



Appeal Decision

Site visit made on 7 February 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/V1260/W/23/3324394

Land to the rear of 22 Bond Road, Poole BH15 3RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Derrick Morris against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/23/00067/P, dated 9 January 2023, was refused by notice dated 12 May 2023.
 - The development proposed is outline permission for a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis, treating the relevant plans as illustrative.
3. Although matters related to Access are not being sought, the notice of decision includes a reason for refusal related to the proposal intensifying traffic movements along an unsuitable access route resulting in significant increased highway safety dangers. In light of paragraph 5 (3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 stating that 'Where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development will be situated', and given that these details are shown on the Location Plan, I am satisfied that I can deal with this matter as part of the appeal.
4. During the course of the appeal an updated version of The National Planning Policy Framework (the Framework) was published. In light of this, both parties were given the opportunity to comment on any implications for the appeal. I have taken the responses into account.

Main Issues

5. The main issues are:
 - the effect of the proposal on highway safety, with particular regard to increased traffic movements along the access route to the site,
 - the effect of the proposal on trees within and adjoining the site, and
 - the effect of the proposal on nationally and internationally protected sites.

Reasons

Highway safety

6. The appeal site is located to the rear of numbers 20, 22 and 24 Bond Road and is accessed via a narrow driveway from Bond Road which serves the rear of residential properties fronting Ringwood Road and Bond Road. At its junction with Bond Road, the driveway access is narrow such that it can only accommodate one vehicle. At this point the access is bounded by high fencing, access gates and a wall. Beyond this point there is a further high fence to the rear of number 124 Ringwood Road. This is followed by a widened area that facilitates parking off the lane after which the access turns and continues in a narrow form for a short length to the appeal site. The full length of the access has a generally uneven surface with no dedicated footpath and no dedicated lighting. At the time of my site visit, cars were parked on Bond Road either side of the access.
7. The site has been the subject of a number of previous planning applications and appeals, including appeal decisions in 2017¹ and 2018². Both appeals were for substantially similar proposals to the current development. In those cases, the decisions state that the increased use of the access track would be detrimental to highway safety due to increased vehicular and pedestrian conflicts.
8. The appellant states that off-street parking is not necessary as future occupants can utilise on-street parking to Bond Road, and I note that the Council agree that there is adequate on-street parking available on Bond Road to serve the development. Although there were cars parked either side of the access and at the eastern end of Bond Road at the time of my site visit, there was ample on-street parking available further along the road. As a result, I have no reason to disagree that there is on-street parking available to serve the dwelling. Nonetheless, given the distance from the appeal site to the likely available on-street parking spaces, I concur with the views of the previous Inspector for the 2018 appeal and the Council that there would still be a reasonable likelihood that vehicles would seek to gain access to the proposed dwelling via the narrow access track.
9. Similar to the appeals in 2017 and 2018, the appellant states that the site benefits from an allotment use which results in pedestrian and vehicular access to the site. I note the extent of the use of the site as an allotment is disputed by the Council and some local residents. While the evidence from the appellant demonstrates some very limited allotment use of a small part of the site, I have not been provided with detailed evidence of the frequency of its use or frequency of associated vehicular and pedestrian trips.
10. Given the limited allotment use of the site that would likely vary according to the time of year and given that the use of the site for a number of allotments has been discussed since 2017 with little evidence of this materialising, I have not been provided with compelling evidence demonstrating that the level of usage to date results in comparable, or greater traffic impacts compared to the proposed development that would require access at all times of the day and year. Moreover, for similar reasons I am not convinced that there is a

¹ APP/Q1255/W/16/3146348

² APP/Q1255/W/17/3174848

reasonable prospect of an increased use of the site as a number of allotments being anything other than a theoretical possibility.

11. As with the appeal in 2018, the appellant suggests that a vehicle proof barrier could be installed at the junction with Bond Road to prevent access with lighting provided to the lane. The appeal is not accompanied by details in respect of how a barrier would be operated, or any details of locations and specifications for the lighting. Such details are crucial given the number of dwellings accessing the lane with established vehicular and pedestrian rights along it and the position of lighting potentially narrowing the lane further and potential for lighting neighbouring properties. I am not therefore persuaded that such measures would be effective or achievable in practice to significantly overcome the resultant risks of increased usage and conflict.
12. I saw at my site visit that the access to the rear of number 118 Ringwood Road now serves a patio, but the gates remain in situ allowing pedestrian and vehicular access to continue or to resume in the future. I acknowledge that number 24 Bond Road benefits from planning permission to replace the rear garage with an outbuilding, but this had not taken place at the time of my site visit and may never take place. As a result, these matters do not demonstrate a significant reduction in possible usage of the access lane to off-set increased usage from the proposed dwelling.
13. I have also been advised that at the time of the previous appeal vehicular parking to the rear of number 124 Ringwood Road was present. At the time of my site visit the rear of number 124 was enclosed by high boundary treatment at the back edge of the lane preventing vehicular access. However, vehicular parking to the rear of number 124 could be re-instated in the future by the removal of the boundary treatment. Moreover, the position of the boundary treatment results in an increased length of fencing adjacent to this part of the lane. As a result, and whilst the removal of the parking to the rear of number 124 may have reduced vehicular movements on this part of the lane, any benefit may be temporary, reduced by the presence of the fencing and would not adequately off-set increased usage of the lane from the proposed dwelling that would require access over a much greater distance.
14. In light of the above, it has not been established that there has been a significant permanent reduction in the number of rear accesses and usage of the lane.
15. In light of the above, and by virtue of the narrow nature of the access, lack of turning space, number of dwellings served, and increased use of the lane, the proposal would be detrimental to highway safety due to increased vehicular and pedestrian conflicts. Such conflicts would result in drivers having to reverse onto Bond Road, where parked vehicles generally restrict visibility significantly increasing the potential for conflict and accidents. This would be the case despite a lack of recorded accidents in the area and the ability to apply less rigid guidelines in such circumstances.
16. The appellant has drawn my attention to a similar access to development approved planning permission to the rear of numbers 42-46 Balston Road³. I took the opportunity to view this access at the time of my site visit. While similar in terms of being a narrow access between properties, Balston Road is a

³ 22/00864/F

cul-de-sac serving limited properties, benefits from a wider splay to the road with parking restrictions across and adjoining it allowing for improved visibility. Moreover, it benefits from greater opportunities for turning, even if passing is not available at both ends. As a result, it is not directly comparable to the appeal proposal. Additionally, the presence of similar accesses to other allotments does not justify the appeal proposal that I must consider on its merits.

17. In conclusion, the proposal would be detrimental to highway safety, with particular regard to increased traffic movements along the access route to the site. As such, the proposal is contrary to Policy PP35 of the Poole Local Plan (November 2018) (LP) which, amongst other things, states that proposals for new development will be required to provide safe access to the highway and create attractive, safe and accessible places and safe, convenient pedestrian and cycle routes.

Trees

18. There are trees close to the rear boundary of the appeal site which are the subject of a Tree Preservation Order⁴. These trees, along with trees to the northwestern boundary of the site make a significant contribution to the verdant character of the area and provide significant canopy cover over the appeal site.
19. Although there are no details of the location for the dwelling as the development is in outline, the appellant advises that there is adequate space within the site to locate a dwelling outside of the canopy spread and root protection areas of the trees within and adjoining the site. Similar arguments were put forward in support of the proposals subject to the two previous appeals on the site. In those cases, it was determined that in the absence of detailed arboricultural information demonstrating no harm to the trees, a precautionary approach was necessary and there was insufficient information available to undertake any meaningful assessment of the likely impact of the development on these trees.
20. The applicant states that in the absence of the position for the dwelling, no meaningful impact assessment upon the trees can be made. However, the arboricultural information would be able to identify those parts of the site where development can and should not take place, and as a result it would demonstrate whether suitable space exists for a dwelling, any associated parking and turning space, and to enable its construction. Such matters are for consideration at this stage to demonstrate whether a dwelling could be provided on the site. As a result, it would not be appropriate to leave such matters to be determined through the imposition of a related condition or at the reserved matters stage.
21. In light of the absence of detailed arboricultural information clearly demonstrating no harm to the trees, given the significant contribution that the combination of the trees to both site boundaries make to the area, and given the extent of canopy cover from the trees, a precautionary approach is again justified.

⁴ TPO 12/1998

22. I have had regard to the extension permitted and constructed to the rear of the dwelling on the adjoining site to the southeast without submission of detailed arboricultural information. However, that proposal was for a relatively small extension within an existing site comprising built development and located further away from the trees forming the northwestern site boundary. As such, it is not directly comparable to the appeal proposal. Moreover, I am required to consider the appeal on its merits.
23. It follows from the above that in the absence of detailed arboricultural information, the proposal fails to demonstrate that it would not have a harmful effect on trees within and adjoining the site. As such, the proposal is contrary to Policy PP27 of the LP which, amongst other things, states that development will be permitted provided that it responds to natural features on the site and does not result in the loss of trees that make a significant contribution to the character of the area.

Effect on nationally and internationally protected sites

24. The site falls within 5km of the Dorset Heathlands which comprises the Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heaths Special Area of Conservation and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes. The site also falls within the catchment area for the Poole Harbour Special Protection Area and Ramsar site.
25. The Special Protection Areas (SPA) and Special Areas of Conservation (SAC) are protected via the Habitats Directive, which is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I am statutorily required to take appropriate steps to conserve biodiversity.
26. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (DHSPD) seeks to secure a financial contribution towards the mitigation of any effects of development within 5km of the Dorset Heathlands on the integrity of the Dorset Heathlands SPA and SAC. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document (2017) (NRSPD) and Poole Harbour Recreation 2019-2024 Supplementary Planning Document (PHSPD) seek to secure financial contributions towards the mitigation of any effects of development from nutrients and recreational activity on the integrity of the Poole Harbour SPA.
27. The Dorset Heathlands are designated in order to safeguard ecology and the habitat upon which various species are reliant. Ecology can be disturbed by recreational activities, predation from domestic pets, and from habitats being unavailable from time to time by consequence. The Poole Harbour SPA is designated in order to protect rare, vulnerable and migratory birds. It identifies that the rare species can be disturbed by recreational activities, including sailing, walking dogs and bait digging along the shoreline. There can be additional effects on the harbour from increasing nitrogen levels from sewage restricting the growth, distribution and variety of food for wading birds.
28. Whilst not a precise correlation, the potential for adverse effects on the SPA and SAC increases with the number of dwellings nearby, including within a wide zone of influence, and therefore the aggregate, or in-combination, implications of a number of smaller developments may be significant.

29. The avoidance or mitigation of effects resulting from increased residential development would be achieved by the provision of alternative greenspace, to redirect those who would have made use of the SPA and SAC recreationally, via associated monitoring and management arrangements and direct and indirect mitigation to address nitrogen levels. The contributions that individual schemes are expected to make in that context are established at a strategic level, such that a proportionate contribution is made in each instance, alongside or in addition to mitigation being funded by Community Infrastructure Levy (CIL) receipts. While CIL receipts from the proposal would go towards nitrogen reduction, the appeal is not accompanied by an appropriate mechanism to secure the necessary financial contributions towards strategic access, management and monitoring of the Poole Harbour SPA and Dorset Heathlands, consistent with the Council's approach.
30. Chapters 4 of the DHSPD and PHSPD indicate the approaches established towards ecological mitigation have been arrived at in conjunction between Dorset Council, Bournemouth, Christchurch and Poole Council and with Natural England, the appropriate nature conservation body under Regulation 63(3). The NRSPD has similarly been arrived at in conjunction with the relevant Council's following publications from Natural England and the Environment Agency. Consequently, in the absence of appropriate financial contributions being secured as part of the appeal, likely significant effects to the ecological integrity of the SPA and SAC would not be avoided.
31. In conclusion, in the absence of the necessary avoidance and mitigation measures in place, secured through planning contributions, the development would have an adverse effect on nationally and internationally protected sites. As a result, the development fails to comply with the Conservation of Habitats and Species Regulations 2017. It is also contrary to Policies PP32 and PP39 of the LP. Amongst other things, these seek to ensure that development will not lead to an adverse effect on the integrity, either alone or in combination, of the Dorset Heathlands and Poole Harbour European and internationally important designations and secure the collection of development contributions to provide some mitigation for European and internationally important sites.

Other Considerations

32. The proposal would develop a brownfield site and result in the benefit from provision of an additional dwelling. However, in light of the small scale of the proposal, the benefits would be limited.
33. The appellant has drawn my attention to a planning application at 49 York Road⁵ but I have very limited information in relation to this appeal to determine if it is directly comparable. In any case I am required to consider the appeal on its merits.
34. It is not a matter of dispute between the parties that the Council cannot currently demonstrate the required supply of deliverable housing sites and I have no reason to take a different view. However, when the proposal is considered relative to paragraph 11 of the Framework it falls under footnote 7. In that respect, I have found that the proposal would have an adverse effect on nationally and internationally protected SPA and SAC sites, which provides a clear reason for refusing the development proposed under paragraph 11 d) i. of

⁵ 22/10067/F

the Framework based on application of its policies in Chapter 15 relating to conserving and enhancing the natural environment. It follows that in such circumstances it is not necessary to go on to assess the proposal against the subsequent paragraph 11 d) ii.

35. The appellant raises concerns regarding the inconsistent approach of the Council, particularly with regard to the need for an arboricultural assessment. However, the Council has clarified its position in relation to their approach.

Conclusion

36. For the reasons given above I conclude that the appeal proposal conflicts with the development plan taken as a whole. There are no material considerations, including the provisions of the Framework, which indicate a decision should be taken other than in accordance with the development plan. As such, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR