



Appeal Decision

Site visit made on 12 December 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2024

Appeal Ref: APP/V1260/W/23/3317596

14 Ravine Road, Bournemouth BH5 2DU

- 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 Mrs Catherine Dawes against the decision of BCP Council.
 - The application Ref 7-2022-9264-C, dated 13 June 2022, was refused by notice dated 1 September 2022.
 - The development proposed is the change of use of annexe to holiday let.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application and the appeal were submitted by Mrs Catherine Dawes. During consideration of the appeal the property was sold. The appellant's agent has confirmed that he is still acting on behalf of Mrs Dawes, and that notice of the appeal has been served upon the new owners of the house. I have determined the appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. Whilst I have had regard to the revised national policy in my decision, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, given the particulars of the case I am satisfied that there is no requirement to seek further comment from the parties on the revised Framework, and that in taking such an approach no party or their cases would be prejudiced.
4. The second reason for refusal was based upon the harm to the Dorset Heathlands habitat sites. These are an extensive network of lowland heaths nationally and internationally protected as a Site of Special Scientific Interest, as a Special Protection Area, Ramsar and Special Area of Conservation. The Council indicated that this reason for refusal could be overcome by the payment of financial contributions for avoidance and mitigation measures for the habitat sites. During the appeal process the appellant provided a Unilateral Undertaking (UU) seeking to secure payment of the required financial contributions.
5. The UU contains a number of corrections and omissions that raise concerns as to whether the document would be effective as a planning obligation. Dates within the document have been crossed out and manually entered, as has the

original planning application number and also the appeal reference, and the witness does not appear to have signed the document. In addition, the appellant is no longer the owner of the property, and the land to which the UU applies has not been identified, neither in the title sheet nor with a plan of the site. In view of these circumstances the UU is flawed, and I am unable to take it into account in reaching my decision.

Main Issues

6. The main issues in this case are firstly, the effect of the change of use upon the living conditions of nearby residents, having particular regard to noise and disturbance; and secondly, the effect upon the integrity of the Dorset Heathlands Special Protection Area, Ramsar site, and Dorset Heaths Special Area of Conservation.

Reasons

Living Conditions

7. 14 Ravine Road (No 14) is a detached house positioned within a residential area comprising mostly two storey detached houses of similar ages and styles. Set back behind similar sized and shaped front gardens, these houses form long lines to either side of the public highway. Most are centrally positioned within their plots, with garages and or drives to one side.
8. Attached to the appeal property is a single storey annexe that has been used as a holiday home. The annexe has a separate front door to the main house and shares the parking spaces that are within the front garden. To the rear of the annexe, part of the house's garden has been fenced off to provide an external seating area. The flank wall of the annexe is along the shared boundary with 16 Ravine Road (No 16), within which there are high-level windows.
9. Given the close proximity of the annexe and its garden to the neighbouring property, the use of this building as holiday accommodation would unacceptably harm the living conditions of nearby residents. The appellant has explained that the use of the accommodation is mostly during the spring and summer seasons, with a maximum of four people within the unit at any one time. Even if the annexe is used on a seasonal basis, the number of daily movements into and out of the property would be much greater and more frequent than would occur with the use of the building as a residential annexe to No 14. Given this and the immediacy of the annexe to the neighbouring property, nearby residents would experience frequent noise and disturbance, and such intrusion would also include when occupiers of the annexe used its garden.
10. Occupiers of the annexe may walk to the beach and other nearby services and facilities. Nevertheless, the premises would be occupied independently of the main house, and as up to four people could use the unit at any one time there would be a significant and concentrated intensification of activity at the property. There would be numerous daily movements, whether by private vehicle or by pedestrians, particularly as occupiers would wish to avail themselves of the local area's attractions. Furthermore, at arrival and departure times, there would be multiple comings and goings into and out of

the property. Given this, local residents would experience frequent and repeated noise and disturbance throughout the day and night.

11. The appellant has provided evidence of local support for the use, including from the occupier of No 16. However, there are windows within the flank wall of the annexe that face into this property, and the garden of the annexe is also very close to the rear elevation of this house. Such a use may not disturb the current occupier of No 16, but it does not follow that future residents would be unconcerned by the noise and disturbance arising from the proximity and intensity of the annexe's use.
12. Suggestions for managing the occupation of the annexe have also been provided by the appellant, including that the owner of the property would live next door and would be present to manage any issues that would arise. The appellant would also be willing to accept a condition restricting the use of the annexe as a holiday let only whilst the owner was resident. However, the Framework requires that conditions must meet a series of tests, including that they are capable of being enforced by the Council. In this instance, the level of monitoring that the Council would need to undertake to protect the living conditions of nearby residents would have to be so frequent that it would be unreasonably onerous, thereby failing the conditions test.
13. Examples of similar cases have been provided by the appellant, including one nearby at 43 Browning Avenue. From the evidence before me, this case refers to the use of an existing detached outbuilding within the rear garden of this property. Unlike the annexe, this outbuilding is set away from nearby houses at the end of the garden and accommodates a mix of uses rather than sole use as holiday accommodation. Of the other comparisons provided, that in Alumdale Road is in a very different part of the town than the appeal proposal and is the last property in a cul-de-sac that borders public open space, whilst that in Grand Avenue is part of a property that is used for flats. Given that there are significant differences between all these cases and the appeal scheme, none form a binding precedent for allowing the appeal.
14. For these reasons, the proposal would unacceptably harm the living conditions of nearby residents, and the conditions suggested by the parties would not overcome this harm. Policy CS28 of the Bournemouth Local Plan Core Strategy (2012) (CS) seeks to grant tourist accommodation, but it does so subject to certain caveats being met including that there should be no unreasonable effects on the amenities of local residents. Given my findings the scheme would fail to accord with this policy, nor with CS Policies CS38 and CS41, that seek amongst other things, to enhance amenities for neighbouring residents, including minimising noise pollution, thereby reflecting objectives of the Framework.

Habitat Sites

15. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of lowland heaths nationally and internationally recognised. These heathlands host priority habitats and species, including birds, lizards and snakes as well as other species typical of lowland heathland, wetlands and dunes. The heathlands are under significant pressure from public access and use, and a net increase in the number of dwellings and occupiers in the area would increase the pressure upon these important sites, and would have a likely significant effect upon their integrity.

16. The Council's Dorset Heathlands Planning Framework Supplementary Planning Document (2020) details a strategy for the avoidance and mitigation of impacts of new residential development upon these important sites, and this includes the increased population arising from tourism accommodation. A contribution is required towards mitigating the impact of additional residents upon the site, including measures to control access, monitoring, and mitigation of the sites, and this reflects the objectives of CS Policy CS33 which seeks amongst other things, that development does not lead to an adverse effect upon the integrity, directly or indirectly, of the Dorset Heathlands international designations.
17. Given the location of the annexe, future occupiers would be likely to impact upon the habitat sites having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) (Regulations) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority.
18. Although the appellant has submitted a UU to provide the mitigation contribution, I have found that it is flawed and it would not secure the required mitigation measures for the habitat sites. Given this, the UU cannot be taken into account in my assessment of the scheme, and in such circumstances, it has not been necessary for me to undertake an Appropriate Assessment, nor consider the matter further. Having regard to this, the scheme would adversely affect the integrity of the Dorset Heathlands habitat sites, and this would be contrary to the Regulations, to objectives of the Framework, and to those of CS Policy CS33.

Conclusion

19. The scheme would cause unacceptable harm to the living conditions of nearby residents, and would adversely impact the integrity of the protected Dorset Heathlands. The suggested conditions would not overcome these harms. The proposal would conflict with the development plan taken as a whole, and there are no considerations that outweigh this conflict. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR