



Appeal Decision

Site visit made on 30 May 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/V1260/W/22/3313339

37 Manor Avenue, Alderney, Poole

- 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 Mark Harris against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/01287/F, dated 13 September 2022, was refused by notice dated 11 November 2022.
 - The development proposed is to sever part of rear garden and erect a new bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant refers to 'A Design Code' Supplementary Planning Guidance adopted 29 August 2001 (SPD) from the Borough of Poole. However, I have very limited details of the status of the SPD which relates to the Poole Local Plan First Alteration. On this basis and given that the appellant states that the SPD is dated and requires updating to accompany the more recently adopted Poole Local Plan (2018) (LP), I give the document little weight.
3. During the appeal a signed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was submitted to mitigate the impacts from future occupiers on the integrity of European Sites and their features. This is a matter I will consider later.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to sunlight and outlook; and,
 - the effect of the proposal on nationally and internationally protected sites.

Reasons

Character and Appearance

5. The immediate area surrounding the site is characterised by detached dwellings set behind low boundary walls fronting roads with generally open and

undeveloped rear gardens. From neighbouring dwellings, views of the site in combination with adjoining gardens provide an open outlook.

6. The subdivision of the garden would represent a form of development that would be out of keeping with the prevailing pattern of residential dwellings and neighbouring buildings immediately surrounding the site. The new dwelling, albeit a bungalow, adjoining the open rear gardens of the neighbouring dwellings would be incongruous. The impact would be amplified by reason of the steep roof pitch and resultant roof height that would increase the prominence of the building. The proposal would therefore result in a development incongruous in its setting and appearing out of character when viewed from the neighbouring dwellings.
7. Even though the proposal provides suitable access to serve the proposed dwelling and would be of a suitable footprint and materials, the subdivision of the front garden to the appeal property, creation of an additional access, and associated dividing boundary treatment, would not reflect or enhance the wider area. Although the proposal would increase housing density on the site, this would result in harm to the prevailing plot size. Whilst the proposed dwelling would be set back within the site, it would be visible down the access serving the dwelling contrary to the prevailing street scene.
8. I recognise that planning permissions have been granted for the construction of dwellings in the rear gardens of No's 57-59, 63-67, 81 and 84 Rosemary Road, and to the rear of No.407 Ringwood Road. However, these are a considerable distance from the site set within a different character and context. Moreover, in comparison with these other sites, the immediate area surrounding the appeal site is not characterised by plot severance or sub-division that forms part of the evolution of the area.
9. In conclusion on this matter, the development would have a significant harmful effect on the character and appearance of the area. As such, it would conflict with Policies PP27 and PP28 of the LP and Paragraph 130 of the National Planning Policy Framework (the Framework). Amongst other things, these seek to ensure that development proposals are of a good standard of design, reflect or enhance local patterns of development and neighbouring buildings, only permits plot severance or plot sub-division which would preserve or enhance the area's residential character, and achieves well-designed places that are sympathetic to the local character and built environment.

Living conditions

10. The roof of the appeal proposal would include several roof lights. The bedroom within the roof of the proposed dwelling would be served by five roof lights with other roof lights serving the en-suite and staircase.
11. The number and position of roof lights around the bedroom would provide adequate sunlight into the room despite their size. For the same reasons, the roof lights would not result in any unreasonable increased reliance on artificial light sources. Given this, I find the level of sunlight and reliance on artificial lighting to the first-floor bedroom to be adequate for future occupiers.
12. Despite the roof lights being positioned such that there would be limited downward outlook, the roof lights to the upper floor bedroom would provide

adequate horizontal and upward outlook. As a result, I find the outlook from the upper floor acceptable.

13. I conclude therefore in relation to this matter that the living conditions of future occupiers of the proposed development would be acceptable with particular regard to sunlight and outlook. Accordingly, the proposal complies with Policies PP27 and PP37 of the LP which, amongst other things, seeks a good standard of design, considers levels of sunlight and daylight and that new homes minimise the need for artificial light.

Effect on nationally and internationally protected sites

14. The site falls within 5km of the Dorset Heathlands which comprises the Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heaths Special Area of Conservation and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes. The site also falls within the catchment area for the Poole Harbour Special Protection Area and Ramsar site.
15. The Special Protection Areas (SPA) and Special Area of Conservation (SAC) are protected via the Habitats Directive, which is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I am statutorily required to take appropriate steps to conserve biodiversity.
16. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (DHSPD) seeks to secure a financial contribution towards the mitigation of any effects of development within 5km of the Dorset Heathlands on the integrity of the Dorset Heathlands SPA and SAC. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document (2017) (NRSPD) and Poole Harbour Recreation 2019-2024 Supplementary Planning Document (PHSPD) seek to secure financial contributions towards the mitigation of any effects of development from nutrients and recreational activity on the integrity of the Poole Harbour SPA.
17. The Dorset Heaths SPA and SAC are designated in order to safeguard ecology and the habitat upon which various species are reliant. Ecology can be disturbed by recreational activities, predation from domestic pets, and from habitats being unavailable from time to time by consequence. The Poole Harbour SPA is designated in order to protect rare, vulnerable and migratory birds. It identifies that the rare species can be disturbed by recreational activities, including sailing, walking dogs and bait digging along the shoreline. There can be additional effects on the harbour from increasing nitrogen levels from sewage restricting the growth, distribution and variety of food for wading birds.
18. Whilst not a precise correlation, the potential for adverse effects on the two SPA and SAC increases with the number of dwellings nearby, including within a wide zone of influence, and therefore the aggregate, or in-combination, implications of a number of smaller developments may be significant.
19. The avoidance or mitigation of effects resulting from increased residential development would be achieved by the provision of alternative greenspace, to redirect those who would have made use of the SPA and SAC recreationally, via associated monitoring and management arrangements and direct and indirect

mitigation to address nitrogen levels. The contributions that individual schemes are expected to make in that context are established at a strategic level, such that a proportionate contribution is made in each instance, alongside or in addition to mitigation being funded by Community Infrastructure Levy (CIL) receipts. CIL receipts from the proposal would go towards nitrogen reduction and a Signed Unilateral Undertaking has been submitted by the appellant and accepted by the Council. This would provide financial contributions towards strategic access, management and monitoring of the Poole Harbour SPA and Dorset Heathlands SPA and SAC, consistent with the Council's approach.

20. Chapters 4 of the DHSPD and PHSPD indicate the approaches established towards ecological mitigation have been arrived at in conjunction between Dorset Council, Bournemouth, Christchurch and Poole Council and with Natural England, the appropriate nature conservation body under Regulation 63(3). The NRSPD has similarly been arrived at in conjunction with the relevant Council's following publications from Natural England and the Environment Agency. Consequently, subject to appropriate financial contributions being made, I am satisfied that likely significant effects to the ecological integrity of the SPAs and SAC would be avoided.
21. Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations sets out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms, secondly, they must be directly related to the development and thirdly they must be fairly and reasonably related in scale and kind to the development.
22. I am satisfied that the financial contributions are necessary to make the proposed development acceptable in planning terms. The obligation would contribute towards the provision of mitigation towards strategic access, management, and monitoring. Given the location of the appeal site within 5km of the Dorset Heathlands protected sites and within the catchment of the Poole Harbour SPA, I consider that the contribution is directly related to the appeal scheme. In addition, as it relates to a standard charge based on the scale and type of residential development proposed, I consider it to be fairly and reasonably related to the proposal in scale and kind.
23. For the above reasons, I am satisfied that the planning obligation would meet the requirements of the Framework and the CIL Regulations.
24. In conclusion, I am satisfied that with the proposed avoidance and mitigation measures in place, secured through the CIL contributions and planning obligation, the development would not have an adverse effect on nationally and internationally protected sites. The developments would therefore comply with the Conservation of Habitats and Species Regulations 2017. It would also accord with Policies PP32 and PP39 of the LP. Amongst other things, these seek to ensure that development will not lead to an adverse effect on the integrity, either alone or in combination, of the Dorset Heathlands and Poole Harbour European and internationally important designations and secure the collection of development contributions to provide some mitigation for European and internationally important sites.

Other Considerations

25. The lack of harm to highway safety, living conditions of neighbouring occupiers, flooding, biodiversity, and the provision of adequate parking, landscaping and outdoor space are neutral factors in my consideration.
26. I have had regard to residential development being acceptable in principle and its location along a sustainable transport corridor. The appeal proposal would provide a number of benefits, including providing much needed family housing which would contribute towards the supply and mix of housing in the area, benefit the local economy from construction works and future occupiers using local services and facilities, provision of an energy efficient dwelling, and would represent an efficient use of land with good accessibility to services and facilities. However, given the scale and nature of the development, the benefits would be limited.
27. Although the proposal would result in a neutral effect on the integrity of the European Sites and their features through the provision of appropriate mitigation, the development would cause significant harm to the character and appearance of the area. The relevant policies in this regard are largely consistent with the Framework where it states that planning decisions should reflect the character of an area and safeguard the environment. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with these policies.
28. It is not a matter of dispute between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of the Framework should be applied. The appeal proposal would provide a number of benefits, including providing much needed housing which would contribute towards the supply and mix of housing in the area, benefit the local economy and job creation from construction works and future occupiers using local services and facilities, provision of an energy efficient dwelling, and would represent an efficient use of land with good accessibility to services and facilities. However, given the scale and nature of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in significant harm to the character and appearance of the area. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

29. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR