



Appeal Decision

Site Visit made on 11 March 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 May 2021

Appeal Ref: APP/V1260/W/20/3263048

89 Bournemouth Road/ 1 and 3 Marlborough Road, Marlborough Road, POOLE BH14 0HJ

- 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 A Collier of Fayrewood Property Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/19/01468/P, dated 26 November 2019, was refused by notice dated 15 May 2020.
 - The development proposed is demolish existing buildings and erect a single block of 26 apartments with associated parking, access, bin and cycle storage (outline application to consider access and layout).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Submitted plans include full details of a proposed building at the site comprising 26 flats. However, the proposal is before me in outline form, limited to details of access and layout. Therefore, where these plans give details beyond access and layout, I must treat them as illustrative only and give them little weight in my determination of the appeal.
3. On 1 April 2019 Borough of Poole Council merged with Bournemouth Borough Council and Christchurch Borough Council to become Bournemouth, Christchurch and Poole Council. The development plans for the merged local planning authority remain in place for the former area of the Borough of Poole Council until such a time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved Borough of Poole Council.

Main Issues

4. The main issues are:
 - a) The effect of the proposal on the character and appearance of the area, and
 - b) Whether there would be likely to be a significant effect on the internationally important features of the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and Poole Harbour SPA, in combination with other plans and projects.

Reasons

Character and appearance

5. The appeal site is prominently positioned on a corner, fronting a busy main road to the south and a quieter residential cul-de-sac to the east. To the west and north nearby development is generally in the form of two storey detached dwellings; evenly spaced and set back from the road. To the east and south nearby development is of a higher density, comprising some purpose built flats. Three detached two storey dwellings occupy the appeal site, two with first floor rooms set into the roof.
6. The proposed building would occupy a large footprint, significantly larger than the existing separate dwellings at the site and the similarly scaled neighbouring buildings. The western extent of the building's footprint would be very close to the neighbouring building No. 87 Bournemouth Road (No. 87). It would step forward of this building. The resulting relationship between the existing building and a building that occupied the proposed footprint would be poor, especially as it would be highly likely that the proposed building would be significantly higher than No. 87.
7. The appellant has sought to draw comparisons between the relationship that would result between No. 87 and the appeal proposal with the relationship between other nearby buildings. The relationship between No. 62 Richmond Road and the flats fronting Bournemouth Road is not comparable as the flats are of a modest two storey scale with a flat roof.
8. Although the building line fronting Bournemouth Road to the west of the site is consistent, with dwellings set well back from the highway, there is much less consistency to the east, where buildings are closer to the road. Therefore, setting aside the poor relationship with No. 87, a footprint that steps forward would not necessarily be harmful in the context of the streetscene to the east.
9. However, stepping forward from the strong and consistent building line fronting Marlborough Road would be harmful. Particularly as a purpose built block of flats with a large footprint would look so different to the repetitive arrangement of detached dwellings along this side of the road.
10. Further visual harm would arise from the extensive area for car parking, which would extend into the full depth of the plot directly alongside an existing dwelling, with little remaining area for landscape mitigation.
11. I appreciate that the site is close to other flatted developments. The recent 'Sanctum' scheme opposite is a substantial building, however it does not occupy a prominent corner plot and is set down from the road level and set back behind substantial mature trees. I am therefore not satisfied that the presence of this building should make the scale of development proposed at the appeal site acceptable.
12. To the east of the site, on the opposite side of Marlborough Road, is the site of a former care home. This building was vacant and boarded up at the time of my visit. Although rambling, and occupying a substantial footprint, this building is largely two storeys, with limited third storey accommodation set into parts of the roof. It is therefore of a similar height to the existing buildings at the appeal site and other buildings on Marlborough Road.

13. Planning permission exists at this site to demolish the existing building and erect a substantial 3 and part 4 storey block of flats. If this development came forward it would give the appeal site the context of a higher density of development to the east. However, the poor relationship between the proposal and No. 87 to the west would remain the same, as would the poor relationship between the scale of the proposal and existing dwellings along Marlborough Road. The appellant suggests that this relationship would be similar to the relationship between the building that would replace the former care home and No. 4 Marlborough Road. Whilst I accept that there would be similarities, this development would be otherwise better integrated with existing flattened development to the east.
14. Furthermore, the weight I give to the extant scheme at the neighbouring site to the east is limited by the fact that construction work at the site was not underway at the time of my visit and the building has clearly been boarded up for a long time. Information before me establishes that permission for redevelopment at this site has been in place since 2016, with subsequent revisions. I therefore cannot be sure that the extant permission at the neighbouring site will come forward. Without it, the appeal proposal would appear overdeveloped in the context of much more modest neighbouring two storey development to the east, west and north.
15. Other flattened schemes in the area referred to by the appellant are either more modest than the proposal or are set back from the road behind extensive vegetation. Therefore, they do not serve to justify the scale of the proposal in this location.
16. In summary, the proposal would harm the character and appearance of the area. It would be contrary to Policies PP27 and PP28 of the Poole Local Plan 2018 (PLP), which together seek to ensure that development proposals are designed to a good standard that reflects or enhances local patterns of development in terms of layout, height, scale, bulk and massing.

SPAs and SAC

17. The appeal site is within 5Km of the Dorset Heathlands SPA and Ramsar sites, and the Dorset Heaths SAC; collectively referred to as the Dorset Heathlands. The Dorset Heathlands host protected priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other species typical of lowland heathland, wetlands and dunes. The Heathlands cover an extensive area of South East Dorset, fragmented by urban development, forestry, agriculture and other land uses. Evidence shows that the Dorset Heathlands are under significant pressure from an increasing number of people living nearby. As nearby populations increase, urbanising impacts from people and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
18. The proposal is for 26 new dwelling units and would therefore result in a permanent increase of people at the site, although the number would be reduced as a result of the demolition of the existing dwellings. This could have a significant adverse effect on protected natural habitats because additional persons residing at the appeal site could access the nearby protected areas for leisure purposes, which may lead to the disturbance of the habitats of ground nesting birds or reptiles. On this basis, the proposal would be likely to have a

significant effect on the internationally important features of the Dorset Heathlands, either alone or in combination with other developments.

19. Natural England (NE) as the Statutory Nature Conservation Body was consulted during the appeal process. NE advises that without an appropriate contribution towards Strategic Management and Monitoring (SAMB), the proposal would have an adverse effect on the integrity of the Dorset Heathlands. I note that the appellant has advised that a Unilateral Undertaking to secure such mitigation is in preparation to address this matter, however this document is not before me.
20. The appeal site is also within catchment of the Poole Harbour area, which is a SPA, Ramsar and Site of Special Scientific Interest. The area's special interest is derived from its wetland birds, wetland and intertidal habitats, subtidal habitats and invertebrate communities.
21. As established, the proposal would result in a permanent increase of people at the site. This would result in an increase of nitrogen based nutrients into the Poole Harbour area. Such increases contribute to the growth of algal mats in the harbour, which smother estuarine habitats and restrict the growth, distribution and variety of important food available for wading birds. Furthermore, persons residing at the site could access the protected area for recreation purposes, causing direct or indirect disturbance to protected birds. On this basis, the proposal would also be likely to have a significant effect on the internationally important features of the Poole Harbour, either alone or in combination with other developments.
22. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document 2017 (NRPHSPD) establishes that the Community Infrastructure Levy (CIL) can be used to contribute towards infrastructure such as improvements to sewage treatment works, alternative technologies and offsetting through a change of the use of agricultural land. The development is CIL liable, and therefore, in accordance with the NRPHSPD the Council will use the CIL to deliver the necessary mitigation to address the increase in nitrogen based nutrients arising from the proposal.
23. NE refers to the Poole Harbour Recreation 2019-2024 Supplementary Planning Document (PHRSPD), which establishes that SAMMs contributions would be needed to give certainty beyond reasonable doubt that the development would not adversely affect the integrity of the Poole Harbour SPA and Ramsar. Within the Council area the PHRSPD establishes that these should be secured through a planning obligation. However, as I have already established, the necessary obligation is not before me.
24. There are no alternative solutions before me that would have a lesser effect on the integrity of the protected sites. In the absence of a completed legal agreement I am unable to conclude that the appeal proposal would not, in combination with other developments, adversely affect the protected sites. I am aware of no reasons of over-riding public interest that might justify a grant of planning permission as an exception. As such I cannot be confident that the proposal would not adversely affect the integrity of the Dorset Heathlands and Poole Harbour, and cannot therefore fulfil the duty placed on me as the competent authority under Regulation 63 of the Conservation and Species Regulations 2017. Therefore, the appeal must fail.

25. As such, the proposal conflicts with Policies PP32 and PP39 of the PLP, which together seek to secure the necessary mitigation to ensure that development proposals will not lead to an adverse effect upon the integrity of European and internationally important sites.

Other Matters

26. The proposal would deliver 26 new dwellings that would contribute to local housing supply. This would be on a relatively small site, in an area with good access to local services and facilities. Although this is a benefit that carries significant weight it is not sufficient to outweigh the substantial level of harm I have identified in relation to the main issues of the appeal.
27. The appellant suggests that further benefits would arise from the demolition of No. 1 Marlborough Road, which has a poor appearance. However, at my site visit, I did not find that the appearance of this dwelling to be so poor that its demolition would weigh significantly in favour of the proposal.
28. The Council accepts that, following the publication of the Housing Delivery Test in January 2021, the total number of homes delivered in Poole compared to those required over a 3 year period was 73%, which is below the threshold of 75%. However, an exception is provided to paragraph 11 (d) of the National Planning Policy Framework (the Framework) where policies in the Framework that protect assets of particular importance provide a clear reason for refusing the proposal. Footnote 6 establishes that this includes habitats sites. I have found that the proposal would not secure the necessary mitigation to avoid an adverse effect on the integrity of the identified European and internationally important sites. It would therefore not accord with the Framework, which makes it clear that planning permission should be refused where significant harm to biodiversity cannot be avoided. Consequently, the tilted balance does not apply.

Conclusion

29. There are no other material considerations that indicate that the appeal should be determined other than in accordance with the development plan. For the reasons above, I therefore conclude that the appeal should be dismissed.

A Tucker

INSPECTOR