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# Appeal Decision

Site visit made on 25 June 2024

**by S Harley BSc(Hons) M.Phil MRTPI ARICS**

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

**Decision date: 05 July 2024**

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**Appeal Ref: APP/V1260/W/23/3326214**

**Land rear of 24 Fairfield, Christchurch BH23 1QX**

- 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 and Mrs Smith against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref is 8/22/0935/FUL.
  - The development proposed is one new dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal site is within the buffer zone of the protected sites Dorset Heathlands, Dorset Heaths (Purbeck and Wareham) and Studland Dunes Special Protection Area, Ramsar site and Special Areas of Conservation (the protected Dorset Heaths). Waste water generated from the development could affect the water quality of the River Avon Special Area of Conservation (the Avon SAC). Two of the reasons for refusal of the application relate to these matters. I will return to them below.

## Main Issues

3. The main issues are whether or not the site is suitable for a dwelling taking account of whether satisfactory living conditions would be provided for future occupiers of the proposed dwelling, the extent of the site and the relationship with neighbouring properties; and the effect of the proposal on the living conditions of occupiers of nearby dwellings taking particular account of privacy.

## Reasons

Suitability of the site for a dwelling

4. Fairfield is within the defined Christchurch town centre and within walking distance of a wide range of services, facilities and frequent bus services. A dwelling would accord with the settlement hierarchy detailed in Policies KS2, CH2 and KS11 of the Christchurch and East Dorset Core Strategy 2014 (the CS) which provides that, amongst other things, development will be focussed in accessible locations in main settlements, such as Christchurch, that are well-linked to existing communities by walking, cycling and public transport routes.
5. The proposal would make effective use of part of the curtilage of No 24, currently mainly a tarmac area available for parking, whether or not that

amounts to previously developed land as defined by the Glossary to the National Planning Policy Framework (the Framework).

6. Fairfield is a residential cul de sac characterised by a mix of semi-detached and detached houses of varying sizes and traditional design. No 24 is two storey with accommodation in the roof. It is divided into five flats.
7. The proposed single storey bungalow would be some 11-12m from the rear elevation of No 24 and a similar distance from the rear elevations of Nos 22 and 26 Fairfield. The windows and patio doors serving the bungalow and the outdoor space in front of them, would be overlooked from the first floor windows in these properties including from the higher level large rear dormer window at No 24.
8. Future occupiers of the proposed bungalow would have no meaningful privacy inside the dwelling or in its outside space because of the close proximity of many windows. The use of window coverings to achieve any privacy within the dwelling would create gloomy conditions with no satisfactory outlook for future occupiers notwithstanding the proposed velux windows one at least of which would require obscure glazing. Sufficient outdoor amenity space would be provided but, due to the closeness of many overlooking windows, would not provide appropriate private open space for future occupiers of the proposed development.
9. Whilst the spatial strategy encourages higher densities in town centre locations this should not be at the expense of good design. The density of dwellings per hectare is already relatively high on the site compared to most nearby properties. There would be very limited space around three sides of the proposed building and only a very small dwelling could be accommodated. This is indicative of a cramped and contrived form of development for a detached dwelling that would be out of character with the more spacious surroundings.
10. From what I could see outbuildings at nearby properties are smaller than the appeal proposal leaving more open space around the buildings. There may be other high density flats development nearby but, in my experience, these are generally purpose designed rather than trying to fit a detached dwelling behind a former semi-detached house that has been converted to five flats.
11. The design of the proposed bungalow would not be dissimilar to out buildings at nearby properties. Moreover, the building would be well set back from the highway, so would mostly be hidden from public view by existing buildings and the gate at No 24. There would therefore be little harmful effect on the appearance of the street scene. In this respect I find no significant conflict with the other appeal examples cited by the appellants.
12. I conclude the site would not be suitable for a dwelling because satisfactory living conditions would not be provided for future occupiers of the proposed dwelling, and the proposal would result in a cramped and contrived form of development out of character with the more spacious surroundings. These matters together mean the proposal would not amount to good design. Notwithstanding the compliance with the spatial strategy I conclude the site is not suitable for the dwelling proposed in these terms. There would be conflict with Policy HE2 of the CS and Saved Policy H12 of the Borough of Christchurch Local Plan 2001 (the LP) and those principles of the Framework that require

good design and a high standard of amenity for existing and future occupiers of land and buildings.

Living conditions of occupiers of nearby dwellings

13. Existing boundary fences would prevent overlooking of the gardens and ground floor windows of No 24 and neighbouring houses from the proposed bungalow. There would be some potential for looking towards and into first floor windows from the proposed development. However, this would be at an angle and relatively limited. It would not be so material in planning terms as to justify refusal of the proposal.
14. I conclude that the proposal would not have a materially harmful effect on the privacy of occupiers of nearby dwellings. Accordingly there would be no conflict with Policy HE2 of the CS or Saved Policy H12 of the LP in this respect.

### **Other Matters**

15. The protected Dorset Heaths are an extensive network of lowland heath within south-east Dorset that are recognised for their national and international importance for nature conservation. Evidence shows that they are under significant pressure from an increasing number of people living nearby. As population grows, urbanising impacts from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
16. As part of the appeal the appellants have prepared a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990. This provides for the mitigation sought by the Dorset Heaths Planning Framework 2020-2025 Supplementary Planning Document 2020. The contributions have been paid to the Council and the Council has confirmed that this would address the third reason for refusal. However, given my conclusion on the main issue above it is not necessary for me to carry out an Appropriate Assessment or to consider the Undertaking any further.
17. The site falls within the catchment of the Avon SAC, which is a large, lowland river system supporting various aquatic species. There is a known issue with nutrients entering the river and adversely affecting environmental conditions for the qualifying species, with residential development contributing to an increase in phosphates due to foul water discharge.
18. Since the appellants' appeal was submitted the "Phosphates in the River Avon - latest position 30 October 2023" was supplied with the Council's Appeal Statement. This established the position that there is an adverse effect upon the River Avon SAC from phosphates and that the Council did not have the support of Natural England to continue to make a special case for Christchurch Waste Water Treatment Works. Developers are therefore required to demonstrate they have secured suitable phosphate mitigation measures. The Council therefore maintain the fourth reason for refusal of the application. The Statement and Appendix were made available to the appellants but I have seen no responses to them.
19. The appellants suggest that the development is only a small unit, the dwelling would be constructed to the latest Building Regulations Standards and that the surfaced area drains into the sewerage system and therefore already creates waste water which could be reduced by replacing some of the tarmac with a

landscape garden area. No other mitigation has been put forward. No detailed nutrient calculations have been provided.

20. On the basis if the available evidence I cannot confidently conclude that the proposal, in combination with other plans and projects, would not have a severe adverse effect on the integrity of protected habitats of the Avon SAC. Had my conclusion on the main issue above been otherwise I would have sought clarification on these matters. However, in the circumstances it is not necessary or appropriate for me to pursue the matter or to carry out an Appropriate Assessment.
21. The three storey flats development at the former Fairfield Works site would appear to have windows at a greater distance from the site boundaries and other windows than is the case at the appeal site. The rear dormer at No 24 is further away from other windows than would be the case with the proposed bungalow. Neither of these examples lead me to conclude otherwise on the appeal proposal before me.

### **Planning Balance**

22. The appellants have had a significant input into the design and indicate the proposal is for self-build. However, there is no mechanism to ensure this would be the case should circumstances change and I have little evidence about the lack of availability of land to meet the demands for self/custom build housing in the locality. Nor have I seen evidence of personal need that could not be met elsewhere within the existing property. Accordingly, these matters adds relatively little weight in favour of the proposal.
23. The Council indicates in the Officer Report indicates that the supply of deliverable housing land is some 2.7 years which is a considerable shortfall below the expected five years. Housing delivery is well below target such that an Action Plan is required. In these circumstances the presumption in favour of sustainable development at Paragraph 11d) of the Framework, a material consideration, is engaged unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 explains this includes impacts on designated sites such as protected habitats.
24. As set out above I cannot confidently conclude that the proposal, in combination with other plans and projects, would not have a severe adverse effect on the integrity of protected habitats of the Avon SAC. Consequently the so called tilted balance at Paragraph 11d) does not apply.
25. The proposal would provide economic benefits from construction employment and additional spend in the local economy. However, this would be tempered by the small scale of the proposal and therefore attracts relatively small weight as a benefit.
26. The Framework indicates that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The proposal would add a much needed dwelling to the housing stock in an accessible location and, as a ground floor unit, could meet the needs of those with limited mobility. The Framework says that great weight should be given to the benefits of using suitable sites within existing settlements for homes.

27. However, I have found that the site is not a suitable one for a dwelling as it would not provide satisfactory living conditions for future occupiers, would have an unsatisfactory relationship with adjoining properties and would therefore not amount to good design. The support for the proposal in the Framework is countered by the importance it attaches to design as a key aspect of sustainable development and its expectation there should be a high standard amenity for existing users the proposal falls down in both these respects. The harms I have identified outweigh the benefits identified above.

### **Conclusion**

28. In failing to comply with Policies HE2 of the CS and Saved Policy H12 the proposal cannot be said to comply with the development plan taken as a whole. I find insufficient material considerations, including the Framework, to outweigh the conflict with the development plan. For the reasons given above the appeal should be dismissed.

*S Harley*

INSPECTOR