



Appeal Decision

Site visit made on 4 March 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/V1260/W/24/3348742

Land rear of 75 and 77 Creekmoor Lane, Poole BH17 7BW

- 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 White against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/24/00208/F.
 - The development proposed is to erect new build detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) The effect of the development on the character and appearance of the area, including its impact on a mature tree; and,
 - b) The impact of the development on the Dorset Heathlands Special Protection Area (the DHSPA), the Dorset Heaths Special Area of Conservation (the DHSAC), and the Poole Harbour Special Protection Area (the PHSPA).

Reasons

Character and appearance

3. The appeal site comprises a piece of largely disused land that lies between the rear garden boundaries of dwellings that front Borley Road, Creekmoor Lane, and Benmoor Road. It is in a mainly residential area, with a diverse mixture of buildings. Although the dwellings generally follow the alignment of the roads, they vary in scale, design, spacing, boundary treatment and set back from the highway, such that there is no distinctive pattern or rhythm to the street scene.
4. The combined space behind the dwellings, formed by the rear gardens and the appeal site, is evident in views between the frontage buildings, and particularly across the carpark of the doctor's surgery in Borley Road. This area contains a range of domestic outbuildings, so it is not entirely open. There is also little apparent order to the layout of the surrounding houses, and it is largely enclosed at low level by a range of domestic fences and walls. Therefore, the space between the buildings is not, of itself, a notable feature. However, it does accommodate some mature trees, which provide an important softening and screening function between the buildings, thus contributing positively to the appearance of the area.

5. The proposed single storey dwelling would be set well back from any of the surrounding roads, and would be hidden from view from most directions by the frontage buildings. However, it would be readily visible from Borley Road across the surgery carpark. Nevertheless, the lower part of the building would be largely screened by existing fences and hedges. The roof would rise above these, and would be clearly seen in the space between the surrounding buildings. However, it would be of a modest scale and height in comparison with the frontage buildings, so would not be a prominent feature. It would also be well-removed from any of the other dwellings. Consequently, as the size and shape of its plot would not be readily evident from public viewpoints, the dwelling would not appear to be unduly cramped. The indistinct layout of the surrounding buildings means that the dwelling would not conflict with any established pattern of development. It would, therefore, sit comfortably amongst the surrounding dwellings with little impact on the prevailing street scene.
6. Access to the appeal site is gained via an existing track off Borley Road, which also gives access to the rear gardens of the frontage development. I saw that this track is currently a muddy and unattractive route between the tarmac of the surgery carpark and the gravelled driveway of 3 Borley Road. The proposed provision of a tarmac surface to this relatively narrow driveway, between two existing hard surfaces, would have little impact on the appearance of the area. Whilst larger areas of tarmac would be provided within the site, for the parking and manoeuvring of vehicles, these would be hidden from public view behind fences and buildings, so would not result in any visual harm.
7. I am satisfied that, taken in isolation, the dwelling and its access would not be harmful to the character and appearance of the area. However, I must also consider the impact of the proposal on the tree that grows very close to the southwestern boundary of the site. Neither party has provided any evidence regarding the health of the tree, its likely longevity, or its public amenity value. From my own observations, it appears to be a mature willow, with no obvious defects to suggest that it has a limited lifespan. It is readily visible across the surgery carpark and in the gap between Nos 9 and 11 Borley Road. It performs an important role in softening the built environment, and therefore makes a positive contribution to the visual amenity of the area. The loss of the tree would therefore be harmful to the character and appearance of the locality.
8. The appellant suggests that concerns about the tree could be overcome by the imposition of a condition requiring submission of a tree protection plan. However, the tree overhangs the site to a considerable extent, and is likely to have significant roots under it. The proposal would involve deep excavations for foundations very close to its stem, and the dwelling would cover a significant proportion of its rooting environment. Furthermore, from what I saw, substantial pruning of the canopy would be necessary to accommodate the roof of the building. In the absence of any expert advice, it is unclear whether the tree could survive these works. Indeed, on the evidence available, the proposal would seem likely to result in such substantial harm to the tree that its retention would no longer be viable.
9. To conclude on this issue, the dwelling itself would not conflict with the prevailing pattern of development. However, it would be likely to result in the loss of a mature tree that is a positive feature in the street scene. The overall proposal would, therefore, be harmful to the character and appearance of the area. As a result, the

development would be contrary to Policies PP27 and PP28 of the Poole Local Plan (November 2018) (the Local Plan), which seek to ensure that proposals preserve or enhance an area's residential character and do not result in the loss of trees that make a significant contribution.

Impact on the DHSPA, the DHSAC, and the PHSPA

10. Evidence shows that the DHSPA, the DHSAC, and the PHSPA are under significant pressure from an increase in the level of recreation, and disturbance of bird species, as a result of urban development. The proposal would result in an additional dwelling within the area of influence of these protected sites. Whilst the impact of a single dwelling would be small, in cumulation with the 14,200 new homes identified in the Local Plan up to 2033, it has the potential to impact on the integrity of the protected sites, through increased recreational disturbance. In these circumstances, the Conservation of Habitats and Species Regulations 2017 require that an Appropriate Assessment (AA) be carried out, and that permission may only be granted after having ascertained that development will not affect the integrity of the protected sites. I have carried out my AA on a proportionate basis with regard to the evidence before me.
11. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document sets out that mitigation for the impacts of development on the DHSPA and the DHSAC will be delivered through a combination of Heathland Infrastructure Projects (HIPs), and Strategic Access Management and Monitoring (SAMM). The HIPs will generally be funded by the Council using Community Infrastructure Levy (CIL) receipts, whereas SAMM funding will be through individual contributions from all developments that involve an increase in dwellings. In the case of the PHSPA, the mitigation strategy is set out in the Poole Harbour Recreation 2019-2024 Supplementary Planning Document, which similarly requires recreational impacts to be mitigated via Infrastructure Projects and SAMMS, through a combination of CIL payments and individual contributions from developments.
12. The Council's decision notice indicates that financial contributions in accordance with the Supplementary Planning Documents would ensure suitable mitigation for the impacts of the proposal. The appellant has not contested the need for mitigation, and has indicated a willingness to enter into a legal agreement to secure the necessary contributions. However, no such legal agreement is in place, and no alternative means of mitigating the impact of the development have been proposed. Consequently, there is no mechanism in place to ensure that the increased recreational pressure resulting from the development would be mitigated if I were to allow the appeal. Following AA and adopting a precautionary approach, I am therefore unable to conclude that the development would not affect the integrity of the protected sites. As a result, the proposal would be contrary to Policies PP32 and PP39 of the Local Plan, which seek to ensure that development provides funding for mitigating measures, to ensure that there are no adverse effects upon the integrity, either alone or in-combination, of internationally protected sites.

Planning Balance

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission, and therefore appeals, should be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the proposal would be harmful to the character and

appearance of the area, and would adversely affect the integrity of protected wildlife sites. The proposal would, therefore, be in conflict with the policies of the development plan as set out above.

14. It is not disputed that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 78 of the National Planning Policy Framework (the Framework). The evidence indicates that the current supply is 4.1 years, a shortfall of 423 homes. However, paragraph 195 of the Framework makes it clear that the presumption in favour of sustainable development does not apply where the proposal is likely to have a significant effect on a habitats site, unless an AA has concluded that the plan or project will not adversely affect its integrity. In the absence of any agreed mitigation, the proposal would have a likely significant effect on the DHSPA, the DHSAC, and the PHSPA. Consequently, the approach to decision-taking described in paragraph 11d) of the Framework does not apply.
15. Nevertheless, the benefits of the proposal must be weighed against the harm that I have identified. Paragraph 61 of the Framework seeks to significantly boost the supply of homes. The development would provide an additional dwelling, which would assist with this aim, and would make a modest contribution to reducing the identified shortfall. The site is in an accessible location that would be suitable, in principle, for residential development. Paragraph 73 of the Framework says great weight should be given to the benefits of using suitable sites within existing settlements for homes, while paragraphs 124 and 129 encourage the efficient use of land in meeting the need for homes.
16. There would also be benefits to the economy associated with the construction phase of the development, and the future spend by occupants in the local area. However, in view of the limited scale of the proposal, the economic benefits would be small, so carry little weight in my decision.
17. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Paragraph 124 clarifies that the efficient use of land should also involve safeguarding and improving the environment. Furthermore, paragraph 193 says that if significant harm to biodiversity resulting from a development cannot be avoided, then planning permission should be refused. Overall, therefore, the limited benefits associated with the proposal do not outweigh the conflict that I have found with development plan policies that seek to maintain the character and appearance of residential areas and to avoid harm to protected wildlife sites.

Conclusion

18. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR