



Appeal Decision

Site visit made on 20 November 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/V1260/W/24/3341335

28 Amethyst Road, Christchurch BH23 3EA

- 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 G Knight against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/23/0740/FUL.
 - The development proposed is described as the construction of two storey, 2 bedroom, semi-detached dwelling house to west flank of existing house with forecourt parking and rear garden and single storey 4m deep rear extension to existing house to form snug, dining and utility area.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted a Unilateral Undertaking (UU) providing a financial contribution towards mitigating the impact of the proposed development upon habitat sites. I have addressed this in my reasoning below.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the River Avon Special Area of Conservation (SAC); and
 - The effect of the proposal upon the Dorset Heathlands Special Protection Area (SPA), Ramsar site and Dorset Heath Special Area of Conservation (SAC).

Reasons

Impact upon the River Avon SAC

4. The appeal site falls within the catchment of the River Avon SAC. It is a large lowland river system that is recognised by the Conservation of Habitats and Species Regulations 2017 (the Act) as an area of international importance for its various aquatic species.
5. The River Avon SAC is in an unfavourable condition due to high levels of nutrients. New residential development has the potential to cause adverse effects either alone or in combination with other developments through discharge, within the river catchment, of additional phosphate and thus potentially harming the water quality of the River Avon SAC.

6. New residential developments are expected to achieve phosphorous neutrality. Notwithstanding the quantum of sanitary accommodation proposed, in the absence of any mitigation measures demonstrated by the appellants, it is likely that there would be a significant effect resulting from the proposed development upon the River Avon SAC.
7. The appellants have made reference to two planning applications which they consider relevant. However, based on the limited evidence before me it appears that they relate to replacement dwellings rather than new houses and do not result in a net increase in dwellings, thus I am not convinced that they are comparable to the scheme before me. In any event every appeal must be considered on its own merits, as I have done. These applications do not lead me to reach a different conclusion on the matter. Nor does the advice from Southampton City Council or the nutrient budget calculator.
8. As such, the proposed development would be contrary to Policy ME1 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (2014) (CS) which, amongst other things, seeks to protect, maintain and enhance the condition of all types of nature conservation sites, habitats and species within their ecological networks including internationally designated sites.

Impact upon the Dorset Heathlands SPA, Ramsar Site and Dorset Heath SAC

9. The appeal site lies within 5km of the Dorset Heathlands SPA, Ramsar site and the Dorset Heath SAC. The Dorset Heathlands are an extensive network of lowland heath recognised for their importance for nature conservation. As such, the Dorset Heathlands are recognised by the Act as an area of international importance.
10. Adopting a precautionary principle and without mitigation new residential development is likely to have a significant effect on the sensitive interest features of the habitat sites, from human pressures and increased nitrogen levels either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Act, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the Dorset Heathlands SPA, Ramsar site and Dorset Heath SAC.
11. The Dorset Heathlands Planning Framework Supplementary Planning Document (SPD) provides a strategic mitigation framework to secure the appropriate avoidance or mitigation measures. The document sets out Strategic Access Management and Monitoring Measures which require a mitigation payment per residential dwelling from all new development within close proximity to the protected habitat sites.
12. Provided mitigation can be secured, in the form of a developer contribution, it can be concluded proposals would not have an adverse effect on the integrity of the habitat sites from recreational disturbance, when considered either alone or in combination with other proposals.
13. I acknowledge that the appellants are amenable to a financial contribution towards mitigating the impact of the proposed development upon the Dorset Heathlands SPA, Ramsar site and Dorset Heath SAC. However, as the submitted UU is not signed or dated it is not legally binding. Given my statutory responsibilities under the Act and taking a precautionary approach, I

find that the absence of a financial contribution towards the Council's mitigation scheme, secured by way of a legal agreement, would result in the scheme having a likely significant adverse effect on the integrity of the Dorset Heathlands SPA, Ramsar site and Dorset Heath SAC.

14. As such, the proposed development would conflict with CS Policy ME2 and the SPD which, amongst other things, seek to protect the Dorset Heathlands from the harmful effects of additional residential development.

Conclusion

15. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR