



Appeal Decision

Site visit made on 21 March 2023

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal Ref: APP/V1260/W/22/3296596
28 Amethyst Road, Christchurch BH23 3EA

- 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 George Knight against the decision of BCP Council.
 - The application Ref 8/22/0078/FUL, dated 1 February 2022, was refused by notice dated 30 March 2022.
 - The development proposed is construction of two storey, 2 bedroom, semi-detached dwelling house with forecourt parking and rear garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the living conditions of the occupiers of 28 Amethyst Road, with particular reference to outlook impacts;
 - The effect of the proposal on highway safety, with particular regard to access design; and
 - The effect of the proposal on the integrity of the Dorset Heathlands SPA, Ramsar Site and Dorset Heaths SAC (the European sites).

Reasons

Living conditions

3. The appeal site is located on the north side of Amethyst Road, within an established residential area within the designated settlement boundary of the urban area of Christchurch. The proposed rectangular-shaped plot would be formed by severing part of the curtilage of the host property at No.28, which is a 2-storey, semi-detached house. A new 2-storey pitched roof dwelling would be added to the side of the parent property, with a parking space in front accessed directly off Amethyst Road, and a garden to the rear accessed from the lounge of the new dwelling. An existing single storey outbuilding in the rear garden of the host property would remain to the rear of the new plot.
4. The proposal would result in a full 2-storey flank wall being located on the site boundary with No.28, extending beyond the line of the 2-storey main rear wall of that property by 3 metres.

5. Due to the combined height, depth and mass of the proposed 2-storey rear projecting element of the new dwelling, and its position running along the side boundary, the proposal would have an unduly oppressive impact upon the outlook from the ground floor rear of No.28.
6. This would include harm to the outlook from the existing rear kitchen window, in views from which the new building would be visually dominant, having regard to its position sited within a 45-degree line taken from the centre point of the window. The new building would also be apparent in views from the proposed rear elevation lounge doors, which would look directly out onto the rear garden after the proposed removal of the existing single storey rear extension on the host property.
7. Taking into account the resulting narrowed plot width of the host property, the appeal scheme would create an overbearing and enclosing impact on the part of the private rear garden of No.28 which is closest to the rear wall of the property. This area, being closest to the house and leading off from the lounge and kitchen, can be reasonably likely to comprise a well-used sheltered and private area of external amenity space for that property.
8. I have noted that planning permission¹ was granted in January 2020 for an extension to the side of No.28 in the position of the currently proposed dwelling. However, that scheme comprised a 2-storey element which aligned with the existing front and rear 2-storey walls of the existing dwelling, having a single storey only element to its rear. Also, its use was restricted to being ancillary to No.28. As such, the previously approved scheme differs significantly from the current appeal scheme for an independent dwelling and does not justify approval of the current proposal.
9. Also, the appellant has drawn comparison between the depth of the appeal proposal and that of a 2-storey extension that could potentially be allowed under Permitted Development². However, in this respect, the appellant has failed to take account of the height restriction which applies to extensions sited within 2 metres of the dwelling house curtilage under Class A.1 (i), and which the appeal scheme exceeds.
10. For the above reasons, I therefore conclude that the proposed development would materially harm the living conditions of the occupiers of 28 Amethyst Road, with particular reference to outlook impacts. As such, the development would not accord with Policy HE2 of the *Christchurch and East Dorset Local Plan Part 1 – Core Strategy* (2014) (the Core Strategy), in so much as this policy aims to ensure that new development is compatible with, or improves its surroundings, in respect of matters including its relationship to nearby properties including minimising general disturbance to amenity.
11. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

¹ Ref 8/19/1511/HOU

² The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 1 Class A

Highway safety

12. The Council's concerns in respect of highway safety relate to the failure of the scheme to provide the required standard of pedestrian visibility splays to ensure unobstructed visibility for drivers exiting the frontage parking spaces to see, and be seen by, pedestrians using the public footway on this side of Amethyst Road.
13. The Council's visibility splay requirements, as set out in its adopted *Parking Standards Supplementary Planning Document* (2021) (the PSSPD), are 2 metres by 2 metres either side of an access, to be kept clear, by means of physical protection, of any obstructions above 0.6 metres in height.
14. I have noted the appellant's evidence that some other Councils have different pedestrian visibility standards. However, having regard to the driver position usually being 2.4 metres back from the front of a vehicle, I consider the standards set out in the PSSPD, which was adopted following a public consultation process, and to which I afford weight as a material consideration, to be reasonable in this instance.
15. In coming to this view I have also taken account of the guidance within the *Department for Transport Manual for Streets* (MfS), which focuses on lightly trafficked residential streets, the proximity of the site to the junction of Amethyst Road and Coleridge Green, and the location of the site within an established residential area where it is reasonably likely that users of the footway in front of the site would include potentially more vulnerable pedestrians such as children and the elderly.
16. Achieving compliance with the Council's standards would necessitate the inclusion of land at 26 and 30 Amethyst Road within the pedestrian splays. Whilst at present there are no physical obstructions on this land which would prohibit the required visibility, this cannot be relied upon to remain the case in the future, given that the land would be outside the control of the owners of the host property and additional dwelling.
17. The evidence before me suggests that these matters are potentially capable of being addressed to the Council's satisfaction through amendments to the parking layout, such as reducing the parking for the host property, repositioning the parking for the new dwelling and introducing a legal mechanism to ensure the retention of any part of the visibility splays which are on third party land. However, such proposals are not before me for determination as part of this appeal.
18. I acknowledge that the site frontage of No.28 is currently completely open and there is a dropped kerb in front of the whole of the site. However, the Highway Authority has confirmed that the majority of the dropped kerb is to provide access to on-street parking in front of No.28 between the carriageway and the footpath in accordance with an arrangement of street parking that is characteristic of this part of the road. Moreover, notwithstanding the existing situation, the appeal scheme is to be determined on the basis of the proposed creation of an additional independent dwelling and the associated independent parking and access requirements for that property as well as for the host property.

19. The appellant has referred to other residential developments which have been approved by the Council without meeting the PSSPD visibility splay criteria. However, on the basis of the limited evidence before me, I am not persuaded that these developments are directly comparable with the current appeal scheme, including in respect of appeal scheme details, site location and site planning history. Moreover, I must determine the current appeal on the basis of the merits of the proposal before me and the appeal site circumstances.
20. For the above reasons, I therefore conclude that the proposal would materially harm highway safety, with particular regard to access design. As such, it would be contrary to Core Strategy Policies KS11 and KS12 and the PSSPD, in so much as these policies and guidance seek to ensure that new development provides safe layouts including prioritising direct attractive routes for walking, and providing adequate vehicle parking facilities.
21. This accords with advice in the Framework which seeks to ensure that development proposals provide safe and suitable access to the site and create places that are safe and minimise the scope for conflicts between pedestrians, cyclists and vehicles (Paragraphs 110 and 112).

European Sites

22. The Council's third reason for refusal relates to the failure of the proposal to secure avoidance/full mitigation of the likely significant effects from recreational pressures that the Council considers the proposed additional dwelling, in combination with other dwellings proposed near to the European sites, would have on the integrity of the European sites.
23. The site is within 5km but outside 400m of the European sites. Natural England is concerned about the intensification of residential development in South-East Dorset, and the resultant pressures upon protected Heathland by the new occupants of these dwellings living in close proximity to such areas. Studies have shown that increased access to lowland heathland from nearby development leads to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets. It is the view of Natural England that within 5km of Heathland, there will be significant adverse effects in combination with other proposals. However, avoidance or mitigation measures, including access management measures to divert recreational pressure from heathland can allow development to be permitted.
24. The proposal would be required to comply with an Avoidance and Mitigation Framework Strategy contained within the *Dorset Heathlands Planning Framework 2020–2025 Supplementary Planning Document* (2020) (the DHPF) which includes a requirement for a financial contribution towards Strategic Access Management and Monitoring (SAMM). This is in line with Core Strategy Policy ME2. The Council has carried out an Appropriate Assessment (AA) under the Habitats Regulations, concluding that adverse effects on the designated nature conservation sites would be avoided if a financial contribution in accordance with the requirements of the DHPF were to be made.
25. The appellant has submitted a draft Section 106 Unilateral Undertaking (UU) to secure such payment, which the Council has agreed is acceptable, subject to execution by the appellant.

26. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated sites fall to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further and to undertake an AA of the implications of the appeal scheme for the European designated sites.
27. However, as the first two main issues provide clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome

Other Matters

28. The Council has confirmed that it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework, and that the Council's supply stands at 2.7 years of deliverable housing land. As such, the undersupply is acute.
29. Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a 5-year housing land supply cannot be demonstrated, or the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years.
30. Paragraph 11 sets out that, where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
31. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area within a designated settlement boundary, where access to facilities and services and public transport connections is likely to be greatest.
32. Paragraph 60 of the Framework refers to boosting significantly the supply of homes, and an additional dwelling would make a small contribution towards addressing the housing delivery deficit. Moreover, it would comprise a size of dwelling which the Council has identified that there is a need for within the Borough, and it could be built out relatively quickly, having regard to Paragraph 69 of the Framework. There would also be economic benefits as a result of the construction of the new dwelling and economic and social benefits as a result of its future occupation. These considerations weigh in favour of the development, and I afford them moderate weight, having regard to the modest size of the proposed development.
33. The Council has raised no objection to the appeal scheme in respect of matters including the principle of an additional dwelling on the site and the impact of the proposal upon the character and appearance of the area and the living

conditions of the future occupants of the development. In terms of the planning balance, the lack of identified harm is a neutral factor that does not diminish the harm that would arise from the appeal scheme in respect of the impact on the living conditions of the occupiers of the host property and upon highway safety.

34. A high standard of design is a key aspect of sustainable development. The harms I have identified to the living conditions of the occupiers of the host property and highway safety would be significant. As a result, the social objectives of sustainable development of fostering well-designed and beautiful places and providing a good standard of residential amenity, would not be achieved.
35. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified and would not address or outweigh the aforementioned harms that I have identified.
36. Accordingly, notwithstanding whether footnote 6 to Paragraph 11 of the Framework applies with respect to habitats sites, I have found that, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the benefits. Therefore, the proposals would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
37. I acknowledge that the proposal represents an amended scheme from that refused under planning application Ref 8/21/0805/FUL, including a reduction in the depth of the proposed rear two storey projection, the hiping of the roof of this part of the scheme, changes to the proposed parking and pedestrian access arrangements and the proposed removal of the existing rear single storey lounge/dining roof extension. However, this does not alter my findings in respect of the current proposal.

Conclusion

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

S Leonard

INSPECTOR