
Appeal Decision

Site visit made on 1 August 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2023

Appeal Ref: APP/V1260/W/22/3312667

Land adjacent to No.100 Boscombe Grove Road, Bournemouth BH1 4PG

- 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 James Scollard against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2022-28401-A, dated 13 July 2022, was refused by notice dated 27 September 2022.
 - The development proposed is a new build house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have taken the address of the appeal site from that used on the appeal form and decision notice rather than the planning application form. This reflects that there is presently no property known as 100a Boscombe Grove Road at the appeal site.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - Whether the proposal makes adequate provision for car parking, including reference to pedestrian visibility;
 - The designated Dorset Heathlands Special Protection Area (SPA), Ramsar site, and the Dorset Heaths Special Area of Conservation (SAC), and;
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance

4. Boscombe Grove Road lies in an established residential area of Bournemouth and comprises mostly of two storey dwellings that face onto the road. Notwithstanding the mixture of detached, semi-detached and short terraces of housing exhibiting some variety of building materials, there is a strong impression of coherence. This is derived from the combination of the straight

alignment of the road, the observation of a regular set back of built form on both sides, broadly similar eaves levels and a relatively simple roofscape. The latter comprises mainly of similarly angled hipped or pitched roofs with the road facing roof planes being largely uninterrupted. This results in a pleasant residential townscape.

5. The appeal site consists of land between 100 and 102 Boscombe Grove Road, that formed part of the grounds and parking area for no.100. No.100 is a modest semi-detached house, which reflects the characteristics outlined above. Together with no.98 it forms a broadly balanced pair, although some subsequent developments have undermined the symmetry. These include a hip to gable roof alteration at no.100 and a side extension to no.98. Nevertheless, the essence of the original matched pair is still discernible owing to the set back of the side extension and relatively simple roofscape to the principal elevations. The appeal site provides a gap in the built form and reads as part of the grounds for no.100. Overall, this configuration makes a positive contribution to the qualities of the street scene.
6. The proposal would introduce a two storey, two-bedroom dwelling that would adjoin the side of no.100. The form of the addition would be unsympathetic to the pairing of nos.98-100 owing to the complexity of the resulting roof. Firstly, the hipped roof would join the gable end of no.100 but would be both set down and set back by comparison. This would cause a visually awkward join, which would be particularly prominent due to its elevated level. Furthermore, a significant portion of the roof of the dwelling would be flat roofed, resulting in a further clumsy join both with the hipped roof component of the proposed dwelling and the adjoining rear extension to no.100.
7. Moreover, the obviously higher eaves level of the proposed dwelling relative to nos.98-100 would be visually unsettling and would compound the harmful effect. These disparate elements would result in a disjointed addition that would interrupt the eaves line and simplicity of the front roof plane. Furthermore, it is likely that some glimpses of the flat roof would be possible from the street.
8. In addition, the first floor windows in the principal elevation of the dwelling would fail to align with those seen in nos.98-100, and the solid to void ratio would be markedly different due to the amount of fenestration.
9. Rather than matching the side extension at no.98, the overall composition would appear discordant and would further erode the balance of the original semi-detached pair. The proposed street view¹ provided illustrates my concerns. Together, the harmful effects would be obvious in the street scene, which would exacerbate the extent of harm.
10. Although part of the design concept put forward by the appellant is to balance the building with no.98, for the reasons outlined above I consider it would be ultimately unsuccessful. Furthermore, unlike the extension at no.98, the proposal is intended to be a separate dwelling in its own plot. Tension would inherently arise from such a development taking visual cues from an extension. For example, the position of the main entrance door for the proposed dwelling would be well into the site within a secondary side elevation. Consequently,

¹ Drawing number 0550 P001 Rev 01

such an approach would lead to a less legible and authentic looking development.

11. It is brought to my attention that many properties in the road have been altered, including side extensions and a preponderance of two storey rear extensions that have flat roofs. Be that as it may, in the main, side extensions such as that at no.98 are subservient to the host dwelling. The example given at no.59 whereby a two storey side extension forms a separate dwelling is atypical. Furthermore, it tends to illustrate how such development can erode the positive qualities of the street scene. Consequently, it carries little weight in favour of allowing the proposal.
12. Policies CS6 and CS21 of the Bournemouth Local Plan: Core Strategy, October 2012 (CS) amongst other things, seek development that improves and enhances the street scene and design quality. It follows that development should not promulgate negative aspects of the street scene, but instead should make a positive contribution. This is consistent with the National Design Guide², which states that well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. Such development enhances positive qualities and improves negative ones. For the reasons outlined the proposal would fail to do so.
13. For similar reasons the proposal would fall short of some of the requirements found in paragraph 130 of the National Planning Policy Framework (the Framework) whereby planning decisions should ensure that developments will add to the overall quality of the area, are visually attractive as a result of good architecture and are sympathetic to the local character, including the surrounding built environment.
14. The appellant points out that the appeal site is not within a conservation area. Nevertheless, as will be seen from my reasoning, it does not follow that it possesses no attributes worthy of protection.
15. Therefore, I find that the proposal would be harmful to the character and appearance of the area. Hence, it would conflict with policies CS6, CS21 and CS41 of the CS, saved policy 6.8 of the Bournemouth District Wide Local Plan, February 2002 and policy BAP7 of the Boscombe and Pokesdown Neighbourhood Plan, November 2019. In combination and amongst other things, these policies seek a high standard of design that respects and enhances the character of the local area.

Parking provision

16. Policy CS16 of the CS requires parking provision for new development to be in accordance with the Council's adopted parking standards. These are contained in the Parking Standards Supplementary Planning Document, January 2021 (SPD). A zonal approach is taken which reflects the accessibility of various areas within the district. This accords with the criteria listed in paragraph 107 of the Framework which should be taken into account when setting local parking standards.
17. The appeal site lies within Zone B having been judged to be in an area where there are good local services, shops and other facilities, or in close proximity to

² Paragraph 40

a railway station. The standard indicates that 1 parking space should be provided for a 2-bed dwelling in this zone.

18. The appeal site provided off-street parking for no.100, a 2-bed dwelling. Although the proposed new dwelling would have one such off-street space, this would leave no parking for no.100. As such, the proposal would not meet the quantum of provision required by the standard.
19. The SPD³ states that parking in new development should aim to meet the requirements set out in the SPD but allows for some flexibility. However, a departure from the standards should be fully justified. The appellant highlights the accessibility of the appeal site owing to its proximity to Boscombe town centre, key bus routes and an area within Zone A of the SPD. Nevertheless, on the evidence before me, I am not persuaded that these factors have not already been taken into account when drawing up the zones for the SPD. It is not demonstrated that the accessibility of the appeal site is equivalent to Zone A, which generally concerns Bournemouth, Christchurch or Poole town centres, and Boscombe and Westbourne district centres.
20. Whilst it might be possible to live car free at the proposed development, it is not shown that it would be probable. One of the factors considered in preparing the SPD was local car ownership levels. Hence, although future occupants of the proposed dwelling would have a genuine choice as to travel methods, which may reduce dependence on the private car, I am not convinced that it is likely that future occupants would have no car at all.
21. The appellant asserts that occupants of no.100 could park on the road or create a space in the front garden area. There is no evidence to support the latter and my observations were that the available space would be unlikely to provide a convenient space. Even if it were possible, it is probable that such an arrangement would have undesirable knock-on visual effects on the street scene.
22. In relation to road parking, the SPD seeks to ensure the optimum level of car parking and expects proposals to meet the standards, which is reinforced by policy CS21 of the CS. As such, they should be adhered to unless there is sound justification to depart from them. To do otherwise because off-street space is potentially available, would cumulatively undermine the approach to parking across the district, ultimately resulting in under provision.
23. The Council is also concerned that the parking space provided for the proposed dwelling would have inadequate pedestrian visibility. Paragraph 5.9.9 of the SPD states that pedestrian visibility should be considered at all vehicular crossovers, where vehicles cross the footway to gain access to a property.
24. The visibility splays shown⁴ do not relate to either side of where the vehicle access meets the back edge of the footway but rather have been measured from the side of a vehicle, the dimensions of which may vary. Neither are they shown to be wholly within the dwelling's curtilage. Nevertheless, I am mindful that longstanding vehicular access in this location has existed for no.100, and there is little evidence to show this has been problematic for pedestrians, nor that the footway has particularly high pedestrian movement.

³ Paragraph 4.3.2

⁴ Drawing no. 0550 P005 Rev 01

25. Moreover, the proposal is within a street where there are numerous vehicular access points serving dwellings. In this established context, vehicle drivers are likely to manoeuvre slowly, and pedestrians are likely to exercise appropriate caution when proceeding along the footway. In these circumstances, I am not persuaded that the proposed vehicular access would result in an unacceptable impact on highway safety such that it would justify resisting the proposal on this basis.
26. Nevertheless, I find that the quantum of parking provision would be unjustifiably insufficient and therefore, the proposal would conflict with policy CS16 of the CS.

Dorset Heathlands SPA, Ramsar site, Dorset Heaths SAC

27. The appeal site is located within 5km of the lowland heaths in south east Dorset designated for their international importance for nature conservation and recognised under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). Collectively referred to as the Dorset Heathlands, they host protected 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.
28. Evidence shows that the Dorset Heathlands are under significant pressure from an increasing number of people living nearby. As the population grows, urbanising impacts from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
29. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document, April 2020 (SPD) indicates that any net increase in residential development within 5 km will have an adverse impact on the Dorset Heathlands. Therefore, measures must be put in place to avoid and mitigate all harm caused.
30. Caselaw⁵ requires the decision maker, when considering the effect that a proposal may have on European Sites, to consider mitigation within an Appropriate Assessment. In the absence of mitigation measures and using a precautionary approach, given the proximity of the site to the Dorset Heathlands, it is reasonable to suppose that future residents of the development would potentially visit the designated sites for recreational purposes, that may include dog-walking. Intensification of such activities would be likely to cause disturbance to the vulnerable protected species and their habitats. I am required to consider the effect of the proposal both individually and in combination with other projects. As such, there is a risk of a significant effect on the internationally important interest features of the Dorset Heathlands.
31. The SPD sets out the Council's approach to mitigating the adverse effects of new housing development. In this case, the Council indicate that a financial contribution of £428 towards Strategic Access Management and Monitoring (SAMMs) would accord with the mitigation framework established in part by the SPD. The SPD indicates that payment should be secured by planning obligation.

⁵ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

32. Although the appellant indicates in their appeal statements that they are content to provide an appropriate financial contribution, at the time of my determination of this appeal no mechanism was before me that would secure this. In the absence of any mitigation measures, the proposed development would be likely to have an adverse effect on the heathland's special features.
33. As such, the proposal would fail an Appropriate Assessment under the Habitat Regulations. It is not part of the appellant's case that alternative solutions or reasons of overriding public interest as referred to in the Habitat Regulations exist.
34. Therefore, I find that the proposed development would be likely to adversely affect the integrity of the Dorset Heathlands SPA, Ramsar site and Dorset Heaths SAC. It would therefore, conflict with policy CS33 of the CS which states that development will not be permitted unless it can be ascertained that it will not lead to an adverse effect upon the integrity, directly or indirectly, of the Dorset Heaths international designations.

Other considerations

35. The information provided⁶ indicates that the Council can demonstrate only a 2.3 year housing land supply and that the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. I have not seen evidence that would undermine those figures. Hence, there is a significant shortfall in delivery relative to the housing need. I shall return to this in the overall planning balance.
36. The proposal would make more efficient use of the land to provide an additional dwelling in an accessible location. This would assist in boosting the overall supply and mix of housing in the area. Recognition is given to the important contribution small sites can make to meeting housing requirements in paragraph 69 of the Framework. This is reinforced by the high level of responses the appellant received when advertising the refurbished two-bedroom property at no.100.
37. These are important factors that weigh in favour of the proposal. Even so, the extent of benefits accruing from a single dwelling would be limited. Nevertheless, given the extent of the shortfall in housing delivery, I attribute moderate positive weight to these benefits.

Planning balance and conclusion

38. The Council is unable to demonstrate a five year supply of deliverable housing sites. In these circumstances, paragraph 11d) of the Framework deems the policies which are most important for determining the application to be out of date. The presumption in favour of sustainable development means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or (ii) that 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.

⁶ Paragraph 3(1), Appellant's Grounds of Appeal

39. For the reasons already outlined above, I have found that the proposal would adversely affect the integrity of the Dorset heathlands, internationally designated sites of importance for biodiversity. It is clear from paragraph 182 of the Framework that the presumption in favour of sustainable development does not apply in these circumstances. Moreover, the policies in the Framework relating to the protection of such areas provide a clear reason for refusing the proposal. As such, the balance in paragraph 11d)(ii) does not apply.
40. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁷. In relation to the main issues, I have found the proposal would conflict with policies of the development plan which are broadly consistent with the Framework, and so carry full weight. Consequently, the proposal would be contrary to the development plan as a whole. 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.

Helen O'Connor

Inspector

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.