



Appeal Decision

Site visit made on 28 January 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Appeal Ref: APP/V1260/W/24/3354733

67 Warburton Road, Poole BH17 8SD

- 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 A and C Shaw of Shawdon Homes Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/24/00677/F.
 - The development proposed is the subdivision of the site and construction of a detached bungalow with associated access, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:-
 - the effect of the scheme upon the character and appearance of the area;
 - the effect upon the living conditions of nearby residents, having particular regard to noise and disturbance; and
 - the effect upon protected habitat sites.

Reasons

Character and Appearance

3. Positioned within a residential estate comprising a mix of houses and bungalows of similar ages and styles, 67 Warburton Road (No 67) is one half of a pair of semi-detached houses. The property has a generous rear garden within which there is a detached garage and outbuilding. Beyond the garden is a woodland. The property to the south is a detached bungalow, which is at a higher level than the rear garden of No 67.
4. The estate has a cohesive character and appearance deriving from the presence of repeated house and bungalow styles along with their construction from a similar palette of materials. This visual harmony is reinforced by the positioning of the dwellings behind similar sized front gardens, thereby creating long and continuous building lines to either side of the road.
5. The proposed bungalow would be positioned to the rear of the garden, to one side of an existing single storey outbuilding. The garden has already been partially lowered and levelled, and the bungalow would thereby be at a lower level than the neighbouring property to the south. Nevertheless, the presence of a bungalow in

such a position would appear discordant as it would be at odds with the cohesive grain of the estate and the repeated characteristic of active relationships of the houses and bungalows with the public highway.

6. Even with the separation away from the neighbouring bungalow, the cramped backland nature of the scheme would be readily apparent, and contrary to the planned character and appearance of the estate. Despite the removal of the existing garage and the presence of a rear and side garden for the bungalow, it would appear constrained within the plot. In part this would be due to the proximity of the building to the rear boundary, but also because it would be very close to the retained outbuilding. Much of the rear garden would comprise buildings, and this would be conspicuous in an area of open rear gardens with ancillary outbuildings. The driveway would provide views of the roof of the bungalow from the road, and there would also be views of the scheme from the public footpaths within the woodlands. It might be that nearby trees would partially screen the bungalow when in leaf, but landscaping cannot be relied upon to screen a development for its life-time, and particularly so in this instance as the nearby trees are not within the control of the appellants.
7. Off-road parking provision for No 67 has not been demonstrated, although it could occur on the existing driveway. Nevertheless, the presence of parking to the front and rear of No 67 would all serve to exaggerate the cramped and constrained nature of the scheme.
8. There are other examples of plot subdivision within the area, including Baldwin Mews which comprises four detached bungalows to the rear of two pairs of semi-detached houses. These homes are within smaller plots than that of the appeal scheme, sharing an access drive, and having parking and turning spaces rather than front gardens. However, they seem to be an exception within the area as there are few if any other implemented backland developments nearby. This is evidenced with the other plot subdivision comparisons provided by the appellants (ie 102 Beamish Road, 22 Beamish Road and 42 Beamish Road). In each case these are to the side of existing dwellings, thereby maintaining the building lines and having a legible relationship with the highway, rather than being backland development. As such these comparisons do not determine approval of the appeal.
9. For these reasons the scheme would unacceptably harm the character and appearance of the area, and the suggested conditions would not overcome these fundamental harms. Although the bungalow would be in a sustainable location as required by Policy PP2 of the Poole Local Plan (2018) (LP), the scheme would be conflict with the requirements of LP Policies PP27 and PP28 as they seek amongst other things, that schemes involving plot sub-division will preserve or enhance the area's residential character so as to reflect or enhance local patterns of development, including with regard to layout, siting and building lines.

Living Conditions

10. Future occupiers of the bungalow would utilise the existing driveway to access their home, with parking and turning provision to the front of the bungalow. Neighbouring residents would be aware of vehicle movements, particularly the occupiers of No 67 as parking and turning would be occurring adjacent to their rear garden. Although a small home and one that has been carefully designed to have

the lounge and kitchen windows facing the rear, future occupiers would generate frequent noise and disturbance through the vehicle movements associated with the comings and goings of a household. Having regard to the proximity of such activity to No 67, it would be intrusive and disruptive. Even with the bungalow being positioned at a lower level, lights from cars would shine into the garden and rear facing windows of No 67. The appellants have suggested a condition to remove permitted development rights so as to maintain privacy. Irrespective of this, the increased activity arising from a separate household would not be mitigated by such measures.

11. The demolition of the existing garage would afford the occupiers of 65 Warburton Road (No 65) views over the drive. However, the provision of a tall fence would provide privacy and minimise the disturbance arising from vehicle movements, particularly as the parking and turning provision would be at a lower level than the neighbouring property. Given this, and that the proposed dwelling and parking would be set away from the shared boundary, the occupiers of No 65 would not experience an undue loss of privacy nor an unacceptable level of noise and disturbance.
12. The scheme would result in unacceptable living conditions for the occupiers of No 67, and the suggested conditions would not overcome these harms. There would be conflict with the requirements of LP Policies PP27 and PP28 as these require, amongst other things, that plot sub-divisions occur where there is sufficient land to accommodate them, being compatible with surrounding uses and not resulting in a harmful impact upon local residents, including with regard to noise and artificial light intrusion.

Habitat Sites

13. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of heaths nationally and internationally recognised and protected. The heathlands are designated as a Site of Special Scientific Interest (SSSI), as a Special Protection Area (SPA), Ramsar, and Special Area of Conservation (SAC), as they host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heathland, wetlands and dunes. The appeal site is also near the Poole Harbour SSSI, SPA and Ramsar habitat sites, which are nationally and internationally important for rare, vulnerable, and migratory birds, and their supporting habitats of seagrass, shallow inshore waters, intertidal sediments, saltmarsh, and reedbeds. The heathlands and Poole Harbour are under significant pressure from increased public access and use, and a net increase in the number of dwellings and occupiers in the area would therefore have an adverse effect upon these important habitat sites and species.
14. Given the location of the bungalow, future occupiers of the property could visit the habitat sites, and this use would have a significant effect upon the integrity of these protected sites. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment (AA) where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to occur with the appeal.
15. The Council has produced Supplementary Planning Documents (SPD) (ie the Dorset Heathlands Planning Framework SPD (2020) and the Poole Harbour Recreation SPD (2020)), that detail a strategy for the avoidance and mitigation of

impacts of residential development upon these important sites. These require that a contribution is made towards mitigation, access measures and monitoring of the sites.

16. A signed and dated Unilateral Undertaking (UU) securing payment for mitigation measures to alleviate the harm to these important sites has been provided for the appeal. The Planning Practice Guidance makes it clear that planning obligations run with the land, and consequently for a UU to be legally sound it needs to identify the site. A plan has been provided with the UU, but it does not accurately locate and thereby illustrate the site. The plan shows a red lined area, but no map base is visible, with only a scatter of numbers and road names present. Consequently, the plan does not clearly and unambiguously identify the site. Furthermore, there were two red lined site areas submitted with the original application and that provided for the UU seems to include the house and garden of No 67. Accordingly, the UU would not be legally sound, and given this, it cannot be relied upon to provide habitat mitigation.
17. In the absence of a mechanism to mitigate the harm to the Dorset Heaths and to Poole Harbour, the scheme would adversely affect the integrity of these protected habitat sites. This would be contrary to objectives of the National Planning Policy Framework (the Framework), and to those of LP Policies PP32 and PP39, which require amongst other things, that development is only permitted where it would not lead to an adverse effect upon the integrity either alone or in combination with other schemes, directly or indirectly, upon nationally and internationally important sites. In such circumstances it has not been necessary to undertake AAs for the habitat sites.

Other Matters

18. The concerns of the appellants regarding the Council's handling of the application, including inconsistency of decision making, relate to procedural matters and have no bearing on the consideration of the merits of the case.

Planning Balance

19. Although there is agreement between the parties that the Council do not have a 5 year housing land supply, there is a discrepancy with regard to the shortfall, with the Council referring to a 4.1 year supply in the Poole area, compared to that of 1.6 years referred to by the appellants.
20. Benefits would arise from the scheme. The single dwelling would be in a sustainable location close to services and facilities, and it would be a small windfall site that would make an efficient use of land. These would be important, albeit modest benefits. There would be modest economic benefits arising from the future spend of residents and the time-limited construction benefits.
21. Irrespective of the housing land supply position and the benefits of the scheme, whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The Framework makes it clear that where there are protected areas and assets impacted by a scheme, and this includes habitat sites as is the case with this appeal, then the harm to them provides a strong reason for refusing the development.

Conclusion

22. For the above reasons the adverse impacts arising from the scheme would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these harms. The scheme would conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR