



Appeal Decision

Site visit made on 19 November 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/V1260/W/24/3340003

593 Blandford Road, Poole BH16 5EB

- 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 S Dickie against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00769/F.
 - The development proposed is change of use of garage to form detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the integrity of the Dorset Heathlands Special Area of Conservation and Special Protection Area and the Poole Harbour Special Protection Area;
 - Whether the proposed dwelling would provide satisfactory living conditions, having regard to outlook;
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on highway safety in the area.

Reasons

Protected Habitats

3. The appeal property is in the zone of influence (ZoI) for the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and the Poole Harbour SPA. Natural England has evidence that these protected habitats are in unfavourable conditions as a result of human activities.
4. This proposal would result in a net gain in residential units and likely significant adverse impacts cannot be ruled out. Under the Conservation of Habitats and Species Regulations 2017 an appropriate assessment is necessary in this case.
5. The Dorset Heaths SAC qualifying features include dry heaths, moor land, fens and oak woodland. These habitats also support damselfly and Great Crested Newts. Habitats of the Heathland SPA support a range of protected bird species, including the ground nesting Nightjars, Woodlark and Dartford Warbler. Poole Harbour SAC

supports a variety of rare birds including Terns, Egrets, Spoonbills and Black-tailed godwit.

6. The conservation objectives for the Harbour and Heathland SPAs include contributing to achieve the aims of the Wild Birds Directive by restoring and maintaining habitats of the qualifying features and the population of qualifying features and their distribution.
7. The Heathland SAC conservation objectives include that the site contributes to achieving the favourable conservation status of its qualifying features. This will be achieved by maintaining or restoring qualifying natural habitats and habitats of species, populations of species, and the distribution of species within the site.
8. Evidence shows that the Dorset Heaths are under significant pressure from urban development. The potential adverse impact on heathland principally arises from human pressures and damage caused by domestic pets. Natural England's evidence shows that the majority of visitors to the heathland live within 5km of the protected site.
9. In respect of Poole Harbour evidence demonstrates that there are two pressures: nitrate pollution and recreational issues. Nitrogen causes the growth of algal mats that restrict the food available for protected birds. The Poole Harbour Nutrient Management Plan identifies a need to reduce nitrogen in the Harbour. The majority of nitrogen is generated by agriculture, but a proportion is from human sewage.
10. Recreational pressures can also have a harmful effect on the Harbour habitats. Activity within the Harbour, such as boating, and on the shoreline, including dog walking, can frighten protected birds.
11. In light of this evidence any net gain of residential units in the ZoI of these habitats would have a significant adverse effect on their qualifying features and risk undermining the conservation objectives. This proposal would result in one additional residential unit within 5 km of the habitats. Future occupants would likely increase recreational pressures, add to air pollution through vehicle emissions and there would be an increase in wastewater and sewage generated at the property. The proposal in these regards would have a significant adverse effect on the integrity of the protected habitats, either alone or in combination with other plans and projects.
12. Policy PP32 of the Poole Local Plan (Local Plan) requires in respect of the Heathland, that new residential development in 400 metres and 5 km of a heath will provide mitigation in accordance with the advice set out in the Dorset Heathlands Planning Framework SPD.
13. For the Harbour habitats, Policy PP32 requires proposals for additional homes will provide mitigation in accordance with advice set out in the Nitrogen Reduction in Poole Harbour SPD. Addressing recreational pressures affecting this habitat, any net increase in homes will provide a contribution to the Strategic Access Management and Monitoring (SAMM) for funding wardens, education and monitoring.
14. Natural England has in recent years updated advice to local authorities on how to address the adverse impacts of development in respect of nutrient emissions. There is an agreed approach on applying nutrient neutrality as a mitigation measure to enable development to proceed as outlined in the Nitrogen Reduction in Poole Harbour SPD.

15. Other SPDs cited in Local Policy identify mitigation measures agreed in consultation with Natural England. Local Policy also clarifies that mitigation will be secured through Community Infrastructure Levy (CIL) or S106 Legal agreements.
16. Regarding nutrients, the SPD states that the burden of removing 75% of the nitrogen from wastewater will fall on water companies. The remaining 25% reduction will be achieved by indirect schemes to convert high nitrogen input land uses to low input. Contributions for this mitigation will be sought at the planning permissions stage. Relevant to this proposal, it is anticipated that the majority of windfall development requiring mitigation will pay CIL, and the Council will use this to deliver the mitigation for those developments.
17. Addressing recreational harms at Poole Harbour, the SPD sets out a 5 year implementation period from 2019-2024 and a two part mitigation strategy. This comprises the SAMM and Poole Harbour Infrastructure Projects (PHIPs). To enable permission for residential proposals within this ZoI, the Harbour SAMMs charge rate of £140 per house will need to be secured by legal agreement. PHIPs costs will vary and are to be funded from CIL.
18. The Heathland strategy for avoidance and mitigation in 400 metres to 5 kilometre of the heath comprises SAMM and Heathland Infrastructure Projects (HIPs). Heathland SAMMs contributions will secure the day to day costs of helping local people to alter harmful behaviour and pay for the ongoing monitoring of a sample of heathlands and the effects of new development. The SAMMs contribution rate of £394 per house is applicable in this district and is to be secured by legal agreement.
19. In respect of this proposal, the officer's report shows higher SAMMs contributions than that outlined above; £485 for the Heathland and £172 towards the Harbour SAMM. However, the SPDs clarify that charges will be adjusted annually to reflect inflation, to ensure that the appropriate level of SAMM can be delivered over the plan period.
20. A legal agreement, in the form of a unilateral undertaking (UU) has been submitted with this appeal. This obligates those with title to the appeal site to make contributions in respect to the Heathland and Harbour SAMMs if planning permission is granted. The UU includes the contributions outlined above.
21. However, the UU is not signed and is therefore incomplete. The appellant has sought to finalise this agreement during this appeal process. However, without a legally sound agreement I have no certainty that the mitigation measures necessary in this case to make this development acceptable in terms of this planning matter have been secured.
22. I am therefore unable to conclude that this proposal would not have a significant adverse effect on the integrity of the Dorset Heathlands Special Area of Conservation and Special Protection Area and the Poole Harbour Special Protection Area. In this regard the proposal would conflict with Policies PP32 and PP39 of the Local Plan.

Living Conditions

23. The only opening serving the sole bedroom in this small dwelling would be rooflights. Although small, these rooflights would be a sufficient source for natural light given the southerly aspect of the dwelling. However, the plans show that the bedroom would have only two rooflights and the third would serve the bathroom. Moreover, these first floor rooms would be enclosed in the eaves, and the rooflights would be high in the slope of the roof. With these features, the outlook from the bedroom

would be extremely limited. This would result in a high sense of enclosure, such that the bedroom would not be a pleasant space for future occupants.

24. This sense of enclosure would continue on the ground floor rooms, which at the rear would only have two small, high and narrow windows, such that any meaningful outlook from this aspect would require the rear door to be open. This door would need to be solid to protect the privacy of occupants and neighbours, and this solidity would add to the feeling of enclosure at the rear of the property. Even when the door is open, the outlook would be over a very small garden with a high boundary fence.
25. The ground floor windows at the front would be a reasonable size, but the outlook from those openings would be of the street such that they may require partial covering to ensure future occupants' privacy. This would reduce the openness from this aspect of the dwelling and in turn this would add to a general unpleasant sense of enclosure throughout the internal space of this small property.
26. With the combined factors outlined above the outlook from the dwelling would be very limited. The sense of enclosure both in and out of the dwelling would make the living space feel oppressive. The resultant dwelling, with a poor outlook, would not offer a reasonable quality of accommodation for future occupants.
27. Attention is drawn to an appeal decision for development at 2b Sandy Lane. That property has a small plot. However, unlike this proposal No 2b is two storeys, and its habitable rooms have good sized windows with reasonable views over gardens and the sky and space above.
28. 24 Border Drive may have rooflights but that dwelling has traditional fenestration at ground level with an outlook over green space on at least two sides. It is not unusual in this area for dwellings to have small gardens and views of high fences. However, the examples cited on Old Bound Road and Allen Road, similar to No 24, have good sized windows on at least two elevations. Also, in all those examples, the dwellings are significantly larger than the unit proposed in this case and their occupants are likely to enjoy a reasonable sense of space. In any event, development elsewhere should not justify harmful living conditions at this property. My findings are unaltered for this reason.
29. The Council has raised concerns that the proposed design would require artificial light to achieve acceptable light levels for future occupants, contrary to Policy 37 of the Local Plan. While the dwelling would not have a good outlook, as outlined above, the proposed windows and orientation of the building would ensure that adequate natural light would reach the habitable rooms of this residential unit.
30. To conclude on this issue, I find that the proposed dwelling would not provide satisfactory living conditions for future occupants having regard to outlook. In this regard the proposal would conflict with Policy PP27 of the Local Plan. This Policy requires, amongst other matters, that development would not result in a harmful impact upon amenity for both local residents and future occupiers.

Character and Appearance

31. The appeal property is part of a small triangle of development which is framed by three roads. Properties fronting this part of Blandford Road generally have a closeknit linear layout and secondary access to rear gardens from Sandy Lane. This is the case with No 593, which has a garage to the rear that is accessed by that lane.

32. The plot sizes are irregular given this triangular pattern and they shorten in length near the junction of Sandy Lane. Some of the properties on Blandford Road have been subdivided which has resulted in additional dwellings immediately to the rear with a frontage on Sandy Lane. This has compounded the variation in plot sizes and the irregular development pattern in this area.
33. The proposal would divide the plot and convert the existing garage to a separate dwelling. The new dwelling would have a small rear garden, and this would leave a modest rear garden for the occupants of No 539. The footprint and mass of the existing garage would be largely unchanged under this scheme. Also, with the exception of a boundary fence between existing No 539 and the new dwelling, the extent of outdoor space at the appeal property would remain largely the same.
34. Each dwelling would have a garden and linear plot form, and by using an existing building, the concentration of development in this part of the street would not significantly increase at the property. With the gardens retained, and in an area where small plots are not uncommon, the development would not appear incongruously cramped in this setting. The proposal in these respects would not harmfully disrupt the prevailing character of the area.
35. Also, the new dwelling would be one and a half storeys. While this would differ from the host property, this would not appear at odds with the mixed style of dwellings that currently characterise this part of Sandy Lane.
36. Consequently, I find that the proposal would not have a harmful effect on the character and appearance of the area. In this regard the proposal would accord with Policies PP27 and PP28 of the Local Plan. These Policies collectively state that development will be permitted provided that, amongst other matters it reflects or enhances local patterns of development and neighbouring buildings.

Highway Safety

37. The National Planning Policy Framework (the Framework) requires that development should only be prevented or refused on highway grounds if there would be unacceptable impact on highway safety.
38. Policy PP35 of the Local Plan states, amongst other matters, that new development will be required to accord with the Parking and Highway Layout in New Development Supplementary Planning Document (SPD). The Council asserts that the existing dwelling has four habitable rooms and therefore, in line with the SPD, requires two off-street parking spaces.
39. This proposal would lead to the loss of a double garage at the rear of No 593. While there is some further space to the side and front of this existing dwelling this is limited such that it only appears to be suitable for one vehicle. Consequently, there would be some convenient off-street parking provision for the occupants of the host dwelling, but this falls short of that required in local guidance.
40. While the SPD states that development should aim to meet the requirements, it goes on to say, that in circumstances where an applicant can demonstrate that a departure from the standards is appropriate, this should be fully justified. This provides some flexibility in this matter. The SPD also indicates an assessment on individual sites of local parking and traffic conditions may be requested, in order to consider the risks to highway safety. While a preferred method of analysis is a parking survey, this is guidance and there is nothing in policy requiring this.

41. This aside, the off-street parking space at the front of No 593 is near to a pedestrian crossing. However, unlike the properties opposite, the access to the space is a few metres south of this crossing. While there are bus stops nearby, these are several metres north of the appeal properties such that vehicles using this off-street parking space would not harmfully interfere with buses stopping for passengers.
42. Vehicles accessing this parking space cross a pavement. However, this part of Blandford Road is straight and wide, and the pavements are a reasonable width, and these features allow good intervisibility between pedestrians and other road users in this area.
43. Also, many of the properties lining this busy road have off-street parking spaces at the front requiring a crossover of pavements for access. As such pedestrian and cyclists in this area are alert to the likelihood of vehicles accessing these spaces and given the good road conditions, other road users have clear sight of vehicles accessing and exiting parking spaces. Moreover, with pedestrian priority markers on the carriageway near the appeal property, occupants using the off-street parking space are compelled to do so with due care, and, with good visibility, such manoeuvres can be conducted without conflict with pedestrians and other road users.
44. There is concern that the loss of the double garage and subdivision of the property would lead to cars being parked on the carriageway, in front of No 593. However, with zig-zag lines denoting no parking, there are already measures in place preventing vehicles, that could potentially harm the flow of traffic on this road, parking in this location.
45. In particular, it is asserted that delivery vans would park at the front, but as already outlined they are prevented from doing this. While this development would result in the loss of the rear access for No 593, the double garage already appears somewhat of visual block to this access. As such it currently appears more convenient for delivery vans to park in the space in front of the neighbouring shops on Blandford Road to access No 593. This proposal would not significantly change that relatively convenient and safe current arrangement.
46. The Council highlight that this is an area of high car ownership. While this may be so, as already stated, although there is limited on-street parking in this immediate area most of the dwellings have some off-street parking provision. It is contended that the proposal would lead to conflict with regards parking in the wider area. In respect of this, reference is made to studies relating to new builds highlighting under provision of parking as giving rise to tensions. While this is not in doubt, the evidence presented does not persuade me that there is a particular under provision of safe parking for dwellings in the vicinity of the appeal property.
47. A shortfall of just one parking space would arise from this development. The resultant increase in parking demand in the area would be very small. Surrounding properties generally have off-street parking spaces, and no compelling evidence has been presented that existing on-street parking is under pressure to the point that the highway conditions are unsafe. Moreover, given the scale of the development any increase on the demand for parking in the wider area would be very limited such that it would not unacceptably alter the existing level of highway safety in this area. On this basis, I find that the justification for not meeting the SPD parking requirement has been demonstrated in this case.
48. In light of the above, I find that the proposal would not have a harmful effect on highway safety in the area. In this regard the proposal would not conflict with

Policies PP27, PP34 and PP35 of the Local Plan. These Policies collectively, amongst other matters, require convenient and practical parking and safe access.

Other Matters and Planning Balance

49. The Council was unable to demonstrate the required housing land supply (HLS) at the time of its original decision. Since that time the HLS has drastically reduced, with the latest position being only 1.6 years against the necessary 4 years. The most recent monitoring information indicates a shortfall of 8,078 homes. This is a critical position such that proposals helping to address this dire shortfall should attract considerable weight.
50. Even a contribution of a single additional dwelling, while small, will be a considerable benefit in such circumstances. As a conversion this development could be delivered quickly, and the small unit would add to the mix and supply of critically needed homes in the district. Also, although the windfall site is on the outer edge of the urban area, it is in a built up area close to local services and some public transport options.
51. These factors weigh in favour of the proposal. I attach substantial weight to the benefits identified in this case given the circumstances outlined above. However, these benefits are countered by the poor living conditions that this dwelling would provide.
52. Moreover, while Paragraph 11 d) of the Framework is triggered given the HLS position, the appropriate assessment concludes that without mitigation, this proposal would have significant adverse effects on the integrity of protected habitats. No mechanism has been submitted that provides certainty the mitigation measures necessary to address this harm can be secured and would be delivered.
53. Paragraph 188 of the Framework states that the presumption in favour of sustainable development does not apply where the plans or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans and projects), unless an appropriate assessment has concluded that a plan and project will not adversely affect the integrity of the habitats site. Accordingly, the application of policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development proposed in this case.
54. The appellant draws attention to a recent appeal in a different district which also had a low HLS figure. However, harm to habitat sites were not identified in that case. That decision is distinctly different in this regard and has not altered my findings.
55. Through this appeal process the Council submitted late evidence stating that the appeal site will be at future risk of tidal flooding. The Council asserts that the application is invalid. However, it validated the application, and this was over a year ago, and I now have an appeal before me. In any event, I share the appellant's frustration that the Council has raised this significant issue at such a late stage, particularly when the appellant's planning statement supporting the application indicated the site is in Flood Zone 2.
56. The Framework states that inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk. The aim of the sequential test is to steer development to areas with the lowest risk of flooding from any source, and the strategic flood risk assessment should be the basis for applying this test.

57. The Framework goes on to state that when determining applications, it should be ensured that flood risk is not increased elsewhere. Applications should be supported by a site specific flood risk assessment for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving, amongst other matters, land identified in a strategic flood risk assessment as being at increased flood risk in future, or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.
58. The proposal is for a change of use from a building for incidental use to a dwelling house and as outlined in the annex to the Framework this is classified as a more vulnerable use. The information submitted does not demonstrate that the above provisions of the Framework have been satisfied in this case. If there were not other grounds to dismiss this appeal this issue would need to be addressed.
59. Reference is made to the Poole Harbour Quay Neighbourhood Plan. However, that Plan covers the tightly drawn area of the Quay. The appeal property is some distance from that area; therefore, the Plan is not relevant in this appeal.

Conclusion

60. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR