
Appeal Decision

Site visit made on 17 January 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2023

Appeal Ref: APP/V1260/W/22/3304432
67 Garland Road, Poole BH15 2LD

- 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 Your Team Properties Ltd against the decision of BCP Council.
 - The application Ref APP/22/00637/F, dated 10 May 2022, was refused by notice dated 28 June 2022.
 - The development proposed is the erection of single storey detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The fourth and fifth 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 the habitat sites. During the appeal process the appellant provided a Unilateral Undertaking (UU) securing payment of the required financial contributions.
3. The Heckford Park Conservation Area borders the rear garden of 67 Garland Road. During the appeal the Council confirmed that the site was not within the conservation area but adjacent to it. I have considered the appeal on this basis.

Main Issues

4. The main issues are: firstly, the effect of the proposed development upon the character and appearance of the area, having regard to the impact of the proposal upon the setting of the Heckford Park Conservation Area; secondly, the effect upon the living conditions of future residents, with particular regard to private amenity space, light

levels, and outlook; and thirdly, the impact of the proposal upon highway safety.

Reasons

Character and Appearance

5. The appeal site is part of the rear garden of 67 Garland Road (No 67), which is a detached house positioned within a mostly residential area. This house is part of a row of detached and semi-detached houses along Garland Road with deep rear gardens that have pedestrian and vehicular access onto a service lane. To the other side of this lane is a community hall, and mid-way along it there is a pedestrian access into and out of this building.
6. The appeal property is adjacent to the conservation area. As described in the Heckford Park Conservation Area Character Appraisal and Management Plan (2010), there is a cohesive appearance to the conservation area, which derives in part from the tight grid pattern of Victorian and Edwardian houses. The area has a deliberately planned appearance, with the houses having gardens and active frontages with the public highways, and to the rear many have access to service lanes. The repeated size of the rear gardens separates the rows of houses and provides a spacious, domestic subservience in appearance that contrasts the proximity of the public face of the dwellings with the highways. These are distinct aspects of the character and appearance of the conservation area and are part of its significance.
7. To one side of the lane the hall forms a long, high walled boundary, whilst to the other side there are a mix of tall fences, walls and outbuildings. The appeal site is the only open frontage onto the lane, and the plot is bounded on either side by tall walls with a timber fence separating the site from the remaining garden of No 67.
8. The proposed dwelling would have an L-shaped footprint that would extend the depth and width of the plot. Despite the single storey nature of the dwelling, its size and form would appear overly cramped and thereby dominant within its context. It would be in an area that is characterised by similar sized gardens where there are a miscellany of boundary treatments and residential outbuildings. Not only would the truncated remaining rear garden to No 67 appear at harmful odds with the row of similar sizes and depths of the other nearby gardens, but the proposed dwelling would have very little outdoor amenity space, thereby exaggerating the cramped appearance of the scheme. The dwelling has been carefully designed to reflect the constraints of this small plot, but the provision of such a home would be a discordant addition to the area. The dwelling would be conspicuous in an area whereby the legible subservience and functionally ancillary nature of outbuildings is an essential part of the character and appearance.

9. The size, form, and materials of the building would be such that it would be legible as a dwelling, and it would also be the only home that has an active frontage with the lane. The use of dark coloured materials would have a consistent, contemporary appearance that would contrast the diverse variety of materials present in the nearby outbuildings. The incongruous nature of the proposal would be harmfully exaggerated, and particularly so in this instance because of the eclectic diversity of outbuildings, fences and walls along the lane. As the land rises gently uphill the proposed dwelling would be visible from public vantage points, and it would be clearly evident as a dwelling rather than as an ancillary outbuilding. Even though single storey, its height, form, and fenestration pattern within such a context would make it an incongruous addition within the area.
10. The appellant considers the proposed development would have no impact upon the setting of the conservation area. Nevertheless, the importance of the setting of a conservation area is made clear in the National Planning Policy Framework (the Framework) as there is a requirement for proposals to assess the impact upon the setting of a heritage asset. In this case, the rear gardens and the spacious separation they create makes a positive contribution to the setting of the conservation area. Not only would the subservient function of the plot change with the provision of a dwelling in a backland position, but it would erode the spacious appearance of the gardens, thereby detracting from the setting of this part of the conservation area. The dwelling would have an uncomfortable relationship within the cohesion of this residential area as it would unacceptably interrupt the clear divisions that exist between the public facades of the dwellings and their private, subservient rears. This is a distinctive aspect of the setting of the conservation area and one which the proposal would harmfully disrupt.
11. The Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In this case the proposal would lead to less than substantial harm because it would detract from a small part of the setting of the conservation area. This harm carries considerable weight, and the Framework requires that this harm must be weighed against the public benefits of the proposal.
12. The provision of an additional home would be a public benefit arising from the scheme. Future occupiers would live in an area with a variety of nearby services and facilities, and would make a small contribution to the local economy. The appellant has also pointed out that the proposal would not harm biodiversity. Balanced against this is the significant environmental harm that arises to the character and appearance of the area. There would be a limited public benefit arising from the scheme, but it would not outweigh the significant harm that would arise to the setting of the conservation area.

13. For these reasons the proposal would unacceptably harm the character and appearance of the area and the setting of the conservation area, and the suggested conditions would not overcome this fundamental harm. The scheme would fail to accord with Policies PP27, PP28 and PP30 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, 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, and that the settings of heritage assets should be preserved or enhanced. Such requirements reflect objectives of the Framework, and also with principles of the National Design Guide with respect to achieving well-designed places.

Living Conditions

14. The dwelling would provide a detached, one bedroomed home that could be occupied by two people. A small, enclosed courtyard would be provided to accommodate bins and cycle storage, and the windows of the dwelling would look out over this external space. However, the small, constrained size of the courtyard would provide little opportunity of being anything other than a functional space, and the design of the dwelling would be such that future occupiers would have a very restricted outlook only into the courtyard. The roof lights would provide a view of the sky, but from the windows the outlook would be particularly oppressive given the use of the small amenity area for access, bins and stores.
15. Although the windows would be wide and tall, they would face high boundary walls, and this combined with their orientation would severely curtail the level of natural light experienced even during summer months. It may be the case that renewable energy could power artificial lights, but notwithstanding this the rooms would be dark for much of the day, and this would be exaggerated by the close proximity of the windows to the nearby high boundary treatments.
16. Thus, the proposal would result in unacceptable living conditions for future occupiers, and the suggested conditions would not ameliorate this harm. The proposal would conflict with LP Policies PP27 and PP37, which require amongst other things, development that would not result in a harmful impact upon amenity of future occupiers, and that the design of the development should use passive design features to minimise the need for artificial light, heating and cooling, thereby reflecting objectives of the Framework.

Highways

17. Future occupiers would have to walk or cycle along the service lane to access the public highway. The lane provides vehicular access for several of the properties that back onto it, and also provides a pedestrian access for the hall. Apart from the hall's car park area, much

of the lane is enclosed by high walls and fences. The closely confined nature of the lane is such that there is and would be no opportunity for pedestrians and cyclists to take refuge from any vehicles using it. Even though a small dwelling, future occupiers would generate daily trips, including from delivery and service vehicles, and all such movements would have to use the lane. Despite the lane being relatively straight and approximately 40m in length, it is also unsurfaced comprising a mix of earth, gravel and grass. Future occupiers would not only need to concentrate on the surface, but would need to be highly alert at all times to the possibility of conflict with any other users.

18. Furthermore, the lane is not lit and its enclosure would exacerbate shadows and levels of darkness, thereby increasing the risk of harm to future occupiers and other users. Conditioning lighting provision to the front of the property would have a limited impact given the length of the lane and its enclosure. The narrow width of the lane would also necessitate vehicles having to reverse for long distances so as to avoid conflict, and this could include going back out onto Jolliffe Road to the potential detriment of users of this highway.
19. Taken as a whole, the proposal would not provide future occupiers with a safe means of access and would also have an adverse impact upon the safety of the users of the local highway network. The suggested conditions would not overcome this harm, and consequently the scheme would be contrary to the requirements of LP Policy PP35. This policy seeks, amongst other things, to provide safe access to the highway, as well as create safe and accessible places, which accords with objectives of the Framework.

Other Matters

20. 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 heathlands 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.
21. 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.

22. 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.
23. Local residents have raised a number of matters, including that the site is not maintained, inaccuracies in the submission and the impact of the proposal upon neighbouring residents. Land maintenance would be for the relevant owners to address, and of those concerns connected with the planning considerations of the proposal before me, following my findings on the main issues, I have no need to consider them further.

Planning Balance

24. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11 of the Framework is engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
25. The provision of an additional dwelling would be a 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, and future occupiers would contribute to the local economy. The development would be in a sustainable location, and renewable energy sources have been proposed, and these would be small environmental benefits.
26. 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, including to the setting of the conservation area. Future occupiers would not have adequate living conditions, and both they and other users of the lane and highway would experience an unacceptable level of potential conflict. LP Policies PP27, PP28, PP30, and PP37 are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character, to preserve or enhance the settings of heritage assets, provide adequate living

conditions for future residents, and to minimise the impacts of climate change. In addition, LP Policy PP35 accords with objectives of the Framework that amongst other things requires places to be created that are safe and secure, minimising the scope for conflict between pedestrians, cyclists, and vehicles.

27. 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 and social impacts in this case amount to harms which carry substantial weight, and this thereby significantly and demonstrably outweighs the economic benefits and even the weight that derives from the provision of an additional dwelling, when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.
28. Returning now to the matter of the Dorset Heathlands and Poole Harbour, if I had come to a different conclusion, it would have been necessary for me to undertake an Appropriate Assessment and further consideration of the likely effectiveness of mitigation measures. In doing so I would have had regard to the provisions of the UU and whether there would be significant effects arising from the proposal, either alone or in combination with other schemes, as I would have to be certain that the integrity of the protected sites would not be adversely affected. However, as I am dismissing the appeal for other reasons, this assessment has not been necessary.

Conclusion

29. The scheme would cause unacceptable harm to the character and appearance of the area, would provide unacceptable living conditions for future occupiers, and would be detrimental to the safety of users of the lane and highway. The suggested conditions would not overcome this harm. The proposal would conflict with the development plan 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