

Appeal Decision

Site visit made on 30 September 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/V1260/W/23/3328655

1 Plantation Road, Poole BH17 9LL

- 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 A Vincent against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00254/F.
 - The development proposed is described as 'Proposed dwelling'.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr A Vincent against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of the proposed development in the heading above has been taken from the planning application form. While Part E of the appeal form indicates that the description of development has not changed, a different wording has nevertheless been entered. Neither of the main parties have provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
4. The Decision Notice states that planning permission has been both refused and granted and includes both conditions and reasons for refusal. Despite this ambiguity, there is no dispute between the parties that permission was refused.
5. A unilateral undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 has been submitted as part of the appeal to secure a financial contribution towards strategic access, management, and monitoring (SAMMs) to avoid or mitigate against any adverse effect of the development on Poole Harbour and Dorset Heathlands. However, the agreement is in draft form, is undated and is not signed. The Procedural Guide: Planning appeals – England requires the appellant, in cases such as this appeal, to submit an

executed and certified copy of any planning obligation no later than 7 weeks from the start date. It explains that the Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances. I am not aware of any such circumstances in this case.

Main Issues

6. The main issues are:

- a) the effect of the development on the character and appearance of the area;
- b) whether the proposed development would provide satisfactory living conditions for the future occupiers having specific regard to the quantity and layout of the outdoor amenity space; and
- c) the effect on European sites.

Reasons

Character and appearance

- 7. The appeal site, which occupies a corner plot on the inside curve of the road, comprises 1 Plantation Road (No 1) and its garden. The surrounding area is residential in character, including predominantly detached single and 2 storey dwellings of a mix of styles, situated on plots that vary in width. The appeal proposal would see the construction of a single storey bungalow on a triangular parcel of land to the side of the existing property at No 1, which is bound by an existing boundary fence.
- 8. The resulting plot frontage of the new dwelling would be narrower in width than the plot on which the host dwelling sits, as well as its immediate neighbour at 3 Plantation Road. Nonetheless, it would be broadly consistent with that of the other detached dwellings in the vicinity.
- 9. The modest depth of the garden space immediately to the rear of the proposed bungalow would be less than that of the residential properties nearby. However, given the siting of the adjoining dwelling to the rear, set back from the shared boundary, notwithstanding the intervening detached garage, the space between the existing and proposed dwellings would be maintained, so as to retain a sense of separation between the buildings.
- 10. The remaining rear garden to serve No 1 would be of a considerable width and similar in depth to the gardens of the properties to the rear of the site. While the proposal would give rise to a close relationship between the side elevation of the new dwelling and the flank elevation of No 1, the remaining gap between the side elevation and the boundary of the site, which would enable pedestrian access between the buildings, would not be appreciably less than others nearby. Moreover, the proposed footprint and siting of the dwelling is such that the development would preserve a sense of openness adjacent to the highway to the side of the proposed dwelling. Consequently, the proposal would not be significantly at odds with the established pattern of the surrounding residential development.

11. For the foregoing reasons, I conclude that the proposal would not harm the character and appearance of the area. Accordingly, it would not conflict with Policy PP27 of the Poole Local Plan 2018 (PLP), which requires a good standard of design in all new developments, that reflects or enhances local patterns of development and neighbouring buildings in terms of layout and siting, Policy PP28 of the PLP which sets out that plot sub-divisions will only be permitted where there is sufficient land to enable a type, scale and layout of development which would preserve or enhance the area's residential character, and the aims of the National Planning Policy Framework (the Framework) which promote good design.

Living conditions

12. Future occupiers of the proposed dwelling would have access to an outdoor area immediately to the rear of the property as well as a larger area of garden space to the side of the property. This would provide space for the carrying out of the usual outdoor activities associated with a dwelling, such as the drying of clothes or the siting of a table and chairs, as well as space for cycle and bin storage. Given the modest scale of the proposed 2 bedroom dwelling, the amenity space would be of a sufficient size to meet the reasonable expectations of future occupiers of the proposed development.
13. The provision of a boundary fence of similar height to the existing, would ensure the privacy of the outdoor space to the side of the property would not be undermined by virtue of its location adjacent to the highway and footpath. Moreover, the siting and height of the boundary fence in relation to the garden area would not result in an undue sense of closure.
14. As such, I consider that the proposed development would provide satisfactory living conditions for future occupiers having specific regard to the quantity and layout of the outdoor amenity space. In that regard it would not conflict with Policy PP27 of the PLP in so far as it requires a good standard of design that provides satisfactory external amenity space for new occupiers and the aims of the Framework with regard to the creation of places with a high standard of amenity for existing and future users.

European sites

15. The appeal site lies within the Zone of Influence of the Dorset Heathlands Special Protection Area (SPA) and Ramsar site, the Dorset Heaths Special Area of Conservation (SAC) and Poole Harbour SPA and Ramsar site which are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations').
16. There is no dispute that there is potential that additional residents at the appeal site, in combination with other development, could result in adverse effects on the integrity of the SPAs and SAC through additional recreational pressure and that mitigation to avoid adverse impacts on the features for which the sites were designated is required. The Council advise that mitigation in the form of Strategic Access Management and Monitoring (SAMM) in relation to the Dorset Heathland and Poole Harbour, to be funded through developer contributions proportionate to the scale of development proposed, would be sufficient to mitigate potential adverse effects. From the evidence before me, I have no reason to reach a different view.

17. Nonetheless, while the appellant has submitted a planning obligation, this is in draft form and has not been signed. Consequently, there is no mechanism before me to secure the necessary financial contributions and therefore no certainty that the required mitigation would be delivered. Applying the precautionary principle, in the absence of appropriate mitigation being secured, I cannot be certain that the proposal would not give rise to significant adverse effects on the integrity of the SPAs and SAC.
18. The proposal therefore would fail to accord with Policies PP32 of the PLP which sets out that development will only be permitted where it would not lead to an adverse effect upon the integrity, either alone or in-combination, directly or indirectly, on nationally, European and internationally important sites and Policy PP39 of the PLP in relation to the collection of funding from development for infrastructure, and would be contrary to the Habitats Regulations.

Conclusion

19. The proposed development would not harm the character and appearance of the area and would include outdoor amenity space of an appropriate layout and amount to provide satisfactory living conditions for future occupiers. However, considering my findings in relation to designated nature conservation sites, and the subsequent conflict with development plan policies in that regard, the proposal would conflict with the development plan, read as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Moreover, the Habitats Regulations indicate that permission must not be granted.
20. The appeal is therefore dismissed.

E Worley

INSPECTOR