



Appeal Decision

Site visit made on 14 November 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2023

Appeal Ref: APP/V1260/W/22/3312085

187 Churchill Road, Poole BH12 2JB

- 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 H Fountain against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/00749/F, dated 25 May 2022, was refused by notice dated 6 September 2022.
 - The development proposed is described as 'Sever site; demolish single storey garage; erect 1no. dwelling.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The integrity of protected habitats; and
 - The character and appearance of the area.

Reasons

Protected Habitats

3. Poole Harbour has been designated as a Special Protection Area (SPA) due to the important bird species that inhabit the area which supports rare, vulnerable and migratory birds. There are also supporting habitats for seagrass; shallow inshore waters including coastal lagoons; intertidal sediments; saltmarsh; and reedbeds.
4. Evidence has found that increasing recreational activities around the harbour are causing disturbance to protected bird species. Natural England (NE) advises that the cumulative effect of further residential and tourism development in the 'Poole Harbour Recreation Zone' would have a significant effect upon the Poole Harbour SPA.
5. Evidence also shows that the increasing nitrogen levels from wastewater are contributing to the growth of algal mats in the Harbour, restricting the growth, distribution and variety of food available for protected wading birds and smothering estuarine habitats. Poole Harbour is classed as having poor chemical status due to elevated nitrogen concentration. NE state that additional development that would lead to a net increase in population in the area would have a likely significant adverse effect on the integrity of the habitat.

6. The Dorset Heathlands Special Area of Conservation(SAC) and SPA host protected priority habitats and species typical of lowland heathland, wetlands and dunes. The Dorset Heathlands cover an extensive area which is fragmented by urban development, forestry, agriculture and other land uses. Evidence shows this habitat is under significant pressure from an increasing number of people living nearby. Increased human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
7. The proposal would result in an additional dwelling in the zones of influence of these protected habitats. In turn, future occupants would likely add to the recreational pressures in the area and would increase wastewater in the catchment area. As such, likely significant adverse effects on the integrity of the protected habitats cannot be ruled out. Consequently, an Appropriate Assessment is necessary in this case. The purpose of the assessment is to ascertain whether the proposal would adversely affect the integrity of the areas.
8. The protected habitats are in an unfavourable condition and are sensitive to human activity. The increase of just one new home in the zone of influence, in combination with other plans and projects, would have a likely significant adverse impact on these protected habitats through the increase in wastewater and through the recreational activities of future occupants of the dwelling. As such this proposal would have a significant adverse impact on the protected habitats.
9. Councils, in consultation with NE, have devised an approach to enable development through the implementation of measures to avoid likely visitor effects on Poole Harbour SPA. The mitigation strategy comprises Strategic Access, Management and Monitoring (SAMM), and Poole Harbour Infrastructure Projects (PHIPs).
10. SAMM contributions secure the costs of helping local people to behave in ways less harmful to Poole Harbour. This is through raising awareness of the issues and value of the harbour and delivering education programmes. The SAMM funds also pay for the ongoing monitoring and the effects of new development and whether this strategy is effective.
11. A strategy for avoidance and mitigation within five kilometres of the Dorset Heathland has also been agreed. This includes SAMM and Heathland Infrastructure Projects (HIPs). SAMM contributions goes towards day-to-day costs of helping local people to alter harmful behaviour by raising awareness, employing wardens to manage visitor pressures and delivering education programmes. SAMM funds also pay for the ongoing monitoring of a sample of heathlands and the effects of new development and whether this strategy is effective.
12. Contributions to fund PHIPs and HIPs will generally be made through Community Infrastructure Levy (CIL) payments. However, financial contributions to the SAMMs will be secured by legal agreements prior to gaining planning permission.
13. The Council has calculated the required SAMMs contribution to mitigate the harmful impacts of this proposal and the appellant has indicated a willingness to make this financial contribution. Be this as it may, while draft heads of terms

have been provided, a legal agreement has not been submitted through this appeal process. Without a completed legal agreement, as the competent authority in this matter, I have no certainty that the mitigation required to address the adverse impacts of this development would be secured. Without this certainty I am unable to conclude that this proposal would not have an adverse impact on the protected habitats.

14. Councils within the zone of influence for Poole Harbour SPA have agreed mitigation measures to ensure new development is nitrate neutral. In respect of smaller developments, nitrate mitigation will be secured through CIL payments. Funds secured this way will be used to monitor the amount of new development and will be spent on securing projects to provide nitrogen neutrality.
15. This aside, without mitigation this proposal would harmfully impact on the water and heathland habitats. While some of the required mitigation could be secured by CIL payments, without a legal agreement, I have no certainty that financial contributions to SAMMS would be secured.
16. Consequently, in the absence of this certainty, I find that this proposal would have a significant adverse impact on the integrity of protected habitats, in combination with other plans and projects. In this regard the proposal would not accord with Policy PP32 and PP39 of the Poole Local Plan (Local Plan). These Policies collectively state that development will only be permitted where it would not lead to an adverse effect upon the integrity, either alone or in combination, directly or indirectly, on nationally, European and internationally important sites.

Character and Appearance

17. The appeal site is the side garden of No 187 and is in a large residential estate. No 187 is one of paired dwellings in a corner location, at a crossroads. The wider estate comprises a mix of detached, semis and terraced dwellings, which address the street. Dwellings are set in a linear pattern, with gardens to the rear. Despite some variation, the estate has coherency resulting from the traditional suburban quality of the built form and the distinct linear pattern of development. These features positively characterise the area.
18. The proposed dwelling would extend the built form close to the side boundary of No 187. The primary frontage of the proposed dwelling would address the street, and its front building line would largely match existing properties on this section of Churchill Road. The layout of the proposed plot would be linear, with a reasonable outside space to the front and rear of the dwelling. As such the proposal would be in keeping with the prevailing pattern of development in this area.
19. Also, the proposed hipped form would be sensitive to the appearance of the existing paired dwellings. This form would also ensure that a degree of symmetry would be maintained at these properties. Moreover, creating a short terrace would not be out of keeping in this existing mixed street scene. In these regards the proposal would preserve the distinct character of the area.
20. The dwellings at No 187 and 36 Southill Road neighbour four properties on Sunnyside Road. However, the primary frontages of Nos 187 and 36 are on different streets so that only the side of these properties align with dwellings

- on Sunnyside Road. As such extending the built form at the appeal site would not harmfully disrupt the existing common front building line of the four properties on Sunnyside Road.
21. Also, the proposed dwelling would be separated from 10 Sunnyside Road by a road junction. Given this factor and that the road curves slightly at this point, the proposed dwelling would not significantly interrupt the existing consistent front building line observed at properties on this longer section of Sunnyside Road.
22. The proposed dwelling would be built close to the side boundary, and this would differ somewhat from the existing properties in the immediate area. However, I observe this is not an uncommon feature in the wider estate. In any event, the sense of space near the appeal site is largely derived from the crossroads and the proposal would not harmfully encroach on that space. Moreover, the immediate setting of the appeal site is a mix of plot sizes and shapes. With these existing features, this change would be absorbed without harming the positive character of this area.
23. In light of the above, I find that the proposal would not have a harmful effect on the character and appearance of the area. In this regard the proposal would not conflict with Policies PP27 and PP28 of the Local Plan. These Policies collectively state that a good standard of design is required in all new developments and, in respect of plot sub-divisions, proposals will only be permitted where there is sufficient land to enable a type, scale and layout of development ...which would preserve or enhance the area's residential character.
24. In respect of this matter, the proposal would also be consistent with the Framework which seeks well designed places.

Planning Balance

25. The Council has raised some concerns about highways and parking, but the evidence suggests that this could be resolved by conditions. The Council has not raised issues about the impact on residents subject to conditions, but I note interested parties' comments on this matter which I would need to address if I had found differently on protected habitat impacts. However, even if I accepted that the proposal would provide satisfactory living conditions for future and existing residents, development should not result in harm. Consequently, these are neutral factors in this case.
26. The proposal would result in an energy efficient, family sized dwelling. It would be in a built-up area, close to a wide range of services and public transport. The new home would contribute to the Government's objective to significantly boost the supply of homes, and this would be an efficient use of land. As a small windfall site, it could be built quickly and there would be economic benefits during the construction phase. Future occupants would also contribute to the local economy. Environmental benefits, with on-site biodiversity net gain and renewable energy measures, could be secured by condition. These matters weigh in favour of the proposal; however, the social, economic and environmental benefits would be limited given the scale of the development.
27. The Council is unable to demonstrate a five-year housing land supply. Therefore, the provisions set out in Paragraph 11 of the Framework are

relevant in this case. This states that decisions should apply a presumption in favour of sustainable development, and where the policies most important for determining the applications are out-of-date, granting permission unless, amongst other matters, the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed.

28. Paragraph 182 of the Framework states that the presumption in favour of sustainable development does not apply where a project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the project will not adversely affect the integrity of the habitats site. I have concluded that there would be an adverse effect on the protected habitats of Poole Harbour and Dorset Heathlands. Therefore, the presumption in favour of sustainable development does not apply in this case.

Conclusion

29. For the reasons stated above and having regard to the development plan, the Framework and other material considerations, the appeal should be dismissed.

A J Sutton

INSPECTOR