



Appeal Decision

Site visit made on 31 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/V1260/W/22/3307123

14 Links Road, Poole BH14 9QR

- 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 and Mrs Paul Adams against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/00268/F, dated 28 February 2022, was refused by notice dated 6 May 2022.
 - The development proposed is erection of a two-bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a two-bedroom bungalow at 14 Links Road, Poole BH14 9QR in accordance with the terms of the application, Ref APP/22/00268/F, dated 28 February 2022, subject to the conditions set out in the Annex attached to this decision.

Applications for costs

2. An application for costs has been made by Mr and Mrs Paul Adams against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate decision.

Preliminary Matters

3. The address provided on the application form included the address line 'Bournemouth Christchurch Poole'. I have taken the address in the banner above from the appellants appeal form and the Council's decision notice, which accurately describes the appeal site address.
4. The site has been subject to previous appeal decisions¹ which were dismissed, for similar developments to that currently proposed. The previous schemes also proposed the introduction of dwellings, albeit larger dwellinghouses. I have taken the previous Inspectors findings into account in my decision. Nonetheless I have reached my own findings based on the circumstances of the present case.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and

¹ APP/V1260/W/19/3240335, APP/Q1255/W/18/3201621, APP/Q1255/W/18/3210393

- Whether the proposal would provide satisfactory living conditions for the future occupiers, with particular regard to sunlight.

Reasons

Character and appearance

6. The appeal site is located to the north of Links Road and is an area of garden to the rear of, and associated with, 14 Links Road. The site slopes upwards from Links Road, and aside from a small outbuilding, is largely grassed with a number of trees around the boundary of the site including those protected by a Tree Preservation Order (TPO). The wider area features residential dwellings of varying appearance, including those of traditional appearance such as 14 Links Road, and also a number of dwellings of more contemporary appearance.
7. Although there is a mix of properties in the area of both design and scale, the overall character of the area is one of detached properties often in well sized plots, with mature trees and landscaping making a significant contribution to the verdant and spacious character of the area. Within the context of this identified character, my attention has been drawn to a number of dwellings located to the rear of properties, thereby not directly addressing the public domain. I observed that these dwellings, some of which are visible from the main roads, do not affect the spacious character of the area despite their setting to the rear of properties.
8. Policy PP28 of the Poole Local Plan 2018 (LP) allows for the sub-division of plots where they would be of a type, scale and layout that preserves or enhances the area's residential character. Although I have noted the previous Inspector's comments, the appeal scheme before me relates to a single storey development of more modest scale. Due to the location of the appeal site to the rear of the host dwelling, and notwithstanding the slightly elevated nature of the site, the proposed development would be largely screened from public viewpoints, with only a glimpse view available from the access drive.
9. I note concerns that the proposal would result in pressure for trees to be pruned or felled, thereby impacting on the visual amenity of the area. I have had regard to the appellant's 'aboricultural comments' and note the location of the proposed development within the site is outside of any root protection areas. Furthermore, I am informed that approval had been granted for trees to be felled and pruned since the previous appeal decisions as well as an Evergreen Oak tree failing during the winter of 2021/22. Therefore, the context of the site, in terms of the effect and contribution of surrounding trees has materially changed since the previous appeal decisions.
10. From the evidence before me, including my observations on site, and noting the position of the development within the site in relation to existing mature trees, and position of fenestration, I see no reason why there would be any additional pressure for future occupiers to prune or fell additional trees, and even if such tree works were desired, an application to the Council would be required in relation to works to those trees covered by a TPO.
11. The proposal would utilise a modern design solution which is not uncommon in the area and results in a development of low height as well as minimising visual massing. A dwelling in this location would depart from the immediately surrounding pattern of development as it would not directly address the public

domain. Furthermore, it is of a smaller scale than those dwellings directly surrounding the site. However, the overall design of the development reflects that of other nearby contemporary dwellings which contribute to the character of the area. Furthermore, the lack of significant views of the development from public viewpoints due to its low height, as well as the existence of other development to the rear of properties in the wider area leads me to find that the proposal would not appear incongruous or at odds with the surrounding built form.

12. Consequently, I conclude on this main issue, that the proposed development would not have a harmful effect on the character and appearance of the area. The proposal would therefore accord with LP Policies PP27 and PP28 which seek amongst other things, to ensure a good standard of design which would preserve or enhance the area's character. The proposal would also accord with the provisions of the National Planning Policy Framework (Framework) in relation to achieving well-designed places which contribute to and enhance the natural and local environment and are visually attractive as a result of good architecture.

Living conditions

13. The proposed development is situated on the site so that it does not fall within any root protection areas, or also directly under the existing canopies of surrounding trees. The orientation of the proposed development is such that the front elevation is orientated due south with the majority of the garden area also being to the south.
14. As part of the appeal process, the appellant has submitted a Daylight Survey (DS). The DS has been carried out in accordance with Building Research Establishment (BRE) guidance. I am aware that since the DS was completed, the BRE has issued a new edition of the guidance. Both main parties have been given the opportunity to comment on the implications of the revisions. I am satisfied, despite the removal of the Average Daylight Factor (ADF), that the recent amendments have not impacted on the final conclusions of the DS. Therefore, utilising accurate modelling, and without any evidence to the contrary, appears to me as a robust study in so far as it relates to daylight.
15. However, the Council's reasons for refusal concern sunlight. Daylight refers to how bright and light a space feels, whereas sunlight is the amount of direct sunshine in a space. The DS focuses on internal ADF only and concludes that the combined living area and both bedrooms achieve the ADF as previously set by the BRE (2011) guidance.
16. Notwithstanding the above, I observed the position of the existing trees along the boundary which generally accords with the evidence before me. The design of the dwelling is such that large amounts of glazing on the southern elevation provide light to the main living area and bedrooms. Secondary windows are located to the side (western) elevation providing additional sources of light to the living area and kitchen, with obscure glazing within the rear (north) elevation serving a utility room and bathroom.
17. While the windows to the rear and side elevation, due to orientation and proximity to mature planting would receive a reduced amount of daylight and sunlight, due to the context of the rooms they serve the reduced light would not result in unacceptable living conditions for future occupants. Sunlight will

be further reduced when the surrounding trees are in leaf, although there will be direct sunlight to the windows in the southern elevation later in the day due to a lack of trees to the southwest of the site.

18. Paragraph 125 c) of the Framework promotes a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site, as long as the resulting scheme would provide acceptable living standards.
19. From my observation of the relationship of the proposed development including garden area and surrounding trees, the location of windows within rooms, and the conclusions of the DS, I find that although windows to the side and rear of the property would receive a reduced level of sunlight, the proposal would not result in such reduced levels within the development as a whole that would result in significant harm to the living conditions of future occupants. Furthermore, although tree canopies do overhang areas of garden, as there are no canopies overhanging the proposed dwelling, no evidence has been put to me as to why the proposal would result in safety concerns.
20. While the Council's reasons for refusal state the proposal would fall contrary to LP Policy PP28 in respect of the second reason for refusal, this Policy, as stated and discussed in the previous main issue above, relates largely to character and appearance. Notwithstanding this, I also find that the proposal would accord with LP Policy PP27, which amongst other things, seeks to provide satisfactory external and internal amenity space for both new and any existing occupiers.

Other Matters

21. Both main parties refer to a 'fallback position' in respect of a swimming pool building which was the subject of a differing appeal². Even if this could be considered a fallback position, I have in any case found that the proposed development would not have a harmful effect on the character and appearance of the area or conflict with the policies of the development plan, when read as a whole.
22. As well as the main issues, interested parties have raised a broad range of additional concerns through the planning application process, a number of which are not shared by the Council. Matters raised include garden grabbing, loss of privacy, noise impacts, harm to wildlife, increased traffic movements, on road parking, risk of subsidence from excavation works, previous planning history, and access for emergency vehicles. While I note the comments that the proposed development would be a form of garden grabbing, I have found that the proposed development would not have a harmful effect on the character and appearance of the area.
23. The proposed development is single storey, with boundaries which would prevent any undue overlooking, and given the appeal site is currently a residential garden, a single dwelling is not of a scale that would give rise to significant additional noise. Insofar as wildlife and biodiversity, it has been demonstrated that the proposed development can be constructed without harm to protected trees and it has not been put to me that the appeal site contains any identified habitats or protected species. Furthermore, the Council have not

² APP/V1260/X/20/3254379

raised any concerns in relation to protected species at the site or suggested in their appeal statement any conditions relating any biodiversity enhancements. I see no reason to take a different view.

24. The introduction of a single dwelling would not result in significant additional vehicular movements and the proposed development makes adequate provision for off-road parking for both the proposed dwelling, and host dwelling. Furthermore, I have no evidence that an emergency vehicle would not be able to access the proposed development and I note that the Council's Highway Officer raises no concern in these matters, to which I agree.
25. While I note comments in relation to the parking and turning space requiring significant structural engineering adjacent a boundary, nothing before me indicates that such engineering works, if required, would result in any form of subsidence or erosion.
26. Although I have been made aware of the planning history of the site, I have assessed the proposed development on its own merits, based on the evidence presented to me.
27. It has also been cited that the proposed development is considered contrary to the recommendations of the Berne Convention Standing Committee on urban development adjacent to the Dorset Heathlands. I have however been given no further information on these recommendations, or their relevance or materiality to the appeal proposal. However, noting this is not a matter directly raised by the main parties, I deal with habitats sites further below.

Habitats Sites

28. The appeal site lies within the zone of influence of the Dorset Heathlands Special Protection Area and Ramsar site and the Dorset Heaths Special Area of Conservation as well as the Poole Harbour Special Protection Area (the habitat sites).
29. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (April 2020) (DHPF) advises that the Dorset Heathlands is designated for protected and priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other typical species of lowland heathland, wetlands and dunes.
30. Furthermore, The Poole Harbour Recreation 2019-2024 Supplementary Planning Document (April 2020) (PHR) advises that the Poole Harbour SPA was designated for its important bird species, including internationally important populations of regularly occurring and migratory species. Reference is also made to supporting habitats for seagrass, shallow inshore waters including coastal lagoons, intertidal sediments, saltmarsh and reedbeds.
31. The habitat sites are an important recreational resource and it is likely that occupants of the proposed development would visit. On this basis, it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the habitats sites due to increased recreational use.
32. To mitigate against such effects, financial contributions of the amounts set out in the DHPF and PHR have been secured in accordance with the Council's

approach to strategic mitigation, which will contribute towards the delivery of Strategic Access Management and Monitoring.

33. I am satisfied, on the basis of the specific evidence before me, that the planning obligation provides a sufficient mechanism to enable the delivery of proportionate strategy to mitigate the effects of development which could affect the habitats sites.
34. I therefore find following Appropriate Assessment under the Habitats Regulations, that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the habitats sites thus according with the provisions of the Habitats Regulations.

Planning Balance

35. The Council have stated within their officer report that in the Poole area there is a 4.1 year housing land supply, and a 2021 Housing Delivery Test result of 78%. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development, and that, under criterion 11d), where the policies that are most important for determining the application are out of date, planning permission should be granted unless: i) the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
36. Although the appeal site lies in proximity to the habitats sites, application of the associated policies within the Framework do not provide a clear reason for refusing the development. Given the lack of a five year housing land supply, paragraph 11d)ii of the Framework applies.
37. The Council has a shortfall in housing land supply and although the contribution of a single dwelling is modest, paragraph 69 of the Framework indicates that small and medium sized sites can make an important contribution in delivering homes and that the development of windfall sites should be supported, especially within existing settlements.
38. Furthermore, there would be short-term economic benefits during the construction phase, and future occupiers would contribute to the local economy and be likely to use and support local services and facilities in the long term.
39. The development would provide appropriate internal space standards, would not result in any harmful overlooking or loss of light and would not result in highway safety concerns. However, these are ordinary requirements for new development, and they do not represent a positive benefit that weighs in favour of the development.
40. There would be clear benefits arising from the proposal, although these are modest given the scale of the proposal. I have however identified no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. I have found that the proposal complies with the development plan and the relevant policies appear to be broadly consistent with the Framework. The proposed development would fulfil the economic, social and environmental dimensions of sustainable development as articulated within paragraph 8 of the Framework.

Conditions

41. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance.
42. A condition regarding the approved plans is required to provide certainty and a condition relating to on-site renewable energy sources is necessary in the interests of reducing carbon emissions.
43. Given the proximity of the proposed development to surrounding trees, as well as proximity to the boundary, a condition removing permitted development rights within Classes A, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is necessary to prevent future development impacting on root protection zones or neighbouring occupiers living conditions. A further condition is necessary in order to reduce water run-off from the site.
44. Conditions relating to cycle storage and electric vehicle charging points are also necessary to comply with the sustainability principles of local and national policy. Further conditions are also necessary in order to ensure that the proposed development does not detrimentally effect retained trees. However, the requirement for a pre-commencement site meeting is overly onerous, and I have removed this element. Conditions relating to parking and access visibility are necessary for highway safety reasons. I have amended the wording of the latter condition in the interests of precision.
45. A further condition has been suggested by the Council's Recycling and Waste Officer in relation to presenting bins on days of collection and storage of bins. However, I find this condition to be overly onerous and have therefore not imposed such a condition.

Conclusion

46. For the reasons given, the proposal complies with the development plan, read as a whole. No material considerations have been shown to have sufficient weight as to warrant a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

S Harrington

INSPECTOR

Annex

Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
9549/100A; 9549/101; 9549/102; 9549/103; Tree Protection Plan.
- 3) Prior to the commencement of any construction works above the ground floor slab level of the dwelling hereby approved, details of the measures to be implemented to meet a minimum of 10% of the predicted future energy use of the dwelling from the use of on-site renewable energy sources, shall be submitted to, and approved in writing by, the Local Planning Authority. These measures must subsequently be implemented in accordance with the approved details prior to the first occupation of the dwelling and shall thereafter be retained and maintained. The Local Planning Authority shall be advised of the implementation of the agreed renewable energy scheme, so that the compliance with the approved details can be confirmed.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the Town and Country Planning Act 1990, or any subsequent re-enactment thereof, no further development falling within Classes A, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) other than that authorised by this permission shall be erected without express planning permission first being obtained from the Local Planning Authority.
- 5) All ground hard surfaces shall either be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site. The hard surface shall thereafter be retained as such.
- 6) Prior to first occupation, secure cycle parking will be provided in accordance with the scheme which has been submitted to and approved by the Local Planning Authority, and thereafter retained.
- 7) Within 3 months of the commencement of the development details of the provision of Electric Vehicle Charging Points and associated infrastructure shall be submitted to the Local Planning Authority for approval in writing. Those details shall be in accordance with the BCP Council Parking Standards SPD (adopted 5th January 2021). The approved details shall be implemented and brought into operation prior to the occupation of the dwelling hereby approved. Thereafter, the Electric Vehicle Charging Points shall be permanently retained and available for use at all times.

- 8) An updated arboricultural method statement prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of demolition/development. All works shall subsequently be carried out in strict accordance with the approved details.
- 9) Prior to the commencement of any ground clearance, tree works, demolition or development, details of the arboriculturally sensitive operations requiring arboricultural supervision shall be submitted to, and approved in writing by, the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant immediately following that approval.
- 10) Before the development hereby permitted is brought into use, access and visibility as indicated on plan reference 9549/100 shall be provided and retained as such thereafter.
- 11) The development hereby permitted shall not be brought into use until the access, turning space, garaging/vehicle parking shown on the approved plan have been constructed, and these shall thereafter be retained and kept available for those purposes at all times.

End of Conditions