would not conflict with LP Policies 27 and 28 which require that development would not harm the amenity of future residents and provides satisfactory, useable external amenity space.

Habitats Sites - Dorset Heathlands

25. The appeal site lies within 5 kilometres of the Dorset Heathlands, which are an extensive network of lowland heath recognised for their national and international importance for nature conservation. The Dorset Heathlands are under significant pressure from urbanising impacts, damage caused by domestic pets and recreational use, which have the potential to cause ongoing adverse effects on the protected habitats and species.
26. Due to the location of the proposed dwelling, the occupiers are likely to visit the Dorset Heathlands. As such, the proposal, both alone and in combination with other development in the area, is likely to have a significant effect on the integrity of the Dorset Heathlands due to increased disturbance through recreational

¹ APP/Q1255/W/18/3201891, APP/Q1255/W/16/3165969 and 3165890

activity. It is therefore necessary for me, as the competent authority, to conduct an Appropriate Assessment.

27. To address the impacts of new housing the Council has adopted the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (SPD), which has been drawn up with advice from Natural England. The SPD sets out a mitigation strategy consisting of Strategic Access Management and Monitoring (SAMM) and Heathland Infrastructure Projects (HIPs). LP Policies PP32 and PP39 require mitigation for Habitats sites to be secured through the Community Infrastructure Levy (CIL) and by means of S106 or S111 agreements where it cannot be taken through CIL.
28. The Council's officer report notes that the appellant has submitted a form relating to S111, but that the contributions have not been paid. There is no evidence before me that any contributions have been paid since, and there is no other mechanism before me to secure those contributions that cannot be collected through CIL. Therefore, as measures have not been secured to mitigate against harm to the Dorset Heathlands, the proposal would adversely affect the integrity of these Habitats sites. As such it would conflict with LP Policies PP32 and PP39 which do not permit development in such circumstances.

Habitats Sites - Poole Harbour

29. The site is also within the zone of influence of the Poole Harbour Habitats Sites, designated due to the important bird species that inhabit the area, including internationally important populations of regularly occurring species and migratory species, and an internationally important assemblage of waterfowl. The Sites also include supporting habitats for seagrass, shallow inshore waters including coastal lagoons, intertidal sediments, saltmarsh and reedbeds. The evidence before me is that public access in and around the harbour and various forms of recreational activities can disturb the SPA birds in the harbour, adversely affecting the protected habitats and species.
30. The occupiers of the proposal would be likely to use the harbour for recreation. Consequently, both alone and in combination with other development in the area the proposal is likely to have a significant effect on the integrity of the Poole Harbour Habitats Sites due to increased disturbance through recreational activity. It is therefore necessary for me, as the competent authority, to conduct an Appropriate Assessment.
31. The Council has adopted the Poole Harbour Recreation 2019-2024 SPD, which has been drawn up with advice from Natural England. That SPD sets out a mitigation strategy consisting of SAMM and Poole Harbour Infrastructure Projects (PHIP). Financial contributions are to be collected through CIL and S106 or S111 agreements.
32. There is no evidence before me that the contributions have been paid, and there is no other mechanism before me to secure those contributions that cannot be collected through CIL. Therefore, as measures have not been secured to mitigate against harm to the Poole Harbour Habitats Sites, the proposal would adversely affect their integrity, contrary to LP Policies PP32 and PP39.

Planning Balance and Conclusion

33. The 2020 Housing Delivery Test results for the LP area show that housing delivery was below 75% of housing required over the previous 3 years. Therefore, paragraph 11 of the National Planning Policy Framework (the Framework) sets out that the policies most important for determining the application are out-of-date.

34. The most important LP Policies are those set out in my reasons above. Those Policies are highly consistent with the Framework, which seeks to protect biodiversity and habitats sites and requires developments to add to the overall quality of the area, be sympathetic to local character and create places with a high standard of amenity for existing and future users. Consequently, I afford the conflict with the LP Policies very substantial weight.
35. The site is not in a flood risk area and drainage details could be secured by planning condition. The east/west orientation and open internal layout would allow for the main living space to benefit from natural light in the morning and afternoon. Requirements for sustainable construction to achieve energy efficiency, and to provide for 10% of energy to be from renewable sources could also be secured by condition. Therefore, I find no conflict with LP Policies PP37 and PP38. The proposal would also comply with other LP policies in respect of parking. However, these matters are of neutral consequence in the planning balance.
36. The appellant refers to a scheme at 9 North Lodge Road for extension and conversion of a workshop. From the evidence it is clear that a different set of circumstances applied in that case and the context and impacts of that scheme were not comparable to the proposal before me. In any event I have considered the proposal on its own merits.
37. Having regard to Framework paragraph 175, as mitigation of the adverse effects of the proposal on the Habitats Sites has not been secured, this provides a clear reason for refusal of the proposal. Therefore, having regard to Framework footnote 6, the presumption in favour of sustainable development in Framework paragraph 11d) is not engaged.
38. The proposal would contribute to the supply of housing in a settlement but outside the most accessible locations where the LP seeks to direct development. It would also generate economic benefits through construction and occupation. Although the Council can demonstrate a 5-year supply of deliverable housing sites there have been shortfalls in delivery over recent years, so every dwelling makes a valuable contribution. Nevertheless, the benefits of one additional dwelling are limited and would not outweigh the harm identified in relation to the main issues.
39. Overall, therefore, having regard to the Framework, the benefits of the development and all other matters raised, there are no material considerations that justify granting permission for the proposal, which conflicts with the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR