



Appeal Decision

Site visit made on 20 February 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2024

Appeal Ref: APP/V1260/W/23/3324419

147A Rosemary Road, Poole BH12 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Shepherd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/22/01616/F.
 - The development proposed is change of use from a garden room and WC to self contained dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, on 19 and 20 December 2023, the Government published its revised National Planning Policy Framework (the Framework). The revisions to the national advice do not have a material bearing on the matters at dispute between the parties in this case. Consequently, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised advice in my determination of the appeal.

Main Issues

3. The main issues are:
 - a) The effect of the development on the character and appearance of the area;
 - b) Whether the development would provide suitable living conditions for future occupiers with regard to internal space, outlook, and privacy;
 - c) The effect of the development on the living conditions of the occupiers of 147A Rosemary Road, with particular regard to privacy, outlook, and outdoor amenity space; and,
 - d) The effect of the development on the integrity of the Dorset Heathlands Special Protection Area (SPA), the Dorset Heaths Special Area of Conservation (SAC), and Poole Harbour SPA.

Reasons

Character and appearance

4. Rosemary Road is a long straight road with detached residential properties on either side. The dwellings are all traditional in appearance, with hipped or

gabled roofs, but there is a considerable diversity in their scale and individual detailing. The main unifying theme that defines the character of the area is the layout of the buildings. They are set back from the road on both sides, behind front gardens and parking areas, on a fairly rigid building line. As a result, the street scene has an orderly and spacious appearance. The back gardens of the dwellings border the rear gardens of the houses beyond, so there is space between the two lines of buildings. This space varies, depending on the alignment of the development to the rear. In the vicinity of the appeal site, the back gardens are generally shorter than many further to the west, but nevertheless, there is still considerable separation from the buildings beyond.

5. In the vicinity of the appeal site, many of the rear gardens accommodate detached outbuildings of varying scale and design. However, they all have a subservient relationship with the frontage dwellings. The building that is subject of this appeal conforms with this pattern. It is visible in the street scene between the frontage buildings, but its simplicity of design, reduced scale, and close proximity to the host dwelling, mean that it assumes the character of a subordinate outbuilding. It is, therefore, an unremarkable feature in the street scene.
6. It is contended that, as the building already exists, and the plot has already been subdivided, its use as a separate dwelling would not alter the character and appearance of the area. However, the evidence indicates that the building was constructed following the grant of a Certificate of Lawfulness for the proposed erection of a detached games room/storage building in the rear garden of 147A Rosemary Road. I have not been provided with any evidence that planning permission has subsequently been granted for a use separate from the overall residential use of No 147A. On the evidence before me, therefore, the effect of allowing this appeal would be the severance of the plot, and the creation of a separate planning unit. Furthermore, it is proposed to add an extension to the building, which would be readily visible in the street scene.
7. The division of the garden of No 147A, to create the plot for the new dwelling, would result in two plots that would be much smaller than is characteristic of the prevailing pattern of development in the area. The building is near to the rear elevation of the existing dwelling and, while this is not an unusual relationship for an ancillary building, as a separate dwelling it would be an uncomfortably close visual relationship. It would also be very close to the rear boundary of the gardens of the houses in Chloe Gardens. As a result, the building, when severed from its host, would have a cramped appearance that would be out of keeping with the generally spacious nature of the surrounding layout of dwellings.
8. As well as enlarging the building, the proposed extension would also result in it having a more overtly residential appearance. Consequently, it would no longer have a subordinate relationship with No 147A, and its presence as a separate dwelling squeezed into the rear garden would be apparent from the road. Whilst I acknowledge that the design of the building would be of a similar character to many of the surrounding bungalows, its siting to the rear of the frontage dwellings, and its confined plot, would mark it out as an anomaly in the street scene.
9. Whilst I saw no other examples of backland residential development in the immediate vicinity of the appeal site, I am mindful that it is a feature of the

wider area. My attention has been drawn to a dwelling to the rear of 84 Rosemary Road, which was allowed following an appeal. However, I saw that, in that case, the host dwelling had a much longer rear garden. Consequently, there is a much greater separation between the frontage dwelling and the new building to the rear, and it does not have the same cramped appearance that would arise from the appeal before me. Similarly, the three houses to the rear of 81/83 Rosemary Road are a considerable distance back from the frontage dwellings, which retain long rear gardens. Neither of these developments are, therefore, comparable with the current proposal, and I saw no other examples of backland development in the surrounding area that has resulted in such small and cramped plots.

10. To conclude on this issue, the enlargement of the building, and the severance of the land to the rear of No 147A, to create a separate dwelling, would result in a cramped form of development that would not reflect the local pattern of development. The proposal would, as a consequence, be contrary to Policies PP27 and PP28 of the Poole Local Plan (2018) (the Local Plan), which seek to ensure a good standard of design in all new developments, and to preserve and enhance the residential character of the surrounding area. The proposal would also fail to achieve the Framework's aim of achieving well-designed and beautiful places.

Living conditions for future occupiers

11. There is no scale or dimensions marked on the proposed floor plans that have been submitted. However, the appellant's evidence states that the internal floorspace of the dwelling would be 41 square metres, which would exceed the minimum required by the Technical housing standards – nationally described space standard¹ (the NDSS). Based on the footprint of the building on the Proposed Site Layout drawing, which is to scale, the appellant's figure for internal space is likely to be accurate. Consequently, I am satisfied that the proposed dwelling would meet the minimum floorspace of 37 square metres specified for a 1-bed 1-person unit as required by the NDSS.
12. Whilst the rooms are not labelled on the submitted floor plans, each of the three habitable spaces would be served by windows looking out of the east and west side elevations of the building. Two of the rooms would be internally connected so that light would be available from both directions. The windows would be a reasonable distance from the boundary fences to either side and, in view of the generally restricted height of the surrounding buildings, they would receive adequate levels of light. For the same reasons, occupants would have an acceptably open outlook from within the building. Consequently, I am satisfied that the proposed dwelling would provide a suitable standard of internal living space for future occupants.
13. The appellant's evidence that 186 square metres of outdoor amenity space would be provided is not contested. Purely in terms of area, this would be sufficient for a one-bedroomed dwelling, and would be comparable with the quantum available to many other gardens in the locality. However, much of this space would comprise a long narrow strip of land between the side walls of 147A and 149 Rosemary Road, which would serve little useful purpose. Consequently, the main useable area of outdoor space would be the area to the west and south of the dwelling, accessed from the patio door in the side

¹ Technical housing standards – nationally described space standard (published 27 March 2015)

elevation. This area is, however, overlooked at close quarters by a dormer window in the rear roofslope of No 147 Rosemary Road. Whilst the evidence indicates that this window serves a stairwell, it does, nevertheless, face the entire useable area of outdoor space from a dominant position. As a result, occupants of the proposed dwelling would have a definite perception of being overlooked.

14. Whilst a degree of overlooking is to be expected in a built-up area, the cramped nature of the proposed plot means that, in this case, the overlooking would be close to the boundary, and there would be no alternative useable space that residents could retreat to for privacy when outdoors. The development would not, therefore, provide suitable living conditions for future occupiers. Consequently, the proposal would be contrary to Policy PP27 of the Local Plan which seeks to ensure that proposals are compatible with surrounding uses and would not result in a harmful impact on the privacy of future occupiers. It would also conflict with the Framework's advice that developments should create places with a high standard of amenity for existing and future users.

Living conditions of occupiers of 147A Rosemary Road

15. The proposed severance of the plot would leave No 147A with a very much reduced area of outdoor amenity space. However, it would be relatively private, and would not be overlooked by occupants of the proposed dwelling. I have not been provided with any guidance or advice relating to minimum areas for outdoor amenity space. The evidence indicates that No 147A is a one-bedroomed dwelling, and on this basis, I find that the modest area that would remain would be of sufficient size for everyday activities such as sitting out, drying washing, and storing waste. Consequently, the occupants would retain a suitable outdoor amenity space.
16. There are two windows in the side elevation of No 147A, which look out over the existing driveway towards No 149. Under the proposed layout, these windows would be almost adjacent to the pedestrian access to the new dwelling at the rear. Residents and visitors would pass very close to these windows when accessing the new dwelling, resulting in significant potential for a loss of privacy to the occupants of No 147A. However, this could be remedied through the provision of a boundary fence above eye level. Such a fence would be close to the windows, so would have an impact on outlook for occupants. However, the windows serve secondary accommodation, and some light and outlook would still be available over the fence. Consequently, the proposals would not result in unacceptable harm to the living conditions of the occupants of 147A, and the proposal would accord with Policy PP27 of the Local Plan in this regard.

Integrity of SPAs and SAC

17. Evidence shows that the SPAs and SAC are under significant pressure from an increase in the level of recreation, and disturbance of bird species, as a result of urban development. The proposal would result in an additional dwelling within the area of influence of these European sites. Whilst the impact of a single dwelling would be small, in cumulation with the 14,200 new homes identified in the Local Plan up to 2033, it has the potential to impact on the integrity of the protected sites, through increased recreational disturbance. In these circumstances, the Conservation of Habitats and Species Regulations

2017 require that an Appropriate Assessment (AA) be carried out, and that permission may only be granted after having ascertained that development will not affect the integrity of the European sites. I have carried out my AA on a proportionate basis with regard to the evidence before me.

18. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document sets out that mitigation for the impacts of development will be delivered through a combination of Heathland Infrastructure Projects (HIPs), and Strategic Access Management and Monitoring (SAMM). The HIPs will generally be funded by the Council using Community Infrastructure Levy receipts, whereas SAMM funding will be through individual contributions from all developments that involve an increase in dwellings. In the case of Poole Harbour SPA, the mitigation strategy is set out in the Poole Harbour Recreation 2019-2024 Supplementary Planning Document, which similarly requires recreational impacts to be mitigated via Infrastructure Projects and SAMMS, through a combination of CIL payments and individual contributions from developments.
19. The Council's decision notice indicates that financial contributions in accordance with the Supplementary Planning Documents would ensure suitable mitigation for the impacts of the proposal. However, there is no legal agreement in place that would secure these payments if I were to allow the appeal. Consequently, there is no mechanism in place to ensure that the increased recreational pressure resulting from the development would be mitigated. Following AA and adopting a precautionary approach, I am therefore unable to conclude that the development would not affect the integrity of the European sites. The proposal would, therefore, be contrary to Policy PP32 of the Local Plan, which seeks to ensure that development does not lead to adverse effects upon the integrity, either alone or in-combination, of European and internationally important sites.

Planning Balance

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission, and therefore appeals, should be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the proposal would result in harm to the character and appearance of the area; the living conditions of future occupants; and the integrity of the European sites. The development would, therefore, be in conflict with Policies PP27, PP28 and PP32 of the Local Plan.
21. It is not disputed that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 77 of the Framework. However, paragraph 188 of the Framework makes it clear that the presumption in favour of sustainable development does not apply where the proposal is likely to have a significant effect on a habitats site, unless an AA has concluded that the plan or project will not adversely affect its integrity. I have been unable to safely conclude that that is the case. Consequently, the approach to decision-taking described in paragraph 11d) of the Framework does not apply.
22. Nevertheless, the benefits of the proposals must be weighed against the harm that I have identified. Paragraph 60 of the Framework seeks to significantly boost the supply of homes. The development would provide an additional dwelling, which would assist with this aim. The site lies within a Sustainable Transport Corridor, where Policy PP2 of the Local Plan indicates that higher

density development is acceptable in principle. Paragraph 70 says great weight should be given to the benefits of using suitable sites within existing settlements for homes. Nevertheless, the provision of a single dwelling would only make a modest contribution to housing supply, so it would be of limited benefit.

23. There would also be benefits to the economy associated with the construction phase of the development, and the future spend by occupants in the local area. However, in view of the small scale of the proposal, the economic benefits would be limited, so carry little weight in my decision.
24. It is suggested that the removal of the present office use of the outbuilding would reduce the amount of activity taking place on the plot, to the benefit of the surrounding residential environment. However, as there is no evidence that an office use, separate from the residential use of No 147A, is lawful, I give no weight to this perceived benefit.
25. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The limited benefits associated with the proposal do not outweigh the conflict that I have found with development plan policies that seek to prevent harm to the character and appearance of the area, the living conditions of future occupants, and the integrity of European sites.

Conclusion

26. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR