



Appeal Decision

Site visit made on 18 June 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/V1260/W/23/3331432

35A Blake Hill Crescent, Poole BH14 8QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J Munday against Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00829/F.
 - The development proposed is demolition of existing dwelling and the erection of a pair of semi-detached houses with vehicular access and parking.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing dwelling and the erection of a pair of semi-detached houses with vehicular access and parking is refused.

Background and Main Issues

2. During the appeal the Council confirmed that it would have refused planning permission had it retained the power to determine the appeal. The Council have produced an officer report that references six reasons for refusal and the policies of the development plan to which the Council considers there is conflict.
3. The first reason relates to the proposal failing to respect the prevailing pattern of development by reason of the unusually narrow plot size, scale and massing representing an incongruous and cramped development. The second reason relates to harm to the living conditions of neighbouring occupiers by reason of overlooking, loss of privacy and amenity and to the lack of usable outdoor space for occupiers of the proposed development. The third reason states that the proposal fails to provide efficient on-site parking or adequate on-site turning giving rise to highway safety risks. The fourth and fifth reasons relate to the failure to demonstrate no harm to the Dorset Heathlands Special Protection Area and Ramsar Site, Dorset Heath Special Area of Conservation and the Poole Harbour Special Protection Area, Site of Special Scientific Interest and Ramsar site. The sixth reason states that the proposal failed to provide a required biodiversity appraisal. The appellant had an opportunity to respond to the Councils report and reasons in their final comments.
4. In light of the above, the main issues are:
 - the effect of the proposal on the character and appearance of the area;

- the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to loss of privacy and outlook;
- the effect of the proposal on biodiversity;
- the effect of the development on the integrity of European, nationally, and internationally protected sites;
- whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to the provision of outdoor space; and,
- the effect of the proposal on highway safety with particular regard to parking and turning of vehicles.

Reasons

Character and appearance

5. The site is located off Blake Hill Crescent in a predominantly residential area. The residential dwellings within the immediate vicinity of the site comprise predominately detached buildings over two floors with render and brick facing materials under traditional tile pitched roofs set in fairly spacious plots. Further from the site along Blake Hill Crescent and nearby on Furze Hill Drive and Blake Hill Avenue there are a number of modern contemporary dwellings comprising predominantly rendered, timber and glazed elevations under flat roofs that I viewed at the time of my site visit.
6. The existing bungalow on the appeal site is of limited single-storey form occupying a small footprint in a verdant spacious setting. Although it is of little architectural merit, the existing dwelling does appear subservient in the street scene commensurate with the spacious character of residential development in the area.
7. I acknowledge that some plots in the wider area have been sub-divided to provide additional dwellings. However, the appeal site is considerably narrower than the original plots at 22 Blake Hill Avenue and 35 Blake Hill Crescent with No's 50-68 Blake Hill Crescent, that I viewed at the time of my site visit, being large single dwellings retaining plot sizes commensurate to the area. Furthermore, while I recognise that the proposed building has been designed to appear as a single dwelling, and there is no adopted policy specifically precluding semi-detached houses in this street, by reason of the provision of separate garages, entrances and associated activity, the proposal would appear as a pair of semi-detached dwellings contrary to, and failing to preserve, the area's residential character comprising detached dwellings on sizable plots. As a result, it would be contrary to the prevailing pattern of development and appear cramped on the site.
8. In addition, the provision of the dwellings over four floors would be at odds with the immediate area around the appeal site where dwellings are predominantly two-storey in height. Although I acknowledge the provision of three-storey dwellings further along Blake Hill Crescent in particular, these are not clearly viewed in association with the site. Moreover, the four-storey height of the building combined with its flat roof and position close to the side boundary with No.37 Blake Hill Crescent would appear cramped, alien and imposing in relation to No.37 and in relation to the immediate area where

traditional pitched roofs and lower dwelling heights give the area an appearance of large dwellings in spacious plots. This would be the case despite the proposal following the existing staggered set-back building line, retention of its verdant setting and set back upper floor level.

9. I acknowledge that the modern contemporary design of the appeal proposal seeks to take its design cues and materials from other nearby dwellings in the area and seeks to provide architectural interest and to break up its bulk. Nonetheless, these matters do not overcome the harm identified.
10. Taking account of all of the above, I find that the proposal would harm the character and appearance of the surrounding area. The proposed development is therefore contrary to Policies PP27 and PP28 of the Poole Local Plan (November 2018) (PLP). Amongst other things, these require a good standard of design in all new developments, permit development that reflects or enhances local patterns of development and neighbouring buildings and only permit plot severance or plot sub-divisions where there is sufficient land to enable a type, scale and layout of development in a manner which would preserve or enhance the area's residential character. For the same reasons, the proposal would be contrary to the National Planning Policy Framework (the Framework) that seeks to achieve well-designed and beautiful places that are sympathetic to local character.

Living conditions of neighbouring occupiers

11. By reason of the increased height and bulk of the building, the proposal would present larger side elevations to the neighbouring properties at No's 35 and 37 Blake Hill Crescent.
12. The proposed east elevation would be positioned in very close proximity to the side boundary with No.37 Blake Hill Crescent. Due to No.37 being positioned further forward in its plot, the proposed side elevation of the building would extend back from the rear elevation of No.37 at almost its full depth. Due to the position of the proposed building and its increased height, it would present a tall and overbearing elevation to the rear of No.37 and its garden that would extend significantly above the boundary hedge. Furthermore, the presence of windows within the Proposed East Elevation of the upper floors facing No.37, albeit annotated on the proposed plans as being obscure glazed, would result in a perception of being overlooked due to their close position in relation to the rear of No.37 and its garden, and due to their raised positions above No.37.
13. The proposed building would be taller than the existing bungalow and as a result the upper floors of the Proposed West Elevation would be visible from the front of No.35 and from its upper floor balcony. While the landing window, along with the dressing room window at first floor level on the Proposed Floor Plans 02¹ could be conditioned to be obscure glazed if I were minded to allow the appeal, with the window to Bedroom 2 high level, by reason of the provision of glazing at second floor level to the side of Bedroom 4, the proposal would result in the potential for overlooking of the front of No.35. This would result in a subsequent loss of privacy and overlooking of No.35, even acknowledging the position of the access to No.35 and boundary planting between the properties.

¹ Drawing No. 0341/002-02

14. It is unclear from the plans whether the doors from the second floor Stores and Bedroom 2 to the plot closest to No.35 Blake Hill Crescent are proposed to access out onto balcony areas. Should I be minded to allow the appeal, this would require further clarification.
15. It follows from the above that the proposal would harm the living conditions of neighbouring occupiers with particular regard to loss of privacy and outlook. As such, the proposal is contrary to Policy PP27 of the PLP. Amongst other things, this requires a good standard of design in all new developments, would not result in a harmful impact upon amenity for both local residents and future occupiers considering privacy and whether the development is overbearing or oppressive.

Biodiversity

16. The appeal proposal comprises the demolition of the existing dwelling on the site that is set within significant tree planting and a verdant wider setting. The Council have provided evidence of bats being recorded close to the appeal site. In light of this, in the absence of any biodiversity appraisal confirming that bats are not present within the existing building, and in the light of the strict protection afforded to bats, it is not possible for me to determine with any certainty any impact on bats. Therefore, the potential for protected species being present or adversely affected by the development cannot be ruled out.
17. In the absence of an appropriate survey, the imposition of conditions to require mitigation would not be appropriate as there can be no certainty that the mitigation would acceptably address any harm. As it has not been adequately shown that there would be no harm in relation to this issue, then the necessary survey should be undertaken before any planning permissions are granted.
18. For the reasons outlined above, I cannot rule out potentially significant harm to biodiversity on the site. As such, the proposal would not accord with the provisions of Policy PP33 of the PLP. This seeks, amongst other things, measures to avoid, reduce or mitigate disturbance of sensitive wildlife habitat, a biodiversity appraisal to be submitted where there are protected or important species of habitat features within the site, and demonstrate that the development will not result in any adverse impacts and secures a net gain for biodiversity.

Integrity of protected sites

19. The appeal 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 appeal site also falls within close proximity to the Poole Harbour Special Protection Area and Ramsar Site (SPA).
20. 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. 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.

21. 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 Dorset Heathlands and SPA 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.
22. 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.
23. Although the appeal is accompanied by draft Unilateral Undertakings under S.106 of the Town and Country Planning Act 1990 seeking to secure the necessary financial contributions, a signed and dated legal agreement has not been submitted with the appeal. Consequently, in the absence of an appropriate mechanism to secure the financial contributions as part of the appeal, likely significant effects to the ecological integrity of the Dorset Heathlands and SPA would not be avoided.
24. 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 European, 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 PLP. 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.

Living conditions of future occupiers

25. There are a number of significant and very tall trees within the site, particularly close to the western and northern boundaries of the rear amenity space to the existing and proposed dwellings. Due to their scale and positioning within the rear amenity space, the trees provide an attractive verdant setting to the site and would also provide a verdant setting to the proposed dwellings and their rear amenity space. I note that the Council's Tree Officer found the proposal to be acceptable with regard to any impact upon the trees following the submission of an arboricultural report. I have no reason to disagree given the distance of the proposed dwellings from the trees and their canopies.
26. Although the canopies to the trees would shade the rear amenity space to the proposed dwellings, and particularly the dwelling closest to No.35 Blake Hill

Crescent, there would be usable areas immediately to the rear of both plots that are not covered by canopy spread. Moreover, as I observed at my site visit, the canopies of the trees are a significant distance from the ground allowing light into the rear amenity areas making the wider garden usable even though it would be shaded at times of the day.

27. To conclude on this matter, the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to the provision of outdoor space. As such, the proposal would not conflict with Policy PP27 of the PLP that, amongst other things, seeks a good standard of design and ensures development provides satisfactory external amenity space for both new and existing occupiers.

Highway safety

28. The appeal site currently benefits from vehicular access and parking off Blake Hill Crescent. Blake Hill Crescent is a residential road with no parking restrictions close to the site.
29. The appeal proposal comprises ground floor double garages for each of the dwellings, although the Council state that the garages are only wide enough for a single car and likely associated cycle and bin storage. As a result, there would be the potential for cars to park to the front of the garages restricting the available turning space and potentially necessitating the reversing of vehicles onto the road creating a conflict with pedestrians.
30. Nonetheless, even if cars were to be parked to the front of the garages, there would be space within the site to turn vehicles, even if more than one manoeuvre were required to exit the site in a forward gear. Given this and given the low vehicle numbers using the access and site, with vehicles travelling at a low speed, this reduces any likely conflict. In light of the proposed widened access, improved visibility and likely low vehicle speeds and numbers, any manoeuvring onto Blake Hill Crescent would not be to an extent that would lead to harm to highway or pedestrian safety to warrant dismissing the appeal.
31. It therefore follows that I conclude that the proposal would not harm highway safety, with particular regard to parking and turning of vehicles. Accordingly, the appeal scheme would not therefore conflict with Policies PP27 or PP35 of the PLP. Amongst other things, these require a good standard of design, provision of practical parking, and provide safe access to the highway.

Other Considerations

32. I have had regard to the proposal providing benefits from the provision of an additional mix of dwellings in a location accessible to a range of services and facilities, making an efficient use of brownfield land, boosting supply of housing, creating jobs during construction and future residents supporting shops, services and facilities. However, given the small scale of the proposal the benefits are limited.
33. The appellant states that the proposal would provide environmental benefits such as 10% renewable energy sources and sustainable urban drainage. I also note that the proposal would provide suitable rooms sizes, amenities, parking and access for its occupiers. Nonetheless, as these are requirements of local

planning policy and national guidance, they are neutral in my consideration of this appeal.

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 the European, nationally and internationally protected Dorset Heathlands and Poole Harbour SPA, which provides a clear reason for refusing the development proposed under paragraph 11 d) i. of 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.

Conclusion

35. Although I have found no harm with regard to the effect on the living conditions of future occupiers or to highway safety, I have found harm to the character and appearance of the area, the living conditions of neighbouring occupiers and to the integrity of protected sites and to biodiversity. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
36. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR