



Appeal Decision

Site visit made on 19 November 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/V1260/W/24/3336605

Land to the rear of 22 Bond Road, Poole BH15 3RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Derrick Morris against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00636/P.
 - The development proposed is for a dwelling house to be restricted as a house of multiple occupation by 3-6 residents.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with all matters reserved for future consideration. I have determined the appeal on this basis. Illustrative plans accompany the application and I have paid regard to this information in so far as assessing the principle of development in land use terms.
3. Following determination of the planning application by the Council, the appellant has prepared a Tree Report. I have paid regard to the document in consideration of the appeal and I note that the Council's Tree Officer as commented on its contents. Having regard to the Holborn Studios judgement¹ which follows on from Wheatcroft² I am satisfied that no interested parties have been prejudiced by my approach.
4. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

5. The main issues are:
 - The effect of the proposed development upon highway safety;
 - The impact upon trees; and
 - The effect of the proposal upon the Dorset Heathlands Special Protection Area and Ramsar site and Dorset Heath Special Area of Conservation;

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

Poole Harbour Special Protection Area and Site of Special Scientific Interest and Ramsar site.

Reasons

Highway safety

6. The appeal site is formed of a rectangular parcel of land located behind dwellings that front Bond Road. The site is accessed via an unmade track that serves a number of other dwellings.
7. Occupiers of a House in Multiple Occupation (HMO) are likely to live independently whilst a family are likely to undertake a greater proportion of their day-to-day activities together as a family. An HMO of up to 6 persons would likely result in different and separate comings and goings associated with their independence and own daily routines. These activities would be markedly different and more intensive than that of a single family leading to increased levels of vehicles and pedestrians along the access track.
8. I note that there is sufficient on street parking available on Bond Road for vehicles and some residents and visitors would be content to park on street. That said, the proposed development is likely to increase vehicle movements resulting from residents, visitors and deliveries and who may well seek to park as close to the property as possible leading to instances of indiscriminate and inconsiderate parking taking place along the access. This would result in a significant adverse effect on highway safety.
9. The proposal would also lead to residents and visitors walking along a narrow and uneven track devoid of any lighting. Even taking into account the short distance from Bond Road it would be an uninviting and unsafe environment for pedestrians. Furthermore, given the width of the access, only wide enough for a single vehicle, the proposal would not provide an environment conducive for pedestrians and therefore users of the track would be unduly inconvenienced and potentially endangered by vehicle movements along it thereby undermining highway safety.
10. It is evident from the cars that I saw parked along the access and next to garages, at the time of my site visit, that vehicle movements are taking place along the access. Whilst I note that a number of properties including 118 Ringwood Road and 24 Bond Road no longer use their garages for its original intended use there is nothing substantive before me to indicate that this has reduced usage of the track.
11. The absence of collisions or road traffic accidents in the area and a condition for a barrier preventing access to the site do not alter my conclusion in respect of highway safety.
12. Whilst existing occupiers may well reverse onto the highway this is not justification to allow a development that I have found to be harmful.
13. The appellant contends that a fallback position exists, and the site comprises allotments. However, this is disputed by the Council and some local residents. The appellant has provided some evidence to support his position including correspondence, from 2015, indicating that the existing use of the site is probably a private allotment or allotment gardens. However, there is nothing before me to indicate that the site has been used as such for a continuous

period since the that date nor am I aware that a Certificate of Lawful Development has been issued establishing the use of the site as an allotment.

14. At the time of my visit only a small part of the site was being used for the growing of vegetables and the remainder was uncultivated. My observations are not too dissimilar from the photographic evidence provided by the appellant showing a low-key use and the growing of vegetables on only part of the site. The absence of sheds, watering equipment and other growing paraphernalia also suggests that the use is nothing more than low-key and occasional.
15. The appellant has stated that the site accommodated two allotments this year and that further allotments could be made available. However, this is largely anecdotal evidence and as such I give this aspect of the appellant's argument very limited weight in coming to my decision. Therefore, on the balance of probabilities I cannot say that the site constitutes allotments.
16. Even if I were to accept that this is the case there is no evidence that the land is being cultivated by persons other than the appellant. Nor is there information regarding the frequency of its use or indeed the number of vehicle and pedestrian trips taking place. Taking into account the size of the site and the limited amount of cultivation taking place and accounting for seasonal variations in use I am not persuaded that the traffic movements would be comparable to or more intensive compared to a residential use.
17. As such, the proposed development would unacceptably affect highway safety contrary to Policy PP35 of the Poole Local Plan (2018) (LP) which, amongst other things, requires new development to provide safe access to the highway and safe, convenient pedestrian and cycling routes.

Impact upon trees

18. The appellant's Tree Report identifies an Oak tree, protected by a Tree Preservation Order, in the south west corner of the site. There are also two protected Oak trees in a neighbouring garden. Having regard to the illustrative position of the building the Tree Report indicates that the proposals would be acceptable in relation to trees subject to appropriate methodology and tree protection.
19. I concur with the Council that the trees are prominent features locally and positively contribute to the visual amenity of the area. The crown spread of the tree dominates and overshadows the western part of the site and this is likely to be compounded by the presence of Oak trees in the neighbouring garden.
20. The application has been submitted in outline with all matters reserved. Notwithstanding the illustrative plans, consideration of the layout is reserved for future consideration and the Council would retain control over this element. As such, there is nothing substantive to suggest that an appropriate layout could not be secured at reserved matters stage that takes account of the protected trees and that ensures their long-term health.
21. I conclude that the proposed development would not prejudice the immediate and future health of protected trees inside and outside of the site and would accord with LP Policy PP27 which, amongst other things, requires proposals to respond to natural features on site and do not result in the loss of trees that make a significant contribution to the character of the area.

Impact upon the Dorset Heath SPA, Ramsar and SAC and Poole Harbour SPA and Ramsar

22. The appeal site lies within close proximity to the Dorset Heathlands SPA, Ramsar site, the Dorset Heaths SAC and the Poole Harbour SPA and Ramsar site.
23. The Council's third and fourth reasons for refusal relate to the effect of the development upon the integrity of the SPA, Ramsar and SAC sites. However, as I have found harm in respect of highway safety which is significant enough to dismiss the appeal there is no benefit in me pursuing this matter any further.

Other Matters

24. I have been made aware of the planning history for this site which includes outline planning applications for single dwellings that have been refused by the Council and dismissed on appeal. The scheme before me is for an HMO and a materially different scheme to a single family dwelling as such my attention is focused upon the individual merits and circumstances of the proposal.
25. The appellant has drawn my attention to a development off Balston Road which he considers relevant. Every application and appeal must be considered on its own merits, as I have done. This example does not lead me to reach a different conclusion in respect of this appeal.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, whilst the development plan has primacy in decision making, there are circumstances where by material considerations may indicate that a decision otherwise than in accordance with the development plan should be taken.
27. The Framework is one such material consideration. It states that that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
28. However, paragraph 195 of the Framework indicates that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. For the reasons set out above I have not reached such a conclusion and consequently paragraph 195 applies.

Conclusion

29. Whilst the tilted balance does not apply for the reasons set out above, even if it did, the harm of granting planning permission in respect of highway safety would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
30. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR