
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: 28 February 2023

Appeal Ref: APP/V1260/W/22/3305004

Land adjacent to 2A Herm Road, Poole BH12 4LE

- 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 Westell Developments against the decision of BCP Council.
 - The application Ref APP/22/00764/F, dated 27 May 2022, was refused by notice dated 1 August 2022.
 - The development proposed is the erection of a detached dwelling with associated access and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The second and third reasons for refusal were based upon the harm to the Dorset Heathlands and to Poole Harbour habitat sites. The former is an extensive network of lowland heaths nationally and internationally protected as a Site of Special Scientific Interest (SSSI), as a Special Protection Area (SPA), Ramsar and Special Area of Conservation (SAC). In addition, the appeal site is also within the zone of influence of the Poole Harbour SSSI, SPA and Ramsar, protected for birds and habitats. The Council indicated that these reasons for refusal could be overcome by the payment of financial contributions for avoidance and mitigation measures for these habitat sites. During the appeal process the appellant provided a Unilateral Undertaking (UU) securing payment of the required financial contributions.

Main Issues

3. 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 living conditions of existing and future residents, with particular regard to private amenity space and outlook.

Reasons

Character and Appearance

4. The appeal site is a plot of land within a residential area that comprises a mix of houses and bungalows. These dwellings front the highway, being set back from the public footway by similar sized front gardens. This, along with the plots being of similar widths, creates a rhythmical appearance to the street scene. The repeated plot widths when combined with the repeated set back of the houses and bungalows from the roads, gives a framed and deliberately planned appearance to the street scenes that is a distinctive aspect of the character and appearance of the area. Many of the dwellings have deep rear gardens, and the presence of these gardens and the planting within them creates a verdant backdrop to the houses and bungalows. The straight nature of many of the roads provides long views of the street scene, with the gaps between the dwellings giving glimpses of the generous rear gardens.
5. The appeal site was formerly part of the rear garden of 52 Manor Avenue (No 52), and currently contains a detached garage, with a gated access onto Herm Road. There are high timber fences separating the site from the rear garden of No 52 and also along the boundary with 2A Herm Road (No 2A), with a mix of fencing and hedging along the boundary with 50 Manor Avenue (No 50).
6. The proposed dwelling would be set forward of No 2A, and given this it would be a disruptive addition to the long line of houses and bungalows that frame the southern side of Herm Road. The bungalow would relate to the positioning of No 52, but this property occupies the corner plot created by the junction of Manor Avenue with Herm Road, and is separated from the other dwellings along Herm Road by its former garden. The proposal would be an additional dwelling at one end of a row of houses and bungalows along Herm Road that form a long, consistent building line. Having regard to this context, the bungalow would intrusively interrupt this consistency and have an undue prominence in the area.
7. Furthermore, the small size of the plot would exaggerate the incongruously cramped nature of the proposal. The bungalow would front the highway and would be centrally positioned within the plot, with gardens to either side separating it from the neighbouring properties. Notwithstanding this, the bungalow would be extremely close to the rear boundary, and it would appear constrained within its plot. Such a close juxtaposition of the dwelling with the rear boundary would appear conspicuously out of keeping given the prevalence of deep rear gardens that are such a feature of the area. No 52 has a small rear garden, but this is a result of the appeal proposal, and is not typical of the surrounding area. It may be the case that boundary treatments and landscaping could be conditionally required and designed to obscure the plot size. However, landscaping cannot be relied upon to mitigate the

harm arising from the proposal for the lifetime of the development, particularly so in this case given the small size of the plot.

8. In addition, the variety of mature landscaping that exists in the rear gardens is part of the distinctive character and appearance of the area, creating a verdant spaciousness that is apparent from the public realm. In such a context, the presence of a dwelling with a very limited rear garden would be at harmful odds with the surrounding area.
9. For these reasons the proposal would unacceptably harm the character and appearance of the area, and the suggested conditions 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).

Living Conditions

10. The proposal would provide external garden space for future occupiers of the dwelling, albeit to the front and either side of the bungalow. Compared to most of the neighbouring properties the garden space would be small. Nevertheless, future occupiers would have space for day-to-day living requirements, although to provide private space that was not overlooked by users of the highway there would need to be some form of tall fencing or walling erected.
11. As regards the impact of the proposal upon existing residents, the dwelling would intensify the residential use that exists close to the rear garden of No 50. However, the single storey nature of the dwelling, along with its modest size, the size and positioning of its rear facing windows, and the presence of a tall boundary fence or wall would when taken together, minimise opportunities for overlooking. The rear wall of the bungalow would impact upon the outlook of nearby residents as it would be very close to the garden of No 50. Nevertheless, the modest height of the bungalow along with its hipped roof would be such that the bungalow would not appear unduly overbearing for nearby residents.
12. Thus, the proposed development would not significantly harm the living conditions of existing or future residents, and the suggested conditions would ameliorate the harm that does arise. The scheme would accord with LP Policy PP27, which seeks amongst other things, development that would not result in a harmful impact upon amenity for both local residents and for future occupiers, thereby reflecting objectives of the Framework.

Other Matters

13. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of lowland heaths nationally and internationally recognised and protected. These heaths host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heathland, wetlands and dunes. In addition, the 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 Heathlands 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 increase the pressure upon these important habitat sites.
14. 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 the mitigation of impacts of new residential development upon these important sites. These require that a contribution is made towards mitigating the impact of additional residents, including measures to control access, monitoring, and mitigation of the sites, thereby reflecting the objectives of LP Policy PP32 which seeks amongst other things to only permit development that would not have an adverse effect upon the integrity of nationally, European and internationally important habitat sites.
15. Given the location of the proposed dwelling, future occupiers would be likely to impact upon the sites thereby having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment 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. The appellant provided a UU during the appeal, securing a contribution towards the mitigation measures identified in the SPDs. I will return to this matter below.
16. Local residents have raised a number of matters, including boundary treatments and ownership, impact upon wildlife, dropped kerbs, and the removal of the existing garage. Matters of demolition and land ownership would be for the relevant parties to address, and of those concerns connected with the planning considerations of the proposal before me, following my findings on the main issue of character and appearance, I have no need to consider them further.

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, whereby planning permission should be granted

unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.

18. The provision of an additional dwelling on a vacant plot would be a social benefit arising from the scheme as it would contribute towards the supply of housing. There would also be a small, time-limited economic benefit arising from the construction phase of building an additional home. Future occupiers would contribute to the local economy, and would live close to public transport options and within walking distance of a variety of services and facilities, thereby providing an environmental benefit.
19. Weighing against these benefits would be the significant environmental harms arising from the development of the site. The proposal would deliver an additional high-quality home, but in doing so would cause significant harm to the distinct character and appearance of the area. The above referenced LP policies are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character.
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 adverse environmental impacts in this case amount to 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. It follows that the presumption in favour of sustainable development does not apply.
21. Had I reached a different conclusion on the main issue of character and appearance, it would have been necessary for me to undertake an Appropriate Assessment and give further consideration to the likely effectiveness of mitigation and avoidance measures. In doing so I would have had regard to the UU. However, as I am dismissing the appeal for other reasons this has not been necessary.

Conclusion

22. The scheme would cause unacceptable harm to the character and appearance of the area, and the suggested conditions would not overcome this harm. 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