



Appeal Decision

Site visit made on 27 June 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal Ref: APP/V1260/W/23/3316796

**227 Bournemouth Road, Bournemouth Christchurch Poole, Poole
BH14 9HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr R La Bouchardiere of 227 Bournemouth Road Ltd against Bournemouth Christchurch and Poole Council.
- The application Ref APP/22/01692/F, is dated 6 December 2022.
- The development proposed is full planning application to erect extensions including a new roof, and convert the resultant building from a dwelling (Use Class C3) to 10 bedroom HMO (Sui Generis).

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period and the Council has highlighted what its reason for refusal would have been, had it been determined. The Council's main concern is that mitigation has not been secured to avoid likely adverse effects on the Dorset Heathlands Special Protection Area (HSPA) and the Poole Harbour Special Protection Area (PSPA) (designated sites). The appellant was invited to comment on the Council's statement of case but no comments were received. In these circumstances, the appellant is not prejudiced by this forming the main issue in this case.
3. My attention has been drawn to an appeal¹ at the same site as this appeal for prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 1, Class AA. However, I have assessed this scheme on its individual merits.

Main Issue

4. The main issue is the effect of the proposal on the integrity of the designated sites.

Reasons

5. The Council concludes that the increased recreational use generated by the development, in combination with other development, is likely to have significant effects on the features of interest of the designated sites. Their view has been informed by Natural England's advice and I see no reason to disagree

¹ APP/V1260/W/22/3309665

with this conclusion. As such, the Habitats Regulations require that as the decision maker, I am the Competent Authority and I must carry out an Appropriate Assessment.

6. The Council has identified that the appeal site lies within 5km of the designated sites. The PSPA is designated to protect rare, vulnerable and migratory birds. In particular for the internationally important populations of regularly occurring species and migratory species including Common Shelduck (Non-breeding); Pied Avocet (Non-breeding); Black-tailed Godwit (Non-breeding); Mediterranean Gull (Breeding); Common Tern (Breeding); Little Egret (Non-breeding); and Eurasian Spoonbill (Non-breeding).
7. The HSPA is designated to protect 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. The primary causes of disturbance to the above mentioned birds, habitats and species is by new occupants and their pets living in close proximity to the designated sites. This has led, amongst other things, to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance.
8. In that context, the proposal comprises a house of multiple occupation (HMO) with additional bedrooms/units of accommodation when compared with the existing dwelling. Consequently, due to its proximity to the designated sites there is a reasonable likelihood that it would be accessed for visits by future occupiers of the development. Although this may be minimal by itself, when considered in combination with other existing residential development in the surrounding area, a significant effect on the integrity of the designated sites would be likely to occur.
9. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the designated sites. I am able to consider whether any conditions or other restrictions which could secure mitigation, provide certainty that the proposal would not adversely affect the integrity of the site. Due to the small scale of the development, there is no scope to provide on-site mitigation. However, with the advice of Natural England, Policy PP32 of the Poole Local Plan 2018 (PLP) and the Council's The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (DHSPD), and their Poole Harbour Recreation 2019-2024 Supplementary Planning Document April 2020 (PHSPD) indicates that there is an agreed strategic solution to mitigate the effects.
10. In this respect, HMO proposals of greater than 6 extra rooms, as is the case with this appeal, are required to pay financial contributions by planning obligation towards the designated areas through Strategic Access Management and Monitoring (SAMM). The appellant has not submitted any such obligation and I therefore cannot be certain that the development would not adversely affect the integrity of the designated sites.
11. I am required by the Habitats Regulations to consider whether there are any alternative solutions that would avoid or reduce the effects on the site while achieving the same outcomes, though none have been submitted by the appellant. Additionally, I have also considered whether there are any imperative reasons of overriding public interest. However, the additional

accommodation that would be gained through the HMO is not sufficient to amount to an overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted. Accordingly, I find that the proposed development would result in significant harm to the integrity of the designated sites.

12. Therefore, I conclude that the proposed development would fail to maintain the integrity of the designated sites. As such, the proposal would be in conflict with policies PP32 and PP39 of the PLP and the Council's DHSPD and PHSPD which, amongst other things, set out a mitigation strategy that requires funding collected through planning obligations for development affecting the designated areas.

Other Matters

13. My attention has been drawn to the issue of phosphorous and its potential effects on Poole Harbour. However, given my findings on the main issue, 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.
14. Additionally, in its putative reason for refusal, the Council has referred to conflict with the recommendations of the Berne Convention Standing Committee on urban development adjacent to the Dorset Heathlands, though no further evidence is provided on this matter. However, the lack of any evidence in this regard does not lead me to reach a contrary conclusion.
15. In reaching my decision I have had regard to representations made by interested parties. In respect of design, noise and light, the Council note that the proposed extension would complement the character of the dwelling and would be sited at an acceptable distance from neighbouring properties to avoid potential noise or light conflicts. Additionally, the Council's highways officer raises no objection to the proposed parking provision. In reviewing these matters, I have no substantive evidence before me to disagree with the conclusions reached by the Council.
16. At the time of my visit, there did not appear to be any ongoing works at the appeal site that were reflective of the proposed development. In any case, I have determined the appeal on the basis of the plans before me.

Conclusion

17. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed and planning permission is refused.

J Hills MRTP

INSPECTOR