



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: 19 August 2022

Appeal Ref: APP/V1260/W/21/3288072

4 Canford Crescent, Poole BH13 7NB

- 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 Amirez Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/21/00204/F, dated 8 February 2021, was refused by notice dated 24 September 2021.
 - The development proposed is the demolition of the existing house and erection of 2 detached dwellings with associated access and parking.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Amirez Ltd against Bournemouth Christchurch and Poole Council (the Council). That costs application is the subject of a separate Decision.

Main Issues

3. Although the Council has given five reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify four main issues
4. The main issues in this appeal are:
 - The effect of the proposed development on the living conditions of residents at 2 Canford Crescent,
 - The effect of the proposed development on the living conditions of future residents of the proposed dwellings,
 - The effect of the proposed development on trees and their contribution to the character and appearance of the surrounding area; and,
 - The effect of the proposed development on protected habitats.

Reasons

Living Conditions at 2 Canford Crescent

5. The appeal site is located within a residential area and comprises a detached two storey dwelling positioned within a generous plot and set back from the highway. The surrounding area is characterised by detached dwellings of

varying designs and styles, situated within well-proportioned grounds. The pleasant setting of Canford Crescent is enhanced by the presence of soft landscaping features including prominent and mature trees, giving the area a verdant, sylvan character. The appeal scheme seeks to demolish the existing dwelling at the site and construct two detached, two storey dwellings with a contemporary design to include flat roofs.

6. The proposed dwellings would be positioned side to side within the plot, with the proposed unit 2 neighbouring the property at 2 Canford Crescent. The existing dwelling at the site is not positioned centrally within its plot and is located in close proximity to the shared boundary with its neighbour at 2 Canford Crescent. Whilst the footprint of the proposed unit 2 would not extend as far to the rear of the plot when compared to the footprint of the existing dwelling at the site, the position of proposed unit 2 would be sited closer to that shared boundary, presenting a greater mass of built form closer to the neighbouring dwelling.
7. The roof ridge height of the proposed unit 2 would be higher than the eaves height of the existing dwelling, albeit not by a significant amount. The existing dwelling at the site has a hipped roof form which slopes away from the shared boundary. The proposed unit would have a flat roof design and while I concur that the overall mass of the roof form would be reduced when compared to the existing position, the proposed unit 2 would present higher walling of its side elevation in closer proximity to the shared boundary. In that regard, given the reduction in separation distance and by reason of the increase in the height of side elevation when compared to the existing position, I find that there would be some loss of light at the neighbouring dwelling.
8. Furthermore, the proposed unit 2 would present a greater bulk and mass of built form in closer proximity to the shared boundary than the existing position, and in combination with the predominately blank side elevation of the proposed unit, in my view the proposed scheme would have an overbearing impact on occupants at 2 Canford Crescent, being unacceptably harmful to the living conditions of those residents.
9. For the above reasons, the appeal scheme would conflict with Policy PP27 of the Poole Local Plan (November 2018) (the Local Plan) which, amongst other matters, provides that development will be permitted where it would not result in a harmful impact on amenity of local residents.

Living Conditions of Future Residents

10. Private garden amenity areas would be provided to the rear of the proposed dwellings. In terms of area, those garden spaces would be appropriate in proportion to the dwellings that they would serve. However, as noted above, the surrounding area contains a number of mature trees and, as I observed on my visit, there are a number of mature coniferous trees to the rear of the appeal site. In that regard, the Council have put it to me that the presence of those trees would have an enclosing effect, overshadowing the garden area and habitable rooms at the rear of the proposed unit 1, with the Council maintaining that the relationship with those trees would result in oppressive living conditions and inadequate external amenity space for future residents of that proposed unit.

11. The Appellant has provided a daylight analysis assessment in support of the planning application. In that regard, the analysis confirms that sufficient light would be able to enter into habitable rooms at the rear of the proposed unit 1. Having regard to the submissions and assessment, I find no harm in that respect, nor any conflict with Policy PP37 of the Local Plan.
12. However, whilst I also acknowledge the daylight analysis for the external spaces within the proposed development, the mature trees to the rear of the appeal site would, in my view, have a significant overbearing effect on future users of the rear garden space at the proposed unit 1. The proximity, height and spread of those trees would result in significant overshadowing of much of the garden area that would serve that proposed dwelling, causing an adverse loss of sunlight for significant periods during the year and, thereby, would be detrimental to the enjoyment of the private garden space and living conditions of future occupants at the proposed unit 1.
13. I acknowledge that the appeal scheme also proposes the inclusion of a balcony to the rear and an area of landscaped garden to the front which would be extremely limited in terms of space. However, in my view the provision of such spaces would, in terms of the proposed front garden area, not be sufficiently private, and cumulatively these features would not provide sufficient mitigation for the inadequate quality of the private external amenity space to the rear.
14. For the above reasons, the appeal scheme would conflict with Policy PP27 of the Local Plan which, amongst other matters, requires that development provides satisfactory external amenity space for new occupiers. For the same reasons, the proposal would also fail to accord with those provisions of the National Planning Policy Framework which seek to ensure that development provides a high standard of amenity for future users.

Trees

15. In light of the above conclusions regarding the inadequate provision of usable private amenity space at the proposed unit 1, the Council have raised further concerns regarding the effect on the trees that are located to the rear of the existing property. The evidence confirms that the group of coniferous trees to the rear of the existing property as described above, are protected under a Tree Preservation Order. As noted above, the presence of these trees is an important feature in defining the character of the surrounding area and, in my view, they make a significant positive contribution towards the sylvan and verdant appearance of the area.
16. It is acknowledged that the appeal proposal would not encroach into the root protection areas for those trees. Nonetheless, given the above findings with regards to unacceptable living conditions for future residents of the proposed unit 1, and by reason of the spread of the trees over the garden amenity space at that proposed unit, it is likely that there would be pressure to lop, top or even remove those trees in order to prevent extensive overshadowing of the rear garden area and in order to prevent injury or damage from falling debris. The loss of, or work detrimental to, the appearance of those trees, which make a substantial positive contribution, would, in my view, result in significant harm to the sylvan character and appearance of the area.
17. The proposed development would therefore be likely to result in the loss of trees which makes a significant contribution to the character and appearance of

the area. Consequently, the appeal scheme would conflict with Policy PP27 of the Local Plan.

18. The Appellant has referred me to the planning history for the appeal site and a recent outline planning application for the demolition of the existing dwelling and construction of a three storey block of flats at the site. Following non-determination of the planning application, that proposal was refused at appeal¹. However, the Appellant has put it to me that that appeal was refused on grounds of the effect on the character and appearance of the area and on the living conditions of nearby residents, with no concerns raised in respect of effect on long term retention of trees nor the impact of those trees on the living condition of future residents.
19. It is acknowledged that the previously proposed three storey block of flats would have had a larger overall footprint and would be sited closer to the abovementioned trees. Nonetheless, I do not find that previous proposal to be comparable to the appeal scheme by reason of the differing nature of the respective schemes and given that occupants of the refused outline scheme would have had access to that part of the garden area at the site which is not significantly overshadowed by the identified trees, whereas the private garden space for occupants of the proposed unit 1 in the appeal proposal would be confined to an area which, as described above, would be significantly overshadowed for prolonged periods of the year. Whilst I have carefully considered the submissions in this regard, I find the circumstances of the two applications is not comparable and I have, therefore, determined this appeal on its own merits.

Protected Habitats

20. Policies PP32 and PP39 of the Local Plan set out, amongst other things, that development will only be permitted where it would not lead to an adverse effect, either alone or in-combination, upon the integrity of European Sites. Policy PP32 of the Local Plan indicates that the Dorset Heathland European Sites² and Poole Harbour European Sites³ could be affected through recreational impacts.
21. The appeal site is located within 5 kilometres of the Dorset Heathlands European sites, which host protected priority habitats and species. Qualifying features include Dartford Warbler, Nightjar, Woodlark, Hen Harrier and Merlin as well as other typical species of lowland heathland, wetlands and dunes. Their conservation objectives include ensuring the integrity of the sites is maintained, and that the sites contribute to achieving the favourable conservation status of their qualifying features.
22. 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.

¹ Appeal Reference: APP/V1260/W/21/3268878

² Dorset Heathlands Special Protection Area and Ramsar site, and the Dorset Heaths Special Area of Conservation

³ Poole Harbour Special Protection Area and Ramsar site

23. The Poole Harbour European sites are designated for their internationally important populations of regularly occurring species and migratory species. Particular features of interest include Common Shelduck, Pied Avocet, Blacktailed Godwit, Mediterranean Gull, Common Tern, Little Egret, Eurasian Spoonbill, and Sandwich Tern. There is also an internationally important assemblage of waterfowl including Dunlin, Redshank and Brent Goose, as well as supporting habitats for seagrass, shallow inshore waters including coastal lagoons, intertidal sediments, saltmarsh, and reedbeds.
24. The DHPF and the Poole Harbour Recreation 2019-2024 Supplementary Planning Document (the PHR) set out that mitigation measures can be achieved through the delivery of Heathland Infrastructure Projects and Poole Harbour Infrastructure Projects, paid for through the Community Infrastructure Levy, and Strategic Access Management and Monitoring Measures.
25. At appeal, the Appellant has submitted a Unilateral Undertaking which it is maintained would provide a financial contribution towards Strategic Access Management and Monitoring in line with the DHPF and PHR. Those financial contributions would be spent on projects to mitigate the adverse impact of the development.
26. Whilst I have noted the submission of the Unilateral Undertaking and have considered its contents, given that I am dismissing the appeal on other grounds and for the reasons given above it has not been necessary for me to consider these matters further with regards to an appropriate assessment in this instance.

Planning Balance and Conclusion

27. The Council accepts that it cannot demonstrate a five year supply of housing. The Appellant has also drawn my attention to results of the Housing Delivery Test. Nonetheless, as a consequence of the shortfall in five year housing supply 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.
28. In terms of benefits, the Framework seeks to boost significantly the supply of homes. It encourages the use of under-utilised and previously developed land 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. In addition to replacing the existing dwelling at the site, the proposal would provide an additional unit of housing at the site which is located within an area with access to some local services and public transport links. In light of the housing under-supply position, I give great weight to the provision of an additional dwelling on the site. However, the extent of the benefit would be very limited given the small 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 small scale of the development, and I give them limited weight.
29. The appeal proposal would be harmful to the long term retention of trees that make a significant positive contribution to the character and appearance of the area, and would result in unacceptable harm to the living conditions of future

residents and occupants of 2 Canford Crescent contrary to the Framework's requirement that development creates places with a high standard of amenity for existing and future users. In my judgement, the resulting overall harm to the living conditions of the neighbouring occupiers 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 cumulative 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.

30. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR