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# Appeal Decision

Site visit made on 16 January 2024

**by A J Sutton BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>TH</sup> February 2024**

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**Appeal Ref: APP/V1260/W/23/3319458**

**44 Western Road, Poole BH13 6EU**

- 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 Andrew Wolverson against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref APP/22/00449/F, dated 1 April 2022, was refused by notice dated 5 January 2023.
  - The development proposed is described as 'Erect detached 2 bedroom house.'
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to trees.

## Reasons

3. The appeal site is a relatively small parcel of land at the rear of dwellings and apartments. The land is alongside garages associated with the apartments, but it is also bounded by trees at its rear. These trees provide an appealing verdant contrast with the hardstanding and garages in this immediate area.
4. The wider area is predominately residential with a mix of apartment blocks and individual dwellings. This existing residential development is broken up by communal gardens and trees. The trees are particularly notable, and due to their size, they are visible above even the taller buildings in the area. This is so with the existing trees at the boundary of the appeal site, and as such they appear an attractive feature which positively characterises the wider residential area.
5. It is understood that the appeal site has been used for storage of materials and parking. Be this as it may, this site has few structures such that it appears relatively undeveloped. The proposed development would be modest in scale, but almost half of the site would be filled by the footprint of a dwelling, with much of the remaining plot forming its rear garden.
6. The Arboriculture Impact Assessment states that the important trees would be retained, and the Arboriculture Method Statement outlines measures to protect the trees during construction. Also, plans show the foundations of the dwelling would be raised on piles, the parking space would have a supported frame and services for the dwelling would be outside the Root Protection Area of the trees.

However, even if I accepted that the protective measures would be secured by condition, the rear garden of the proposed dwelling would be substantially overhung by the canopies of the retained trees.

7. The appeal site is described as a vacant plot, and while it is suggested that it is used for parking, it does not currently appear to function as a private garden for any of the existing dwellings. As a consequence of this development the area of land nearest to the trees would become the sole private outside space for the future occupants of the new dwelling. In this regard the pattern of use under the tree canopies would be considerably different from the existing informal use of this space.
8. The dwelling, although small, with two bedrooms, could accommodate a family, and this family could include small children. Even if the trees were regularly checked and well maintained, it is highly probable that the proposed garden would be affected by falling debris. Indeed, the parking space and roof of the proposed dwelling have been designed specifically to address this issue.
9. The trees are of a type such that the debris could include sizeable branches. Moreover, given the concentration of trees, and the extent of canopy coverage, there would be a risk of falling branches in most of the proposed rear garden. As such, future occupants of the dwelling would not feel safe sitting in their garden or allowing children to play in this space. Given these factors, even if future occupants were drawn to the property because of these natural features, the trees would likely be perceived, over time, as hazardous.
10. While these trees are protected by Order, the well-being of future occupants would be a justification for the removal or substantial pruning of the trees if the rear garden was considered to be unsafe to use for its intended purpose. Substantial works to the trees would diminish this existing verdant fringe which currently provides a positive contrast with the garages and hardstanding adjacent to the appeal site. Also, such works would result in a significant erosion of the existing green boundary between the appeal site and the property to the rear. Moreover, tree loss or pruning of the canopies would significantly erode an existing natural feature which distinctly characterises the wider street scene.
11. It is stated that the existing ground conditions are poor and that this would be improved and safeguarded through the development. However, the benefit of this would be severely countered when there is pressure to remove or reduce the trees in the long term. I attach limited weight to this matter for this reason.
12. Soft landscaping could be improved at the site, and this could be secured by condition. However, this is a limited space such that improved landscaping could not compensate for the significant loss of existing sizeable natural features during the lifetime of the development.
13. There is some support for the development, but this is subject to the protection of trees. The Design and Access Statement and submitted evidence demonstrates thought and some innovation in the design of the proposal. The appearance of the dwelling would be interesting, and the materials used would be sensitive to this sylvan environment. However, even if I accept that the dwelling is well designed, any benefit that the appearance of the dwelling would have on the site would be considerably countered by the harmful visual

impact of losing existing natural features that are important to the character of the area.

14. Existing properties in this vicinity are close to trees. However, trees near the appeal site are generally associated with spacious communal grounds of apartments or do not dominate gardens of dwellings in the manner that would arise in this case. Moreover, individual dwellings in the wider Branksome Park area generally have larger plots than the appeal site. In any event, development elsewhere should not justify harmful development at this site.
15. Also, it is asserted that the Council's comments relating to trees are made without visiting the site. This may be so, but as already outlined I have found harm in respect of this issue. My findings are not altered by these matters for the reasons stated.
16. In light of the above, I find that the proposal would have a significant harmful effect on the character and appearance of the area, with particular regard to trees. In this respect, the proposal would conflict with Policy PP27 of the Poole Local Plan (Local Plan). This Policy states that development will be permitted provided that it, amongst other matters, responds to natural features on the site and does not result in the loss of trees that make a significant contribution, either individually or cumulatively, to the character and local climate of the area.

### **Planning Balance and Other Matters**

17. The Council is unable to demonstrate a 5 year housing land supply and there is a significant shortfall of 423 homes. Therefore, the provisions set out in Paragraph 11 of the National Planning Policy Framework - December 2023 (the Framework) are relevant in this appeal.
18. I find no harm with regards future occupants' living conditions, in terms of privacy, internal space and light. Also, the Council has not raised concerns about impact on neighbouring residents and highways, subject to conditions. However, this should be expected for all development, and these are therefore neutral factors.
19. The proposal would make a valuable but small contribution to the much needed supply of homes in this area. There is no dispute about the principle of this use in this location, which is a built-up area with local services and is well related to public transport. As a small windfall site, the proposal could be developed quickly. There would be economic benefits through the construction phase and future occupants would support local services. The dwelling could be energy efficient, and the development could include sustainable drainage and result in a biodiversity net gain. Such matters could be secured by condition. These social, economic and environmental benefits would be limited given the scale of the proposal.
20. Set against these benefits is the identified harm to valued trees through the lifetime of the development. The Framework states that trees make an important contribution to the character and quality of urban environments and that planning decisions should ensure, amongst other matters, existing trees are retained wherever possible. Policy PP27 of the Local Plan generally accords with this provision of the Framework.

21. I have found that the proposal would not safeguard the trees at the site and in turn this would fail to maintain the prevailing character in this area. The proposal would not be a good design in this respect. Moreover, the benefit of proposed landscaping would not address this identified harm and improvements to ground conditions would be countered by the increased risk to the trees resulting from the development. For this reason, the proposal would not be an effective or efficient use of under-utilised land, nor would the site be suitable for this development.
22. Consequently, the adverse impacts on the character of the area identified in this case would significantly and demonstrably outweigh the limited benefits of this proposal, when assessed against the policies of the Framework taken as a whole. This would be so even when considering the benefits collectively. Therefore, the presumption in favour of sustainable development does not apply in this case.
23. The appeal property is in the zone of influence (ZoI) for the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation and the Poole Harbour SPA. These protected habitats support a range of rare birds and evidence has found that they are in unfavourable condition as a result of human activities, including from recreational pressure and increased nutrients in riverine environments. Natural England states that any net increase in residential units in the ZoI would result in likely significant adverse impacts on these habitats, either alone or in combination with other projects.
24. This proposal would result in a net gain in residential units and therefore likely significant adverse impacts cannot be ruled out. A legal agreement which seeks to address the requirements of Policies PP32 and PP39 of the Local Plan has been submitted. However, as I am dismissing on other grounds, it is not necessary to consider this matter further in this appeal.
25. Local policies and guidance that are not in dispute have been highlighted. However, I have found significant harm in respect of character and conflict with the development plan when read as a whole.

### **Conclusion**

26. 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