



Appeal Decision

Site visit made on 2 August 2022

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal Ref: APP/V1260/W/22/3291025

61 Howeth Road, Bournemouth BH10 5DZ

- 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 & Mrs. J. Boughton against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2020-5135-D, dated 7 December 2020, was refused by notice dated 1 November 2021.
 - The development proposed is the erection of 3 dwelling houses (retrospective demolition of existing).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the description of development to reflect that as provided at section E of the appeal form, in the interests of consistency.

Main Issues

3. Although Bournemouth Christchurch and Poole Council (the Council) has given a single reason for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify three main issues.
4. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding area,
 - The effect of the proposed development on the living conditions of future occupants and nearby residents with regards to overlooking, privacy and outlook; and,
 - The effect of the proposed development on protected habitats.

Reasons

Character and Appearance

5. The appeal site comprises land forming a corner plot located within a residential area and at the junction between Howeth Road and Heather Road. The scale and design of dwellings within the wider surrounding residential area is somewhat mixed. However, the immediate surrounding area is

predominantly characterised by detached bungalows and two storey detached dwellings.

6. The appeal scheme seeks to construct three dwellings at the site, arranged with a pair of semi-detached two storey dwellings fronting onto Howeth Road and a detached two storey dwelling fronting onto Heather Road. Access to parking spaces for unit 2 would be from Howeth Road, with hardstanding for parking in respect of the proposed units 1 and 3 being accessed from Heather Road.
7. In terms of the proposed pair of dwellings at units 2 and 3, whilst semi-detached dwellings within the immediate surrounding area were not a common feature, there were some examples of such arrangements within Howeth Road. In that regard, the design of the pair of semi-detached dwellings would also replicate the character and appearance of those larger dwellings within the area which did not appear to have been divided into semi-detached pairs. That pair of proposed units would retain a separation distance to 63 Howeth Road that would be commensurate with the distances between respective dwellings located within Howeth Road.
8. Nonetheless, the separation distance between the proposed detached dwelling at unit 1 and its neighbour at 2 Heather Road would be uncharacteristically narrow. The appeal scheme would be in a prominent location at a junction, and from within the street scene the proposed detached dwelling would appear tight against its western boundary and, in the context of its surroundings, the proposed detached dwelling would look uncomfortably close to its neighbour within Heather Road. In combination with the proposed extremely constrained and limited private garden space to be provided for unit 3, the appeal scheme as a whole would have a cramped appearance and, in my view, would appear incongruous within its surroundings. The appeal proposal would, therefore, fail to complement or respect the character of the surrounding area.
9. For the above reasons, the appeal proposal would conflict with Policies CS21 and CS41 of the Bournemouth Local Plan Core Strategy (the Local Plan) which, amongst other matters, seek to ensure that development is of good design, contributes positively to the character of the area and the quality of the street scene, and enhances character and local distinctiveness. The proposed development would also conflict with Saved Policy 6.8 of the Bournemouth District Wide Local Plan (the BDWLP) which expects infill development to complement and respect the character of neighbouring development. For the same reasons, the appeal scheme would fail to accord with the provisions of the National Planning Policy Framework (the Framework) with regards to achieving well-designed places.
10. The Council also raised concerns in respect of character and appearance with regards to the extent of hardstanding for car parking, and which would front onto Heather Road. However, I saw on my site visit that a substantial number of properties within both Howeth Road and Heather Road had also given over significant portions of area to the front of dwellings to provide car parking spaces. As such, given that the amount of hardstanding at the site would replicate that as at other nearby residential properties, I find no harm to the character and appearance of the area in that regard.
11. The Appellants have referred me to an infill development within Howeth Road where, it is maintained, the separation distance between dwellings would be

similar to that between the proposed unit 1 and its neighbour at 2 Heather Road. However, whilst acknowledging the position between 71 and 73 Howeth Road, I do not know the circumstances of that development or the policies that applied at the time. In any event, the example provided by the Appellants served to confirm that such infill developments would appear cramped within its plot, and I have therefore determined this appeal based on its own merits.

Living Conditions

12. In terms of the living conditions of future residents of the proposal, by reason of the respective designs of the proposed units to include obscured glazed windows and rooflights at first floor level and given the relative orientation of the units, there would be no unacceptable overlooking or loss of privacy for future residents of the scheme.
13. The proposed unit 1 would have a side to back relationship with units 2 and 3, and the Council's Residential Development Design Guide (2008) recommends a separation distance of 12.5 metres in such circumstances. However, the design guide is not policy, and it does provide some limited flexibility which allows for lower distances between dwellings.
14. Nonetheless, the separation distance between the side elevation of the proposed unit 1 and the rear of those dwellings that would occupy plots 2 and 3, would be extremely limited. I acknowledge that the proposed unit 1 would be positioned at a slightly lower land level and would have a lower eaves height than the other proposed units, with unit 3 also proposing an additional external amenity area to the front. However, the proposed unit 1 would present a relatively blank, solid, two storey wall of built development at the common boundary with unit 3. In that regard, I consider that the proposed unit 1 would appear overbearing and have a significant enclosing effect, and so would harm the outlook for future residents of the proposed unit 3 to an unacceptable degree, particularly from the rear garden as well as from the habitable rooms at the rear of that proposed unit of accommodation.
15. Furthermore, the proposed unit 1 would have an enclosing effect for future users of the garden space at the proposed unit 2. Whilst the degree of harm in respect of outlook for future users of that garden space would not be as significant as that in terms of the relationship between the proposed units 1 and 3 as described above, it is noted that, in order to prevent unacceptable overlooking of neighbouring properties, the rear first floor accommodation of the proposed unit 2 would only be served by very modestly sized rooflights. In that respect, the design of the proposed unit 2 would result in a poor level of outlook for future occupants of that dwelling. That poor level of outlook would further emphasise the cramped nature of the development as described above.
16. With regards to the living conditions of nearby residents, within their statement of case the Council raise concerns regarding overlooking and loss of privacy for neighbouring residents of the appeal scheme. The Council has put it to me that those concerns relate to the effect of the appeal scheme on residents at 2 Heather Road and at 63 Howeth Road.
17. The first floor window at the rear of the proposed unit 1 would be orientated to face away from the garden at 2 Heather Road so that any overlooking would only be possible at an oblique angle. That angle of view would prevent any

significant harm by reason of overlooking of the garden amenity space at 2 Heather Road. Furthermore, by reason of the separation distance and intervening features, there would be no harmful overlooking into the garden space at 2 Heather Road from the rear of the proposed units 2 and 3.

18. Having regard to the submitted plans, in terms of the effect on the living conditions of residents at 63 Howeth Road, whilst I concur with the Council's officer that, by reason of the relative orientation of proposed units 2 and 3 there would be no significant degree of overlooking from those proposed dwellings into the rear garden of 63 Howeth Road, the rear of proposed unit 1 would be orientated to face that neighbouring garden. Whilst a certain level of overlooking of back gardens is to be expected in residential areas, given the very limited distance between the rear elevation of the proposed unit 1 and the common boundary with 63 Howeth Road and by reason of its orientation, I find that the proposed unit 1 would result in an unacceptable loss of privacy for users of the garden at 63 Howeth Road.
19. In summary of the above, the appeal scheme would provide poor living conditions for future occupants of the proposed dwellings in respect of outlook and would have an unacceptable adverse effect on the living conditions of residents at 63 Howeth Road with regards to overlooking and loss of privacy. The appeal proposal would therefore conflict with the provisions of Policies CS21 and CS41 of the Local Plan and Saved Policy 6.8 of the BDWLP which together seek to ensure good design which respects residents' amenities. For the same reasons, the appeal proposal would not accord with the Framework in respect of creating places with a high standard of amenity for existing and future users.

Protected Habitats

20. The appeal site is located within the zone of influence of the Dorset Heathland European wildlife sites¹. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (the 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 wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets.
21. The appeal has been accompanied by a unilateral undertaking which seeks to provide a financial contribution towards Heathland Strategic Access Management and Monitoring in line with the DHPF. In accordance with the updated Heathland Mitigation (April 2022), the submitted planning obligation provides the required financial contribution. Those contributions would be spent on projects to mitigate the adverse impact of the development on the integrity of the Dorset Heathlands European sites.
22. The Unilateral Undertaking would, in all likelihood, deliver the mitigation necessary to address the impact of the additional residents on the nearby protected habitats sites. If I been minded to allow the appeal, an appropriate assessment would have been necessary. However, given my overall conclusions in this appeal, I have not had to consider this matter further and undertake an appropriate assessment in this instance.

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

Other Matters

23. Interested parties raise additional objections to the appeal scheme on the grounds of highway safety and parking. These are important matters and I have taken into account all of the submissions before me. However, given my findings in relation to the main issues above, these are not matters that have been critical to my decision.

Planning Balance and Conclusion

24. The Council accepts that it cannot demonstrate a five year supply of housing. The Appellants, within their final comments, have put it to me that the current supply position is around 2.3 years. As a consequence of this shortfall which I consider to be substantial, the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework would be engaged. This provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
25. In terms of benefits, the Framework seeks to significantly boost the supply of homes and advises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The proposed development would be located with access to a range of services and facilities. In light of the housing under-supply position, I give great weight to the provision of additional dwellings at the site. However, the extent of the benefit would be limited given the scale of the development. There would also be social and economic benefits associated with construction and occupation of the dwellings, but these would also be limited by the scale of the development, and I give them limited weight.
26. However, I have found that the proposal would be harmful to the character and appearance of the area, would result in unacceptable living conditions for future residents with regards to outlook, and would harm privacy for the occupiers of 63 Howeth Road contrary to the Framework's requirements that development achieves well-designed places with a high standard of amenity for existing and future users. In my judgement, the resulting overall harm to the character and appearance of the area and to living conditions of residents would be significant, and in the context of paragraph 11(d) of the Framework, I find that the adverse impacts of the development would significantly and demonstrably outweigh the modest benefits of the proposal when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework.
27. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR