
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: 14 March 2023

Appeal Ref: APP/V1260/W/22/3305928

Land rear of 42 Balston Road, Poole BH14 0QH

- 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 Simon Guttridge and Mr A Hanham against the decision of BCP Council.
 - The application Ref APP/21/01783/F, dated 6 December 2021, was refused by notice dated 31 March 2022.
 - The development proposed is to erect 2 no 2 bedroom bungalows with 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). The appeal site is also within the zone of influence of the Poole Harbour SSSI, SPA and Ramsar, protected for birds and habitats. During the appeal, the appellants submitted a completed Unilateral Undertaking (UU) securing, amongst other things, payment for mitigation measures to alleviate the harm to the nationally and internationally important habitat sites. The Council has raised no objection to the UU, considering that it overcomes the second and third reasons for refusal. Having regard to the UU and the comments of the Council, the appeal turns on the remaining reason for refusal.

Main Issue

3. The main issue in this case is the effect of the proposed development upon the character and appearance of the area.

Reasons

Character and Appearance

4. The appeal site comprises an irregular shaped plot of land to the rear of Balston Road that is currently used for miscellaneous storage, including garden waste, heating equipment, and piles of rubble. Most of the houses to the eastern side of Balston Road have deep rear gardens, within which there are a variety of outbuildings and mature planting. The land rises gently towards the south and east, with the houses along Sea View Road being visible from the appeal site. Along this road there are a number of backland developments, including Petworth Close which borders part of the appeal site.
5. The proposed dwellings would share the existing lane that is currently utilised by a variety of other users as it provides access to car parking spaces, a block of garages and an outbuilding. The semi-detached bungalows would be positioned close to the southern and eastern boundaries of the site. The dwellings would be single storey, and have been designed to have a combined L-shaped footprint to reflect the constraints of the site.
6. Despite this, the dwellings would appear overly constrained within the plot. Although of a modest size, the size of the site along with its irregular shape would mean that the bungalows would be very close to the boundaries and to the nearby outbuildings and garage block. Given this, the bungalows would appear cramped by both the size and shape of the plot, and although some soft landscaping would be provided, it would be confined to limited areas and the site edges. Furthermore, the shape of the plot and the shared use of part of it would mean that hard landscaping rather than gardens would be a dominant feature of the proposal, and one which would further exaggerate the cramped form of the development. Even though the bungalows would be single storey, the positioning of two such dwellings would appear harmfully discordant given the residential character of the area with the spacious appearance that derives from the presence of the generous rear gardens.
7. There are a variety of ages and styles of mostly houses nearby, and they have a repeated characteristic of being set back from the highway behind similar sized front gardens. The long rows of houses with their deep rear gardens is a distinctive element of the character and appearance of the area, and due to the gentle slope of the land the spacious openness of the rear gardens is visible, creating a verdant separation between the rows of houses. Given that the two bungalows have been positioned to reflect the constraints of the plot rather than reflect the linear pattern of Balston and Ringwood Roads, they would be a discordant addition within the area.
8. The appellants have drawn my attention to other backland development in the area, and have pointed out that there are other houses with small rear gardens, such as 42, 44 and 46 Balston Road and those adjoining

the site off Ringwood Road. These houses have small rear gardens as they form a group that follows the corner formed by the junction of Balston Road with Ringwood Road. Most of the other nearby houses have more generously sized rear gardens. There is backland development nearby, including that adjoining the appeal site at Petworth Close. This development is accessed from Sea View Road, and along this road there are other instances of backland development. However, most of these developments have the dwellings positioned to be essentially parallel to the houses that front the road, and Petworth Close is a cluster of several houses positioned around a central courtyard which forms a discrete group. The houses in Petworth Close have small rear gardens, but they mostly have a conventional, regular shape unlike the irregular shapes of those of the appeal proposal.

9. The appellants refer to a fallback position of an extant permission upon the site for a single detached bungalow (ref: APP/22/00845/F. From the evidence before me this dwelling would be larger and have more regularly shaped front and rear gardens, and also less hard landscaping than the appeal proposal. In addition, it would be positioned more centrally within the plot, further away from all but one of the site boundaries and from nearby outbuildings. Given these differences, the permission for a single dwelling on the site would not form a binding precedent for approving the two dwellings of the appeal scheme.
10. 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).

Other Matters

11. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of lowland heaths nationally and internationally recognised for their nature conservation. These heathlands host priority habitats and species, including birds, lizards, and snakes, as well as other species typical of lowland heathland, wetlands and dunes. 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 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 sites.

12. 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.
13. 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. This responsibility falls to me in the context of this appeal with regard to the impact of the proposal on the protected sites. During the appeal a completed UU was submitted by the appellants to provide a financial contribution for mitigation measures. The Council has stated that the completion of the UU to secure a financial contribution to mitigate the impact of the proposal upon the Heathlands and Poole Harbour would be acceptable. I will return to this matter below.
14. There are tall trees growing in Petworth Close and they are near to the appeal site. The Council has provided evidence that these trees are protected by a Tree Preservation Order, and the height and size of the trees is such that they form a verdant focal point within the area. One of the proposed bungalows would be very close to these trees. BS5837: 2012 – Trees in Relation to Design, Demolition and Construction makes some allowance for disturbance to the roots and crowns of trees during construction works, but in this case no assessment of the impact of the development upon the trees has occurred. However, as I am dismissing the appeal for other reasons, I have not pursued this matter further.
15. Local residents have raised a number of matters, including that they were not notified by the Council about the proposal, the impact upon wildlife, emergency services access, loss of privacy, flooding and electric charging points. Matters of the Council's handling of the application, land ownership and access 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, I have no need to consider them further.

Planning Balance

16. 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.

17. The development of a vacant site within a residential area where there are a variety of services and facilities would be an environmental benefit, and future occupiers would contribute to the local economy. There would also be a small, time-limited economic benefit arising from the construction phase of building additional homes, and a small social benefit as the dwellings would contribute towards the supply of housing. The proposal would also accord with objectives of the Framework that seek to provide a mix of small windfall sites within existing settlements.
18. Weighing against these benefits would be the significant environmental harms arising from the development of the site. The proposal would deliver additional high-quality homes, but in doing so would cause significant harm to the distinct character and appearance of the area. LP Policies PP27 and PP28 are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character.
19. 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.
20. 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

21. 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 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