



Appeal Decision

Site visit made on 7 December 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/V1260/W/23/3321187

140-142 Magna Road, Poole BH11 9NB

- 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 C Watts of Foreshore Southern Developments Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/01761/F, dated 22 December 2022, was refused by notice dated 14 February 2023.
 - The development proposed is demolition of the existing garage building and forecourt canopy and construction of two detached houses with associated parking, landscaping and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a completed Unilateral Undertaking (UU) securing a financial contribution towards mitigating the impact of the development upon the Dorset Heath and Poole Harbour international designated sites. I have addressed this in my reasoning below.
3. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. My decision is made in the context of the revised Framework, and I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

4. The main issues are:
 - The effect of the proposal upon the provision of employment land;
 - The effect of the proposed development upon the character and appearance of the area; and
 - The effect upon the integrity of the Dorset Heathlands Special Protection Area (SPA), Ramsar, the Dorset Heaths Special Area of Conservation (SAC) and the Poole Harbour SPA and Ramsar.

Reasons

Provision of employment land

5. The appeal site comprises a garage and workshop located within a predominantly residential area. The site is currently vacant, and based on my

observations at the site visit, it appears that the premises have not been occupied for some time. Although I did not enter the building there were no obvious signs of deterioration.

6. Policy PP16 of the Poole Local Plan (2018) (LP) states that the change of use of isolated employment sites to non-employment uses will be permitted where the site is no longer suitable for continued employment use and the cost of refurbishment or redevelopment for a more appropriate form of employment use would be prohibitive. The policy goes on to set out sequentially preferential alternative uses before housing is permitted.
7. Part 2(b) of LP Policy PP40 sets out that proposals for the change of use on isolated employment sites will need to demonstrate that the existing site is not attractive to future occupiers for its existing use or other permitted uses. To demonstrate this, applicants must provide evidence of full and proper marketing of the site for its existing use at a reasonable value for at least 12 months for sale and for re-let.
8. Since no marketing has been undertaken for the site, the policy criterion has not been met. Given the absence of any marketing and financial evidence, it has not been demonstrated that the existing use of the site is unviable or that the site is not suitable for alternative employment uses. Accordingly, the proposal conflicts with the LP.
9. I appreciate that the proximity of neighbouring houses would have some limitation on the types of uses and activities that would be suitable as well as the configuration of any potential employment redevelopment on the site. Nevertheless, the site is of a size which could support a variety of employment uses including those which could take place close to residential properties and those which could be laid out in such a way so as to minimise disturbance. Furthermore, I have no evidence that the last use resulted in harm. Therefore, I am not persuaded that alternative employment purposes would cause any adverse effects on the living conditions of neighbouring occupiers.
10. I note that there are other units nearby that may well be more suited for starter businesses. However, this does not outweigh the need to justify the loss of an isolated employment site.
11. Consequently, the proposed development would result in the detrimental loss of employment land contrary to LP Policies PP16 and PP40 which, amongst other things, seek to prevent the unjustified loss of employment land.

Character and appearance

12. The garage and workshop sit within a ribbon of existing residential development on the northern side of Magna Road. Whilst properties within the area vary in terms of design, age and height they sit within elongated plots arranged in a distinct linear manner. There is some variety in terms of the exact distance that dwellings are set in from side boundaries and set back behind the road frontage, but this does not alter the prevailing character of spacious linear development. This distinctive pattern contributes significantly to the character of the area.
13. The proposed plots would not be characteristic of plots locally which tend to be deeper. Though the depth of the gardens would not be readily apparent from the street, their small size would nonetheless, be at odds with the prevailing

character of the area. Whilst the proposed amenity space would be usable the lack of plot depth would give the impression of a cramped layout.

14. As a result, the plots would be dominated by built form appearing as cramped and discordant and failing to successfully harmonise with dwellings in the area. The cramped nature of the plots would be readily apparent within private views of neighbouring properties. Owing to their discordant appearance and visibility they would be significantly harmful to the character of the area.
15. I acknowledge that the proposed development would occupy a position consistent with neighbouring dwellings and the frontage comprising a blend of hard and soft landscaping would broadly be in keeping with the appearance of existing dwellings. However, this would not overcome the harm that I have identified in relation to this issue.
16. I acknowledge that the land immediately to the north of Magna Road will change significantly on account of the strategic housing allocation. However, it is apparent that this development would have a tighter urban grain and would not, by and large, alter the established elongated linear pattern of development along the road. Moreover, the proposal would be seen in the context of the Magna Road street scene rather than a modern urban extension. As such, I give this very limited weight in coming to my decision.
17. I conclude that the proposed development would adversely affect the character and appearance of the area contrary to LP Policies PP27 and PP28 which, amongst other things, seek a good standard of design that reflects or enhances local patterns of development including in terms of layout and siting and that the subdivision of plots respects and enhances local character.

Impact upon the Dorset Heath SPA, Ramsar and SAC and Poole Harbour SPA and Ramsar

18. The appeal site lies within close proximity to the Dorset Heathlands SPA, Ramsar site, the Dorset Heaths SAC and the Poole Harbour SPA and Ramsar site.
19. The Dorset Heathlands are an extensive network of lowland heath recognised for their importance for nature conservation. Poole Harbour is a natural harbour which is inhabited by important bird species. As such, both Dorset Heathlands and Poole Harbour are recognised by the Conservation of Habitats and Species Regulations 2017 (the Act) as areas of international importance.
20. Adopting a precautionary principle and without mitigation new residential development is likely to have a significant effect on the sensitive interest features of the habitat sites, from human pressures and increased nitrogen levels either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Act, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA, Ramsar and SAC sites.
21. The Dorset Heathlands Planning Framework Supplementary Planning Document (DHPFSPD) and Poole Harbour Recreation Supplementary Planning Document (HRSPD) provide a strategic mitigation framework to secure the appropriate avoidance or mitigation measures. The documents set out Strategic Access Management and Monitoring Measures which require a mitigation payment per

- residential dwelling from all new development within close proximity to the protected habitat sites.
22. Provided mitigation can be secured, in the form of a developer contribution, it can be concluded proposals would not have an adverse effect on the integrity of the habitat sites from recreational disturbance, when considered either alone or in combination with other proposals.
23. The appellant has submitted a signed and dated UU which commits them to a financial contribution towards measures outlined in the DHPFSPD and the HRSPD. I also understand that the contributions have now been paid to the Council. I am satisfied that the contributions would sufficiently mitigate the development's impact. As such, whilst the development would have a likely significant effect on the integrity of the SPAs, Ramsar Sites and SAC it would be adequately mitigated through monies in the UU.
24. As such, the proposal would accord with LP Policies PP32 and PP39 which, amongst other things, set out that developments will be permitted where it can be ascertained that it would not adversely affect the integrity of nationally, European and internationally important sites.

Other Matters

25. I acknowledge that the proposed development would likely result in a reduction in vehicle movements to and from the site and would provide adequate living conditions for future occupiers with regard to internal space standards and outdoor amenity space. However, these factors would not outweigh the harm that I have identified in respect of the loss of employment land and the character and appearance of the area.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
27. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 77 of the Framework. Consequently, Paragraph 11 d) of the Framework, which is a material consideration of significant weight, is engaged. It states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
28. The Council's housing land supply position is 4.1 years. Therefore, it is evident that there is a pressing need for housing when considering this shortfall.
29. The construction of two dwellings would make a small contribution towards the Council's housing supply. The development would provide jobs, but this would largely be limited to the construction phase. The site is within a short distance of a range of day-to-day services. Future occupants would be able to reach these on foot and by public transport, providing them with transport choice and not an over-reliance on a car. The proposal would help maintain services and facilities locally and it would involve the redevelopment of previously developed land. These are all factors weighing in the scheme's favour.

30. On the other hand, I have found that the proposal would result in the unjustified loss of an employment site and would be harmful to the character and appearance of the area. Even taking into account the objective to promote the effective use of land and to significantly boost the supply of housing the conflict with the most important policies in the development plan carries significant weight. Therefore, the adverse effects of the proposal would significantly and demonstrably outweigh its benefits.
31. Consequently, the presumption in favour of sustainable development does not apply and I have no reason to take a decision other than in accordance with the development plan.

Conclusion

32. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR