
Appeal Decision

Site visit made on 10 January 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/V1260/W/22/3302004

45 Brixey Road, Poole BH12 3EY

- 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 Tony Phillips against the decision of BCP Council.
 - The application Ref APP/21/00445/F, dated 19 March 2021, was refused by notice dated 27 January 2022.
 - The development proposed is described as "the change of use from a garage to residential unit, being a Studio flat".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The submitted location plan (drawing number: J.46.2015-02) outlines an area of land in red that does not include the garage that is the subject of this appeal, nor does it include any other aspect of the proposed development such as the access or parking. The site layout plans for the appeal show the garage, an area of land around it, the proposed parking and part of the access outlined in red, with the access to Highview Gardens depicted in blue. The site layout plans include the proposed development in a red line, and I have therefore determined the appeal on this basis.
3. The appeal property has a complex planning history, including that the garage is conditionally linked to be ancillary to 45 Brixey Road. It was apparent from my visit that part of the rear garden of this property had been divided by a tall fence, and that works had begun with regard to extending the garage that is the subject of the appeal. Notwithstanding this, I have determined the appeal on the basis of the submitted drawings, rather than what has occurred on site.

Main Issues

4. The main issues in this case are: firstly, the effect of the proposed development upon the character and appearance of the area; and secondly, the effect upon the integrity of the Dorset Heathlands Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Ramsar

site, and Dorset Heaths Special Area of Conservation (SAC), and upon the Poole Harbour SSSI, SPA and Ramsar site.

Reasons

Character and Appearance

5. The garage that is the subject of the appeal is one of three detached garages that are positioned within the rear garden of 45 Brixey Road (No 45). The three garages have been separated from the garden of this property by a tall timber fence, and there is also high fencing and corrugated metal sheeting along the boundary of this property with 47 Brixey Road. The garage has a tiled pitched roof above walls comprising a mix of render and plastic cladding, and the garage door opens out onto an area that is currently used for building materials storage and rubble. Footings for a front elevation extension to the garage have been constructed. There is an existing access to two of the garages alongside the flank wall of 32 Highview Gardens.
6. Surrounding the appeal property are a variety of ages and styles of houses and bungalows, with those at Highview Gardens forming a discrete estate of similar styles and sized houses. Although the dwelling would be single storey, it would be extended both to the front and back with flat-roofed extensions. The dwelling would be in an area where the surrounding houses and bungalows have conventional appearances, and the proposed extensions would give the resultant building a curiously contrived roof profile. The height of the garage would stay as it is, but the extended form and size of the building along with its close proximity to other domestic outbuildings in the rear garden of No 45 would make it appear unduly cramped, appearing tightly hemmed into a small and constricted area. Even with the gentle slope of the land, the cramped and discordant form of the building would be visible from the public views available from Highview Gardens.
7. Furthermore, the use of the extended building as a separate dwelling would intensify the domestic use of the site, as well as further subdividing the garden of No 45. The provision of such a home would be out of place in an area where the rear gardens and domestic outbuildings within them have a legible ancillary relationship with the host dwelling.
8. Future occupiers would have garden space both to the front and to the rear. However, the proposed rear garden would be shallow in depth, and would be very close to one of the other garages present on the site. This, along with the close proximity of tall boundary fences would serve to exaggerate the excessively constrained nature of the development. In addition, the dwelling would have no active frontage with the public highway, thereby harmfully exaggerating the discordant positioning of the dwelling in an area where the prevailing character and appearance of the surrounding residential properties is one where homes front the highway.

9. The appellant has drawn my attention to the appeal scheme being similar to the development that has occurred in the rear garden of 51 Brixey Road. However, this dwelling has an active relationship with the public highway, and it has a conventional, chalet bungalow form. It also has a much larger rear garden than that proposed, and does not appear constrained by other buildings as it is set apart from other homes and domestic outbuildings. As there are a number of significant differences between this home and the appeal scheme, it does not follow that it forms a binding precedent for allowing the appeal.
10. For these reasons the proposal would unacceptably harm the character and appearance of the area, and the conditions suggested would not overcome this fundamental harm. The scheme would fail to accord with Policies PP27 and PP28 of the Poole Local Plan (2018) (LP). These policies seek amongst other things, a good standard of design that reflects or enhances local patterns of development, and that plot severances should only occur where there is sufficient land to enable a type, scale and layout of development which would preserve or enhance the area's residential character, thereby reflecting objectives of the National Planning Policy Framework (the Framework).

Habitat Sites

11. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of heaths nationally and internationally recognised and protected. The Dorset Heaths host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heathland, wetlands and dunes. The appeal site is also within the zone of influence of the Poole Harbour Habitat sites, which are nationally and internationally important for rare, vulnerable, and migratory birds, and their supporting habitats of seagrass, shallow inshore waters, intertidal sediments, saltmarsh, and reedbeds. The Dorset Heaths and Poole Harbour are under significant pressure from increased public access and use, and a net increase in the number of dwellings and occupiers in the area would have an adverse effect upon these important habitat sites and species.
12. Given the location of the proposed dwelling, future occupiers of the appeal property, both alone and in combination with other development in the area, would impact upon the habitat sites having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment (AA) where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority.
13. The Council has produced Supplementary Planning Documents (SPD) (ie the Dorset Heathlands Planning Framework SPD (2020) and the Poole Harbour Recreation SPD (2020)), detailing a strategy for the avoidance and mitigation of impacts of new residential development upon these

important sites. These require that a contribution is made towards mitigation, access measures and monitoring of the sites, and in this case neither the application nor the appeal have been supported with any means of mitigating the impact of the development upon the protected sites.

14. Having regard to the absence of any mechanism to mitigate the harm to the Dorset Heaths and to Poole Harbour, the proposal would adversely affect the integrity of these sites. In these circumstances it has not been necessary for me to undertake the AA or address the matter further.
15. The proposal would adversely affect the integrity of the protected Dorset Heaths and Poole Harbour habitat sites, and this would be contrary to objectives of the Framework and to LP Policies PP32 and PP39. These policies require amongst other things, that development is only permitted where it would not lead to an adverse effect upon the integrity either alone or in combination with other schemes, directly or indirectly, upon nationally and internationally important sites.

Other Matters

16. Local residents have raised concerns regarding increased traffic levels arising from the development, and also parking and turning matters. The proposal would be provided with off-road parking at a level that the Council consider to be commensurate with the size of the proposed dwelling. In the absence of any technical substantiation to support the concerns of the residents, and noting the lack of objection from the highway authority, I have no evidence before me that there would be an unacceptable impact on highway safety.

Planning Balance

17. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, paragraph 11(d) of the Framework is engaged, and planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits of the proposal.
18. There would be some benefits in that the dwelling would make a small contribution towards the supply of housing, and this social benefit carries weight. There would also be a small, time-limited economic benefit arising from the construction phase of building an additional home, and future occupiers would make a small contribution to the local economy.
19. Weighing against these benefits would be the significant environmental harms arising from the scheme. The proposal would deliver an additional home, but in doing so would cause significant harm to the distinct character and appearance of the area. Furthermore, the absence of conclusive and effective mechanisms to protect the habitat

sites is another significant harm that weighs heavily against the proposal.

20. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The above referenced LP Policies are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character and to protect important habitat sites. The significant adverse environmental impacts in this case amount to cumulative environmental harm which carries substantial weight, and this thereby significantly and demonstrably outweighs the economic benefits and even the weight that derives from the social benefits, when assessed against the policies in the Framework as a whole.
21. Even if I had come to a different conclusion, I have found that the proposal would adversely affect the integrity of the Dorset Heaths and Poole Harbour habitat sites. The Framework includes specific reference to habitat sites as protected areas of particular importance and this alone would have provided a clear reason for dismissing the appeal. As the proposal would adversely affect the integrity of the Dorset Heaths and Poole Harbour, the presumption in favour of sustainable development does not apply.

Conclusion

22. The scheme would cause significant harm to the character and appearance of the area, and would also unacceptably harm the integrity of the protected Dorset Heaths and Poole Harbour. The proposal would conflict with the development plan taken as a whole, and there are no considerations that outweigh this conflict. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR