
Appeal Decision

Site visit made on 14 December 2021

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2021

Appeal Ref: APP/V1260/W/21/3268901

21 High Park Road, Poole BH18 9DE

- 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 Mears against the decision of BCP Council.
 - The application Ref APP/20/00338/F, dated 17 March 2020, was refused by notice dated 23 October 2020.
 - The development proposed is the erection of detached dwelling with associated access and parking.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refused the original application for four reasons, with the third and fourth ones being concerned with the adverse effect of the proposal on the special features and integrity of the nationally and internationally important Dorset Heathlands Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Ramsar Site, and Dorset Heaths Special Area of Conservation (SAC), and the Poole Harbour SSSI, SPA and Ramsar Site. During the appeal, the appellants submitted an Undertaking pursuant to Section 111 of the Local Government Act 1972, securing payment for mitigation measures to alleviate the harm. The Council have stated that the third and fourth reasons for refusal have now been fully addressed, and that the appeal turns on the remaining reasons for refusal.

Main Issues

3. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect upon the living conditions of nearby residents, having particular regard to privacy.

Reasons

Character and Appearance

4. Positioned within a residential area comprising mostly detached houses and bungalows, the trees within the appeal site are part of a group of trees that extends downhill from High Park Road towards Springdale Road.

A characteristic feature of the area are the numerous tall trees growing amongst the dwellings. Pines are particularly prevalent, albeit there are a wider mix of species present, including both evergreens and deciduous. It is the size of the trees and their abundance that gives the area a sylvan identity, creating a distinctive verdant visual cohesion. The trees create leafy skylines and settings to the buildings, as well as giving a sense of privacy and seclusion to each property.

5. In most cases the trees are growing within private gardens, some as individual specimens, but many within groups, some of which are extensive in size. The appeal site is part of one such large group. Formerly included within the garden of 21 High Park Road (No 21), the site has been separated from the garden of this property by a tall timber fence. Nevertheless, the tall trees within the garden of No 21, along with those in the appeal site are part of the larger group of trees that extend downhill towards Springdale Road. In addition, there are other tall trees in the gardens to the northern side of High Park Road. Taken together with the trees in the appeal site and those in the group to the south, the combined effect is of an extensive continuous verdant swathe amongst the dwellings.
6. The trees in the appeal site are an integral part of this continuity, and particularly so because they occupy a prominent corner position on the junction of Roman Road and High Park Road. The appeal site is unusual as it is undeveloped, and as such it forms a unique woodland area amongst the dwellings. In addition, the proximity of an area of woodland so close to the roads and bridleway make it very visible from the public realm and this proximity is in itself a distinct feature of the site, particularly as several of the pines are impressive specimens in their own right. As such, the trees within the appeal site are a prominent group, and one that makes a significant and positive contribution to the character and appearance of the area.
7. The development of the site would necessitate the felling of several trees, some of which are of considerable stature. The removal of these tall trees would effectively separate the remaining woodland into two bands either side of the house, and those trees that would remain would become peripheral features of the site. The impressive and unique visual presence of the woodland amongst the dwellings would be harmfully eroded by the creation of a gap in the evergreen composite crown. The High Park Road frontage would become more open, with the house, its service areas and garage becoming the focal element of the plot rather than the trees. Furthermore, works to crown raise those trees near to the northern side of the site would exaggerate the open appearance of the plot. Rather than appear as a house within a woodland, the dwelling would effectively divide the trees into two discrete groups, thereby harmfully diminishing the woodland appearance of the site and its contribution to the area.
8. The appellants have assessed the tall trees on an individual basis as advised in BS5837 – Trees in Relation to Design, Demolition and Construction, pointing out that of the trees to be felled most are low quality. Notwithstanding this, the trees are protected by a woodland Tree Preservation Order, the purpose of which is to safeguard the woodland as a whole. Such a protection should not hinder beneficial woodland management, including that to be undertaken to manage risk to people and property, and while some trees may lack individual merit, all trees in a woodland are protected. Trees with imperfections such as

deadwood, leaning stems, asymmetric crowns, and suppressed forms are not unusual, but part of a tree's self-optimisation when growing within a woodland context. Even those that are overmature in age and of less than perfect form, including those categorized as category C trees, all contribute towards the prominence of the woodland, and their removal would unacceptably erode the verdant significance of the site within the area.

9. Many of the pines are mature, with only a few young-mature specimens apparent, two of which would be felled by the proposal. Removing these trees would reduce the diversity of the age range of the trees within the site to primarily mature and saplings. Dense bracken and brambles covered large sections of the site, and ornamental species were evident, such as cotoneaster and rhododendrons. However, there were numerous native self-seeded saplings of varying ages growing across the site, particularly oak, holly and sweet chestnut. In addition, there were self-seeded pines. Whilst there are ornamental species present, the over-riding character and appearance of the plot is as a woodland, and one which comprises a mix of evergreen and deciduous species of trees and shrubs.
10. Moreover, trees and saplings which grow naturally or are planted within a woodland area after an Order is made are also protected. The development of the site would not only remove tall trees, but the site frontage would have a legible domestic garden appearance within which there would be little opportunity for woodland regeneration. As regeneration is an integral part of the purpose of a woodland Order, the scheme would fundamentally erode the contribution the site makes to the area.
11. It is the intention of the appellants to plant a variety of young trees and shrubs within the site. The species range would in part reflect the native species that are present within the wider area, thereby having a positive impact on biodiversity. However, there is little specific planting detail provided as regards what is to occur in the areas described by the appellants as non-intervention woodland, and there has been no survey of the existing young trees and saplings on the site. Whilst I appreciate the difficulties of undertaking this, there are distinct areas of self-seeded mostly native saplings present, many of which are above 0.5 metre in height. Despite the bracken and brambles, woodland regeneration is occurring, and consequently the planting of large numbers of even small trees and shrubs in areas where there are already many saplings would give rise to harmful competition, rather than regeneration.
12. Segregating the non-integration area by a beech hedgerow would form a defined edge to the woodland, but it would also serve to separate and distance the trees when viewed from the public realm. It may be the case that some future occupiers of the dwelling would want to live within a woodland setting, but this cannot be guaranteed in perpetuity. Even with the presence of a woodland management plan and the beech hedgerow, this is a large family home with a relatively small area of garden space, much of which would be under the canopy of tall trees. Pressure from future occupiers to undertake works to the trees so as to use more of the site for conventional residential garden uses would be very likely.
13. Moreover, several of the canopies of the tall trees that would remain on site would be very close to and in some cases over the roof of the dwelling. Given this proximity there would be a need to continually maintain the trees to keep

their crowns clear of the buildings. Some of the rooms of the house would experience little if any direct sunlight, thereby adding to the pressure to manage the trees. It does not follow, nor can it be guaranteed, that future occupiers of the property would wish to live in such close proximity to tall trees and have the ongoing responsibility of managing them and a woodland.

14. Whilst a woodland Order would not preclude development, the presence of the trees and the regeneration of the woodland would inform how the site could be developed. In this instance, I have found that the development of the site would unacceptably erode the woodland and the important contribution it makes to the character and appearance of the area. The style of the dwelling would harmonise with those nearby, and there would be some social and economic benefits from a new dwelling. Although such activity was not evident at the time of my inspection, the appellants and some local residents consider a further benefit would be to deter anti-social activity occurring on the site. However, none of these benefits would outweigh the significant harm I have found that would arise from the loss of this unique woodland and the contribution it makes to the character and appearance of the area.
15. The appellants have drawn my attention to other dwellings erected within a woodland setting, including No 21. However, this property has a mostly open frontage, with trees mainly to one side of the front garden, and is not directly comparable to the appeal proposal. Of the other two schemes referred to, they were permitted under a different development plan, and in both cases the dwellings are of a contemporary design, constructed to be elevated above ground level. Having regard to these differences, and that I do not have the full case history of these dwellings before me, including details of the woodlands around these homes, neither the dwelling at 2 Western Avenue nor that at 8 Buccleuch Road forms a binding precedent for approving the appeal scheme.
16. Thus, the proposal would unacceptably harm the character and appearance of the area, and for the reasons given above the conditions suggested by the Council and accepted by the appellants would not overcome this substantial harm. As such the proposal would be contrary to Policy BP4 of the Broadstone Neighbourhood Plan (2018) (NP) and Policy PP27 of the Poole Local Plan (2018) (LP). These policies seek amongst other things, high quality design that does not result in the loss of trees that make a significant contribution to the area, thereby reflecting objectives of the National Planning Policy Framework (the Framework).

Living Conditions

17. 53 Roman Road (No 53) is a detached house positioned close to its boundary with the appeal site. At first floor level there is an obscure glazed window and a further window, with both providing occupiers of this property with close and direct views over the appeal site. At my site inspection it was evident that the deep and tall mostly evergreen hedge and trees that are currently growing along the southern boundary of the appeal site provides a degree of privacy for the occupiers of No 53.
18. The proximity of the proposed dwelling to the property boundary, along with the provision of tall and wide full height windows to one of the rooms would provide future occupiers with direct and close views into the upper floor windows of No 53. The ensuite could be obscure glazed, but the size of the

bedroom windows and their proximity to No 53 would result in an unacceptable loss of privacy for the occupiers of this property. Furthermore, future occupiers of the proposed house would have close views onto the terrace of No 53, as well as oblique views over its rear garden. Whilst some degree of mutual overlooking is to be expected in residential areas, in this instance the elevated and close views into No 53 would result in an unacceptable loss of privacy for the occupiers of this property.

19. The retention of the existing trees and hedge along the site boundary would provide some degree of screening between the two houses, but landscaping cannot be relied upon to protect privacy. The unmanaged nature of the hedge, particularly its breadth and its close proximity to the proposed house, would be such that it cannot be assumed that it would either survive the construction process, nor be drastically pruned so as to improve light levels into the rear facing rooms of the proposed dwelling.
20. The appeal submission included a revised house design in response to the Council's reason for refusal concerning the impact of the proposal upon the living conditions of nearby residents. There are several differences between the appeal scheme and that considered by the Council. Whilst the Council and some local residents have had an opportunity to comment, others have not, and in the interests of openness and fairness the revised scheme has not been accepted as part of the appeal.
21. Thus, the scheme would unacceptably harm the living conditions of nearby residents, and the suggested and agreed conditions would not overcome this harm. The proposal would therefore be contrary to NP Policy BP4 and LP Policy PP27. Like objectives of the Framework, these policies seek amongst other things, a good standard of design that would not have a harmful impact upon the residential amenity of local residents.

Other Matters

22. The appeal site is within 5 kilometres of the nationally and internationally protected Dorset Heathlands and Poole Harbour, whereby a net increase in the number of dwellings would be unacceptable without appropriate mitigation of the future occupiers' impact on these important sites. The original application was refused because the likely significant effects on these sites arising from the development had not been mitigated, and the development would therefore result in an adverse effect upon their integrity.
23. During the appeal a S111 Undertaking was accepted by the Council to provide a financial contribution for mitigation measures, access management, and monitoring. Had I been minded to allow the appeal and grant planning permission for the development, it would have been necessary for me to examine this matter in greater detail, including undertaking an Appropriate Assessment to assess the likely significant effects of the proposal on the integrity of the nationally and internationally important sites, both alone and in combination with other schemes. However, as I am dismissing the appeal for other reasons, I have no need to consider this matter further.

Conclusions

24. Thus, the proposal would unacceptably harm the character and appearance of the area, and adversely impact upon the living conditions of nearby residents.

The scheme would conflict with the development plan taken as a whole, and there are no considerations that indicate the decision should be made other than in accordance with the development plan. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR