



Appeal Decision

Site visit made on 4 February 2025

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

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/V1260/W/24/3355871

81 Uppleby Road, Poole BH12 3DD

- 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 Mrs Ancy Korah against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/24/00887/F.
 - The development proposed is to divide and sever the plot and erect a new dwelling.
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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 future occupiers, having particular regard to outdoor space;
 - the effect upon protected habitat sites; and
 - whether the scheme would make appropriate provision for biodiversity.

Reasons

Character and Appearance

3. Positioned upon a hillside within a mostly residential area, the appeal site comprises part of the rear garden of 81 Uppleby Road (No 81). This detached house occupies the corner formed by the junction of Uppleby Road with Eastlake Avenue, and it has a deep rear garden that stretches uphill. There is a tall timber fence separating this garden from the public highway, with timber gates providing access to a short drive at the end of the garden.
4. The area comprises a variety of ages and styles of houses and bungalows, many of which are detached, and most being two-storeys or less in height. A distinctive and repeated characteristic is the positioning of the dwellings within their plots. The set back of the houses and bungalows behind similarly sized, regularly shaped front gardens provides long building lines that frame either side of the public highway. This, along with the repeated presence of similar sized plots and the long straight roads, creates a distinctive cohesion to the area.

5. The proposed two storey detached house would be positioned close to the end of the rear garden of No 81, and would be of a similar size and palette of materials to the nearby houses. Although set back from the public footway behind a parking space, the position of the house would neither harmonise with that of the host dwelling nor with that of the neighbouring property to the west. The house would be a harmfully intrusive addition to the area as it would disrupt the long continuity of the building line that exists to the southern side of Eastlake Avenue. This disruptive appearance would be particularly apparent given the position of the house at one end of the row of dwellings that have repeated, similar relationships to the public highway.
6. Furthermore, the dwelling would dominate its plot, being closely positioned to its rear and one side boundary, as well as being nearer to the public highway than any of the other dwellings fronting Eastlake Avenue. Parking provision would serve to separate the dwelling from that to the west, but in doing so the external garden space would be either narrow strips or a small, concentrated area to the rear of the parking. The provision of tall boundary treatments would further enclose and thereby exaggerate the constrained appearance of the dwelling. The position of the house upon a steeply sloping hillside would result in its constrained, cramped nature being conspicuously apparent, including from long distances away when viewed from lower down the hillside.
7. The appellant has provided other examples of nearby sub-divided plots. However, both the houses at 16 and 23 Crest Road have been positioned to maintain the building lines that exist along the road. In addition, they both have deeper plots and rear gardens than has been proposed with the appeal scheme, and this depth is visible from public views. As such the houses do not have the same incongruously cramped appearance as that proposed, and consequently they do not form a binding precedent for allowing the appeal.
8. 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. There would be conflict with Policies PP27 and PP28 of the Poole Local Plan (2018) (LP) as these seek, amongst other things, that plot severance can be accommodated in a manner that preserves or enhances an area's residential character, and that development reflects or enhances local patterns of development and neighbouring buildings in terms of layout, siting, building lines, and built site coverage.

Living Conditions

9. Although of a similar height and size as the houses to the west, the proposed house along with its parking provision would dominate its plot, and its small rear and side gardens would be bounded by tall fences. Future occupiers would only have a limited and constrained usable space for day-to-day external activities. Narrow strips of garden to the side and rear would provide a means of access only, whilst the small area to the rear of the parking area would be oppressively enclosed by high fences and walls. There may be space for outside seating, but this would be limited and also oppressive due to the proximity of tall walls and fences. Such fences and the design of the scheme would provide privacy for future occupiers and nearby residents, but through achieving this, all the external space would be overshadowed, with users receiving little, if any direct sunlight.

10. Thus, the scheme would thereby provide future occupiers with unacceptable living conditions with regard to external space. This would be contrary to the requirements of LP Policies PP27 and PP28 as they require development to provide usable amenity space, and not to result in a harmful impact upon amenity for future occupiers.

Habitat Sites

11. 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.
12. Given the location of the house, 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) (the Regulations) 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.
13. 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.
14. The appellant has suggested that conditions or a legal agreement could be provided if this matter was the only reason for dismissing the appeal. Irrespective of the intentions of the appellant, no means to secure avoidance and mitigation measures has been provided. Without such measures the scheme would adversely affect the integrity of these important habitat sites, contrary to the above referenced Regulations, and to 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, with secured provision prioritising the mitigation of internationally protected species. In such circumstances it is not necessary to undertake the AAs and give further consideration of the likely effectiveness of mitigation measures.

Biodiversity

15. Under the requirements of the Natural Environment and Rural Communities Act 2006 (as amended) there is a duty that every public body must have regard to the

purpose of conserving biodiversity. LP Policy PP33 requires new development to secure a net gain in biodiversity, objectives that reflect those within the National Planning Policy Framework (the Framework).

16. Although the appellant has suggested a condition or legal agreement could meet these objectives, no agreement has been provided, nor has a condition been suggested. Furthermore, the small size of the plot and the dominance of built form and hard landscaping would preclude onsite provision of measures to provide a net gain in biodiversity. Consequently, the scheme would be contrary to the requirements of LP Policy PP33 and those of the Framework, as the scheme would fail to provide a net gain in biodiversity.

Other Matters

17. Local residents have raised a number of matters, including increased pressure upon sewers and drains. However, following the findings on the main issues, there is no need to consider these further.

Planning Balance

18. The Council cannot demonstrate a 5-year housing land supply, and an additional family home would make a small but important contribution to supply given the level of shortfall of provision in the Council's area (at about 4.1 years). Benefits arising from the scheme would include the provision of a dwelling on a windfall site that would make an efficient use of land. Notwithstanding these benefits, 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. This is because the Framework makes it clear that where there are protected areas and assets impacted by a scheme, and this includes habitats sites as is the situation with this case, then the harm to them provides a strong reason for refusing the development.

Conclusion

19. There would be 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