



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/22/3290064

18 Beswick Avenue, Bournemouth BH10 4EY

- 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 Stephen MacLoughlin against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref: 7-2021-25853-C, dated 11 August 2021, was refused by notice dated 11 November 2021.
 - The development proposed is the erection of detached dwelling house and associated access and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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 four main issues.
3. The main issues in this appeal are:
 - The effect of the proposed development on protected habitats,
 - 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 residents at 18 Beswick Avenue; and,
 - The effect of the proposed development on the living conditions of future residents at the proposed dwelling.

Reasons

Protected Habitats

4. The evidence before me indicates that the appeal site is located within 5km of the designated Dorset Heathlands Special Protection Area, Ramsar Site and Dorset Heaths Special Area of Conservation. These sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
5. 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 wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets. The DHPF provides mitigation through Strategic Access Management and Monitoring projects to which financial contributions can be paid.

6. Within the submitted statement of case, the Appellant has identified that the Council's reason for refusal could be overcome by entering into an agreement under section 106 of the Town and Country Planning Act 1990 in respect of financial contributions towards mitigation measures. However, as at the date of my site visit and at the date of the determination of this appeal, no suitable or enforceable planning obligation has been provided by the Appellant that would secure such mitigation in the form of financial contributions. I have no evidence to confirm that the necessary financial contributions have been made to the Council and, given the advice contained within the Planning Practice Guidance, it would not be appropriate to secure such a planning obligation by means of a planning condition.
7. Therefore, in the absence of a suitable mechanism that secures the required mitigation, I conclude that the development, alone or in combination with other development, would have a significant adverse impact on the designated habitat sites. As such, the appeal scheme would conflict with Policy CS33 of the Bournemouth Local Plan Core Strategy (the Local Plan), the provisions of the Habitats Regulations and the National Planning Policy Framework (the Framework) insofar as they seek to secure the protection of such sites and mitigate any adverse effects on their integrity. For the same reasons, the proposal would fail to accord with the aims and provisions of the DHPF.

Character and Appearance

8. The appeal site comprises garden land associated with the dwelling at 18 Beswick Avenue. The two storey dwelling at 18 Beswick Avenue is situated on a generous corner plot at the junction between Beswick Avenue and Gorsecliff Road, and within a residential area with convenient access to a range of services and facilities.
9. The appeal proposal seeks to construct a new dwelling within the existing garden land at the host property. From the submissions and based on observations made on my visit, the appeal scheme would result in the property at 18 Beswick Avenue having only a very limited and constrained amount of external amenity space for residents of that property.
10. The proposed dwelling would be two storey in height, with the eaves to be lower than that at the host dwelling, and higher than those exhibited by neighbouring dwellings located within Gorsecliff Road.
11. The proposed dwelling would be of a similar width to that of one of the pairs of semi-detached neighbouring dwellings located within Gorsecliff Road, would occupy a plot of similar dimensions, and would step down in height to more closely reflect the height of those neighbouring dwellings within Gorsecliff Road. However, the overall design, scale and mass of the proposed dwelling would not reflect that of nearby housing and would, in my view, look somewhat out of place within the street scene. As noted above, the scheme would result in a significant portion of the garden space at 18 Beswick Avenue being given

over to the proposed development and, in that regard, I find that the resulting external area at that property would appear squeezed and out of proportion with its host dwelling, being detrimental to the character and appearance of the area.

12. In terms of separation distances, it is apparent from the plans submitted in support of the planning application that the relationship between the proposed dwelling and the neighbouring dwelling within Gorsecliff Road is side to side. However, and whilst acknowledging the Appellant's submissions, the proposed dwelling would have a back to side relationship with the host dwelling at 18 Beswick Avenue.
13. In those regards, I find that the separation distance between the proposed dwelling and the neighbouring dwelling within Gorsecliff Road would reflect the distances between other dwellings located within that road and would not have a harmful effect on the character and appearance of the area in that respect. However, the appeal scheme would result in an awkward relationship with the rear of the host dwelling and given the physical and visual relationship between the proposed dwelling and the host property at 18 Beswick Avenue, in my view the appeal proposal would appear cramped within its plot, adversely affecting the character and appearance of the area.
14. Whilst the separation distance between the proposed dwelling and its neighbours within Gorsecliff Road would be similar to that between other residential properties within the area, for the above reasons and given the physical and visual relationship between the proposed dwelling and the host property at 18 Beswick Avenue, in my view the appeal proposal would appear cramped within its plot, adversely affecting the character and appearance of the area. Whilst I acknowledge the submissions regarding the inclusion of a bicycle and bin store to the front of the proposed dwelling and concur that, by reason of the siting and scale of that structure, the proposal would further adversely affect the street scene, it is noted that that structure could be relocated to the rear of the proposed dwelling, and I find no harm in that respect.
15. The Appellant has put it to me that the relationship between the proposed dwelling and 18 Beswick Avenue would be consistent with the local pattern of development and would be similar to that of other infill developments close to the site. However, based on my observations the separation distance would not be comparable to that between 11A Gorsecliff Road and its neighbours, and whilst I note reference to the situation at 1 Gorsecliff Road, I have not been provided with any details of that development or the planning policies that applied at the time. As such I have determined this appeal on its own merits.
16. For the above reasons, whilst the harm to the character and appearance of the area would be limited, affecting only its immediate surroundings, the appeal scheme would, nonetheless, conflict with Policies CS6, CS21 and CS41 of 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 appeal scheme would also conflict with Saved Policy 6.8 of the Bournemouth District Wide Local Plan which expects infill development to complement and respect the character of neighbouring development.

Living Conditions at 18 Beswick Avenue

17. The Council raises concerns regarding the blocking up of a window which serves a ground floor bedroom at 18 Beswick Avenue and in respect of the amount of external amenity space that would be provided to residents of that property in the event that the garden space was to be subdivided.
18. In respect of the blocking up of a bedroom window at the host property, the Appellant's statement of case indicates that those proposed changes are now unnecessary and that they could be removed by granting the application subject to conditions. In that regard, the proposal would include a boundary fence between the host dwelling and the proposed dwelling which would prevent overlooking between the respective properties.
19. However, as noted above the appeal scheme would result in the provision of external amenity space at 18 Beswick Avenue which would be, in terms of its area, at odds with the character and appearance of the surrounding area. In that respect, I also find that the amount of external space at 18 Beswick Avenue would be extremely limited and constrained and, in my view, would not provide an adequate amount of space to serve the needs of future residents of that property. As such I conclude that the appeal scheme would have an unacceptable effect on the living conditions of residents at 18 Beswick Avenue.
20. The Appellant has referred me to nearby properties which, it is maintained, provide comparable levels of external amenity space following infill developments. However, based on the evidence before me and from the observations made on my visit, the resulting amount of external amenity area at 18 Beswick Avenue would be substantially less than that at 19 Beswick Avenue. Furthermore, the dwelling at 20 Beswick Avenue is a more modestly sized residence and, consequently, the amount of external space on offer to residents would not be comparable to the position with regards to 18 Beswick Avenue.
21. For the above reasons, the appeal scheme would have an unacceptable adverse effect on the living conditions of residents at 18 Beswick Avenue with regards to external amenity space provision. The appeal proposal would therefore conflict with the provisions of Policies CS21 and CS41 of the Local Plan which together seek to ensure good design which respects residents' amenities.
22. It is acknowledged that the Council has raised concerns regarding the potential impact of constructing a high fence to separate the plot and which, as noted above, would provide privacy for residents at 18 Beswick Avenue. Whilst that concern is noted, I saw on my visit that similar fencing was present at a number of properties close to the appeal site. Whilst I therefore find no harm in that regard, I have for the reasons given above found that the amount of external amenity space at 18 Beswick Avenue would be insufficient to meet the needs of residents and would appear at odds with the character and appearance of the surrounding area.

Living Conditions of Future Residents

23. Amongst other matters described above, Policy CS41 of the Local Plan confirms that development should be designed to provide a high standard of amenity to meet the day to day requirements of future occupants. Furthermore,

Policy CS21 of the Local Plan requires that all residential development will be expected to respect residents' amenities.

24. The Council have raised concerns regarding the level of internal space to be provided within the proposed dwelling. In that respect, there is dispute between the main parties as to the dimensions of the internal space, with the Appellant maintaining that approximately 68 square metres is provided.
25. The Council have referred to the National Space Standards and notes that the internal floor area would be below that included in those space standards. It is noted that the Council accepts that the National Space Standards are not adopted. However, it has been put to me that those standards are used as a guide to help assess whether the quantity of accommodation would be acceptable.
26. I acknowledge that the policies of the development plan do not include internal space standards or minimum requirements in that regard, and I acknowledge the Appellant's submissions regarding the dimensions of individual rooms within the proposed dwelling meeting certain standards. However, having regard to the submissions and plans, and based on the internal dimensions as provided by the Appellant, I consider that, by reason of its limited size, the proposal would provide cramped accommodation that would undermine the living conditions of future residents.
27. Furthermore, it is noted that the proposed bedroom to the rear of the proposed dwelling would only be served by modestly scaled rooflights, resulting in a poor level of outlook for future users. Whilst I acknowledge the inclusion of rooflights in order to prevent overlooking of neighbouring property, the poor level of outlook would further emphasise the cramped nature of the accommodation for future users of that bedroom.
28. For the above reasons, the proposal would lead to the creation of poor living conditions for future occupants of the proposed dwelling. Consequently, the appeal scheme would conflict with Policies CS21 and CS41 of the Local Plan.

Other Matters

29. Further to matters described above, interested parties raise additional objections to the appeal scheme on the grounds of highway safety and potential flood risk. These are important matters and I have taken into account all of the evidence 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

30. It is not disputed that the Council is unable to demonstrate a five year housing land supply. Paragraph 11(d) of the Framework states that in such circumstances permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development. Pursuant to footnote 7, this includes habitats sites such as the Special Protection Area and the Special Areas of Conservation identified above in the first main issue. Having regard to footnote 7 and paragraph 180 of the Framework, and given the conclusions on the first main issue, there exists a clear reason to refuse the proposal and the presumption in favour of sustainable development does not apply.

31. The appeal proposal would contribute towards meeting the housing shortfall and would contribute to the government's objective in relation to boosting the supply of housing, in an area with convenient access to a range of services and facilities. Paragraph 69 of the Framework recognises the contribution that small and medium housing sites make to the housing requirements of an area. The proposed development would provide limited economic benefits in terms of employment opportunities during construction and through the spend of future residents within local businesses. It is also acknowledged that the proposed dwellings could be constructed to be energy efficient and provide solar panels and electric charging point for vehicles.
32. Cumulatively I attach moderate weight to those benefits in the determination of this appeal by reason of the scale of the proposal. I also note that the Appellant maintains that the proposed dwelling would provide enough space to enable home working. However, for the reasons given above in relation to the fourth main issue, the living conditions of future residents would be cramped and as such I attribute only minimal weight to the potential of the proposal to provide working space at the proposed dwelling.
33. Nonetheless, considering the international importance of the protected habitats identified above, and my responsibilities as competent authority in that regard, these benefits do not outweigh the harm that I have identified. Consequently, for the reasons given above, and taking into account all matters raised, I find that the proposal would conflict with the development plan when read as a whole. There are no other considerations, including the Framework, that outweigh the conflict.
34. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR