



Appeal Decision

Site visit made on 27 February 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2024

Appeal Ref: APP/V1260/W/23/3328484 227 Bournemouth Road, Poole BH14 9HU

- 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 R La Bouchardiere of 227 Bournemouth Road Ltd against the decision of BCP Council.
 - The application Ref APP/22/01691/F, dated 6 December 2022, was refused by notice dated 21 August 2023.
 - The development proposed is full planning application to erect extensions including a new roof, and convert the resultant building from a dwelling (Use Class C3) to 10 bedroom HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr R La Bouchardiere of 227 Bournemouth Road Ltd against BCP Council. This application is the subject of a separate decision.

Main Issues

3. The main issues in this case are: firstly, the impact of the proposal upon the living conditions of nearby residents, with particular regard to light levels and outlook; and secondly, the impact upon the integrity of the Dorset Heathlands habitat sites and upon the Poole Harbour habitat sites.

Reasons

Living Conditions

4. 227 Bournemouth Road (No 227) is close to one end of a line of detached houses that are set back from the highway behind similar sized front gardens. These houses are mostly two storey, with rear gardens that rise gently uphill towards the north. Bounding the appeal site to the east and rear are the gardens of the houses along Ponsonby Road. The appeal property has a deep single storey rear extension, with a detached single storey flat roofed outbuilding positioned at the northern end of the rear garden.
5. The main parties have drawn my attention to two recent appeal decisions relating to the property. One of these appeals was concerned with the erection of an additional two storeys upon the house (appeal ref:

APP/V1260/W/22/3309665). This scheme proposed a vertical extension that would result in a tall, four storey building, much higher than what is proposed within the scheme before me. These substantial differences are such that this dismissed appeal carries limited weight in my determination of the current appeal.

6. The other appeal (ref: APP/V1260/W/23/3316796) was dismissed in August 2023, and this scheme is the same as that before me, in that it proposed extensions to include a new roof and to convert the resultant building to a ten bedroomed house in multiple occupation (HMO). There was a single main issue for this appeal, namely the effect of the proposal upon the integrity of internationally important habitat sites. In coming to a decision, the Inspector assessed representations made by interested parties concerning noise and light, and also the Council's view that the extensions would be at an acceptable distance from neighbouring properties to avoid noise or light conflicts. The previous Inspector found that there was no substantive evidence to disagree with the conclusions of the Council with regard to the impact of the proposal upon the living conditions of nearby residents.
7. The current appeal is the same proposal as that recently dismissed, albeit in addition to habitat sites concerns, the Council have also refused the scheme for its impact upon the living conditions of nearby residents, citing an unacceptable loss of outlook, overshadowing, loss of light, and the creation of an overbearing and oppressive visual impact.
8. The previous Inspector found that the roof and rear extensions would be at an acceptable distance from neighbouring properties. This separation along with the provision of hipped roofs, varying ridge heights, and a shorter depth of projection to the western gable would all serve to reduce the size of the extended building. The scheme would change the outlook for nearby residents, but the design of the extensions and the distances between them and nearby properties would reduce the impact of their mass.
9. Similarly, the design of the extensions and the degree of separation from neighbouring properties would not result in a significant loss of light nor create an unacceptable level of overshadowing. Residents within Ponsonby Road would already experience a degree of overshadowing from the existing dwelling and the detached outbuilding. There is a narrow gap between No 227 and the neighbouring house, 225 Bournemouth Road (No 225) which has a dormer that would provide a view onto the roof of the appeal dwelling. Those using the dormer room would already have an outlook mostly onto the roof of the appeal property, and the proposed hipped roof and modest depth of the rear extension next to No 225 would retain an outlook and light levels for the occupiers of this property.
10. Local residents have raised concerns regarding loss of privacy and increased noise and disturbance due to the intensification of the use of the property. The previous Inspector found that the scheme would not raise potential noise conflicts due to the distances to neighbouring properties. New windows would be installed in the east facing flank wall, but these would serve a landing and ensuite, and the appellant would accept a condition requiring them to be obscure glazed, all of which would serve to minimise the overlooking that could occur. There would be bedrooms and a lounge window within the rear elevation with some loss of privacy to nearby residents. However, most of the

surrounding properties are two storey dwellings, some with rooms in their roofs, and there is already a degree of mutual overlooking occurring, particularly for those residents who live higher up the hillside. Having regard to these circumstances and the distances of separation, the proposal would not unacceptably impact upon the living conditions of nearby residents.

11. For these reasons, including having regard to the findings of the previous Inspector, the scheme would not significantly harm the living conditions of nearby residents. The conditions suggested by the parties would serve to further mitigate the impacts. The proposal would accord with the objectives of Policy PP27 of the Poole Local Plan (2018) (LP). This policy requires, amongst other things, that development is compatible with surrounding uses and would not result in a harmful impact upon the amenity of local residents, thereby reflecting objectives of the National Planning Policy Framework (the Framework) that requires a high standard of amenity.

Habitat Sites

12. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of heaths nationally and internationally recognised and protected. The heathlands are designated as a Site of Special Scientific Interest (SSSI), as a Special Protection Area (SPA), Ramsar and Special Area of Conservation (SAC), as they host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heathland, wetlands and dunes. The appeal site is also near the Poole Harbour SSSI, SPA and Ramsar habitat sites, which are nationally and internationally important for rare, vulnerable, and migratory birds, and their supporting habitats of seagrass, shallow inshore waters, intertidal sediments, saltmarsh, and reedbeds. The heathlands and Poole Harbour are under significant pressure from increased public access and use, and a net increase in the number of dwellings and occupiers in the area would therefore have an adverse effect upon these important habitat sites and species.
13. Given the location of the HMO, future occupiers of the property could visit the habitat sites, and this use would have a significant effect upon the integrity of these protected sites. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment (AA) 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.
14. The Council have produced Supplementary Planning Documents (SPD) (ie the Dorset Heathlands Planning Framework SPD (2020) and the Poole Harbour Recreation SPD (2020)), that detail a strategy for the avoidance and mitigation of impacts of residential development upon these important sites. These require that a contribution is made towards mitigation, access measures and monitoring of the sites.
15. The appellant submitted a draft Unilateral Undertaking (UU) proposing payment for mitigation measures to alleviate the harm to these important sites. However, the UU has neither been dated nor signed. Given this, the UU cannot be relied upon to provide habitat mitigation, and in the absence of any mechanism to mitigate the harm to the Dorset Heathlands and to Poole Harbour, the proposal would adversely affect the integrity of these habitat sites. In

these circumstances it has not been necessary for me to undertake the AA or address the matter further.

16. For these reasons, the proposal would adversely affect the integrity of the Dorset Heathlands and Poole Harbour habitat sites. This would be contrary to objectives of the Framework, to those of LP Policies PP32 and PP39 and to those of the SPDs, which require amongst other things, that development is only permitted where it would not lead to an adverse effect upon the integrity either alone or in combination with other schemes, directly or indirectly, upon nationally and internationally important sites.

Other Matters

17. Local residents have raised a number of matters, including unauthorised works, highway safety and parking. The former would be a matter for the Council to address, and as regards the other concerns, following my findings on the main issues, I have no need to consider them further.
18. The Council's handling of the original application, including the change of recommendation and the failure to comment on the draft legal agreement, are matters of concern to the appellant. Such concerns relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

Planning Balance and Conclusion

19. Although the scheme would not unacceptably harm the living conditions of nearby residents, it would result in significant harm to the integrity of designated habitat sites. The provision of additional residential accommodation in a location near to services and facilities would add to the mix of homes and would be a benefit of the proposal. However, such benefits would not outweigh the significant harm that would arise to the habitat sites.
20. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR