



Appeal Decision

Site visit made on 18 February 2025

by **R Kent BA (Hons) MTP DipM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th March 2025

Appeal Ref: APP/V1260/W/24/3349117

364B Holdenhurst Road, Bournemouth, BH8 8BH

- 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 Andreea Boston (Bostico international Ltd) against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2024-29120.
 - The development proposed is rear extension to provide additional studio flat.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following publication of the revised National Planning Policy Framework (the Framework) in December 2024, the Council has recalculated its housing land supply position taking into account updated 2023 housing delivery test results published in December 2024. As a consequence, it has 2.1 years' supply and I return to this later in my decision.

Main Issues

3. The main issues in this case are:
 - the effect of the development on the Dorset Heathlands Special Protection Area (SPA), the Dorset Heathlands Ramsar site, and the Dorset Heathlands Special Area of Conservation (SAC); and
 - whether the proposals would provide acceptable living conditions for future occupiers of the development with regard to outlook, daylight and privacy.

Reasons

Effect on protected sites

4. From the evidence before me, the development site is outside 400m but within 5km of the SPA, the Ramsar site and the SAC. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires me to make an Appropriate Assessment (AA). I have therefore undertaken an AA.
5. The Dorset Heathlands SPA, SAC and Ramsar site cover an extensive area of South East Dorset fragmented by urban development, forestry, agriculture and other land uses. The Dorset Heathlands Planning Framework 2020-2025

Supplementary Planning Document 2020 (SPD) indicates they host protected priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other typical species of lowland heathland, wetlands and dunes.

6. The SPD further indicates that the Dorset Heathlands are under significant pressure from an increasing number of people living nearby. Public access to lowland heathland, from nearby development, has led to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation, soil erosion and disturbance by humans and their pets. The proximity of the appeal site to the protected sites means that future occupants of the development could contribute to the disturbance of these protected areas. The potential for adverse effects is likely to increase with the amount of residential development meaning that the combined effects could be significant and affect the integrity of the protected sites.
7. The SPD sets out an approach to the mitigation of the harmful effects of residential development by seeking a financial contribution to deliver heathland mitigation measures through 'Strategic Access Management and Monitoring' and through Heathland Infrastructure Projects. Whilst a 'Planning Obligations Financial Contribution Form 2023/24' was submitted with the appeal, this has not been secured through any planning obligation or other appropriate legally binding mechanism.
8. In the absence of an appropriate legal mechanism to secure the financial contribution, I cannot therefore be satisfied that the relevant Site Improvement Plan actions or mitigation strategy set out in the SPD to avoid or mitigate the harm to the SPA, SAC and Ramsar site caused by the development would take place.
9. Therefore, adopting a precautionary approach, whilst the harm caused by the development would be likely to be moderate due to its small scale, I cannot conclude that the development would not have an adverse effect on the integrity of the protected sites. The proposal would therefore conflict with policy CS33 of the Bournemouth Local Plan: Core Strategy (2012) (the CS) which seeks to prevent harm to the Dorset Heaths international designations and would conflict with the Habitats Regulations.

Living conditions

10. The proposal involves the demolition of an existing single storey extension and its replacement with a larger flat roof extension across the width of the rear of the building to create a studio flat. A rooflight is proposed to allow natural light into that flat.
11. The existing first floor flat above the proposed studio flats and the adjoining property both have first floor windows in their south eastern elevation. Their proximity to the proposed rooflight, coupled with their elevated position, means that occupants of the rooms served by those windows would be able to look down into the living area and bed space of the proposed studio flat beneath. Whilst in urban areas a degree of overlooking is inevitable and the views from the first floor windows would be oblique, the views would nevertheless result in a harmful loss of privacy to future occupants of the living and sleeping area of the proposed flat below. This conflicts with the Council's 'Residential Development: A Design Guide' (2008) which seeks to prevent harmful overlooking.

12. The flat would have a large window on its roadside elevation with a smaller, high level window above the proposed bin store. Coupled with the proposed rooflight, there would be three sources of natural light for that flat. The existing ground floor one bedroom flat would be reconfigured to create a second studio flat with a window facing the road providing a source of natural light to that flat.
13. I have given consideration as to whether a condition could be imposed to ensure that the rooflight could be obscure glazed or have shutters fitted to prevent the loss of privacy if the appeal were to be allowed. Whilst the evidence does not demonstrate the level of obscure glazing that might be required or its effect on the amount of natural light entering the room, I am satisfied that it would still allow some level of natural light into the proposed flat. Recognising that the flat also has other windows to allow natural light into it, an appropriately worded condition could be imposed to secure a suitable level of obscured glazing to the rooflight without resulting in other harm to the living conditions of future occupiers.
14. Whilst the main windows in the side elevations serving both proposed studio flats would face directly onto the adjacent footway, this would not be unusual in an urban location and is an existing situation for the current ground floor flat. Although there would be no private or 'defensible' space between the windows and the footway, as is the case with other dwellings in the road, I noted on my site visit that the use of net curtains on the ground floor windows of the existing flat prevented views into its main living room from the footway. I also observed the outlook from these windows towards the road from inside the existing flat and, despite the presence of the curtains, did not find the room to be claustrophobic, oppressive or poorly lit. Taking this into account, the relationship of the proposed flats to the footway and road in this instance would not be unacceptably harmful to the living conditions of future occupiers.
15. The windows are not proposed to be obscure glazed and there would also be sufficient space between the flank walls of other buildings so as not to obstruct the outlook from the proposed windows. Even allowing for the use of blinds or net curtains in lieu of obscure glazing on the proposed windows facing the footway to safeguard privacy, I am therefore satisfied that the size and position of the proposed windows in the flats would allow sufficient natural light into the living spaces of both the flats.
16. Therefore, as the otherwise unacceptable loss of privacy from the rooflight could be made acceptable through the use of obscure glazing to be secured by a planning condition if the appeal were allowed, the proposal would provide acceptable living conditions for future occupiers of that flat. In addition, for the reasons given above, the living conditions of the reconfigured existing ground floor flat would not be unacceptably harmed. As a consequence, the proposal would comply with CS policies CS21 and CS41 in so far as they seek to respect residents' amenities and provide a high standard of amenity to meet the day to day requirements of future occupants.

Other Considerations

17. Reference has been made to the effect of the proposal on a Site of Special Scientific Interest (SSSI). The evidence does not provide details of the SSSI or the effect that the development might have on it. However, given my conclusions on the first issue, it is not necessary for me to consider this matter in further detail.

Planning Balance

18. There would be benefits associated with the proposal. It would provide an additional small dwelling in a relatively central location to assist in meeting local housing needs. Whilst this would be a small contribution to the overall housing supply, the scale of the shortfall in the Council's supply is very substantial. The Framework highlights that small sites such as this can make an important contribution to meeting the housing requirement in the area and are often able to be built out relatively quickly. Therefore, this benefit, whilst small in scale, carries substantial weight. The development would generate some employment during the construction stage. However, given the small scale of the development, this benefit would be relatively modest and attracts moderate weight in favour of the proposal.
19. In the absence of appropriate mitigation, the development would cause a moderate level of harm to the protected SPA, SAC and Ramsar sites. The Framework recognises that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting sites of biodiversity value in a manner commensurate with their statutory status. As a consequence, this harm should be given substantial weight in this appeal.
20. Whilst I have not found conflict with the development plan in respect of the effect on the living conditions of future occupiers, the harm that I have identified to the SPA, SAC and Ramsar is sufficient to cause conflict with the development plan when read as a whole.
21. The Framework makes clear 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 AA has concluded that the plan or project will not adversely affect the integrity of the habitats sites
22. Even though the Council can only demonstrate 2.1 years supply of deliverable housing sites, in view of my findings on the first main issue and applying footnote 7 to paragraph 11d) i. of the Framework, the Framework provides a strong reason for dismissing the appeal. Therefore paragraph 11 d) ii. is not engaged and the appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
23. As the conflict with the Framework provides a strong reason for refusal, this carries substantial weight against the proposal. Although the proposal would have the economic benefits of adding a dwelling to the council's housing supply and providing employment during the construction of the development, they are not sufficient to outweigh the harm to the protected sites. For the reasons given, the presumption in favour of sustainable development in CS policy CS1 and in the Framework does not apply in this appeal.

Conclusion

24. The proposal conflicts with the development plan when read as a whole and the material considerations, including the Framework, do not indicate that the appeal

should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR