



Appeal Decision

Site visit made on 12 March 2025

by **L J O'Brien BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 April 2025

Appeal Ref: APP/V1260/W/24/3354269

70 Anthonys Avenue, POOLE, BH14 8JJ

- 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 Couchman against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/24/00114/F.
 - The development proposed is demolition of existing dwelling and erection of two dwellings with detached garages, bike stores, access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of two dwellings with detached garages, bike stores, access and landscaping at 70 Anthonys Avenue, POOLE, BH14 8JJ in accordance with the terms of the application, Ref APP/24/00114/F, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issues

2. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes and no parties have been prejudiced as a result.
3. On determining the application which is the subject of this appeal the Council included a reason for refusal which stated that the applicant had failed to demonstrate that the potential presence of bats could be adequately mitigated and that the proposed development would not cause material harm to a protected species or its habitat. However, since the determination of this application an updated Preliminary Ecological Assessment and Bat Activity Survey Report for a similar development on the site has been submitted which confirmed that no bats were recorded entering or leaving the building and thus the ecologist concluded that "it is considered that bats are likely absent from the building and therefore roosting bats are not considered likely to be impacted by the proposed works." The Council believe that this new survey sufficiently addresses this reason for refusal and, on this basis, have withdrawn this reason for refusal.
4. Therefore, the main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area; and

- the effect of the proposal on the Dorset Heathlands SPA (Special Protection Area), Ramsar Site, Dorset Heaths SAC (Special Area of Conservation) and the Poole Harbour SPA, Site of Special Scientific Interest (SSSI) and Ramsar site.

Reasons

Character and appearance

5. The appeal property, 70 Anthonys Avenue, is a substantial chalet bungalow set well back from the road behind a driveway, a single storey detached garage and large front garden area. The appeal site also includes a narrow strip of land which currently belongs to the neighbouring property at No. 68 Anthonys Avenue but would be sold to the appellant.
6. The bungalow at No. 70 is constructed of white rendered walls with brick detailing and a concrete tiled hipped roof. Though the property occupies much of the width of the plot, the extensive depth of the plot and the set-back from the road ensures that a strong sense of spaciousness characterises the site.
7. Anthonys Avenue and the wider area is broadly characterised by detached houses of various designs. Houses are largely set back from the road behind front garden areas but the degree of the set back varies greatly from plot to plot. The front garden areas and the gaps between properties create a sense of spaciousness. Mature trees and vegetation create a verdant character and appearance.
8. Properties within the area differ greatly in terms of their design and size. More contemporary dwellings, many of which have smaller plot sizes, are notable amongst the buildings in the area; including a number at the junction of Anthonys Avenue and Greenwood Avenue in close proximity to the appeal site and others elsewhere on the road and in the area nearby.
9. The proposal is for the demolition of the existing dwelling and the construction of two dwellings with detached garages and bike stores. Though the dwellings would, due to their depth, sit further forward within the site than the existing building they would, nevertheless, be set well-back from the road. The proposed buildings would be set behind the garage serving the neighbouring property at No. 72, the building line of the neighbouring property at No. 68 and the buildings further along Anthonys Avenue on the approach to Greenwood Avenue. Furthermore, the existing single storey garage which is close to the road would be demolished and replaced with a shared double garage in a central position deeper into the site. As such, the proposed dwellings would reflect the set back of surrounding properties and maintain a sense of spaciousness when viewed from the road. The proposed dwellings would not, therefore, appear cramped or incongruous.
10. Furthermore, the proposed dwellings would be set further in from the side boundaries of the site than the existing property which spans almost across the full width of the site. The existing lean-to structure belonging to the property at No. 68 would also be removed as part of the scheme and the gap between the proposed new dwellings and the neighbouring property would be increased. Thus, in my view, the design would be sympathetic to the character and appearance of the area insofar as it would retain a strong sense of openness.
11. Though the proposal is for two separate dwellings they would be link detached and when viewed from the road would appear as one cohesive structure. Two access

points from the road would be present but the properties would share a driveway and a double garage. As such, I consider that the building would be perceived as a single detached property when viewed from the road. Consequently, the smaller gap between the proposed dwellings and the narrower plot widths would be largely imperceptible and would not result in buildings which would appear cramped or out of keeping with the larger plots in the area.

12. The plans indicate that the use of green roofs and landscaping, including additional tree planting, would ensure that the verdant character of the area would be enhanced as a result of the proposal. Details of landscaping could be secured by condition.
13. The proposed dwellings would be of a contemporary design with flat roofs and extensive glazed components. The designs would not directly reflect the more traditional hipped roof forms and gable frontages of other properties in the area. However, designs in the area vary and properties with more contemporary elements and materials are present nearby. The proposed dwellings would be set back from the road and would reflect other buildings in the area in respect of other design elements such as their height. As such, in my view, the proposed dwellings would assimilate well within their context and would not appear visually discordant.
14. For the reasons set out above I consider that the proposal would retain the sense of spaciousness which is a key characteristic of the area and would sit comfortably within its context. Consequently, the proposal would accord with Policies PP27 and PP28 of the Poole Local Plan, 2018 (LP). Amongst other things these policies seek a good standard of design which reflects or enhances the local patterns of development and state that residential proposals involving plot severances or plot sub-divisions will only be permitted where there is sufficient land to enable a type, scale and layout of development including parking and usable amenity space to be accommodated in a manner which would preserve or enhance the area's residential character.

Protected sites

15. The appeal site is within 5Km of a Site of Special Scientific Interest (SSSI). This SSSI is also part of the designated Dorset Heathlands SPA (Special Protection Area) and Ramsar site and is also part of the Dorset Heaths SAC (Special Area of Conservation). The site is also in close proximity to Poole Harbour which is an SPA, SSSI and Ramsar site.
16. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me in the context of this appeal.
17. The proposed development, through the introduction of an additional unit of residential accommodation would result in increased nitrogen discharges to the Poole Harbour catchment area. A wide range of scientific evidence indicates that nitrogen (nitrates) in the harbour, through a process known as eutrophication, is encouraging the growth of wide spread algal mats. These mats restrict the growth, distribution and variety of important food (invertebrates) available for wading birds and affect other important features and processes thus causing harm to the protected sites at Poole Harbour.

18. However, the Nitrogen Reduction in Poole Harbour Supplementary Planning Document, adopted 1 April 2017 (NRSPD) sets out that, prior to the grant of planning permission, the Council has to be certain that mitigation of any adverse effects upon Poole Harbour is effective and can be secured and that mitigation can be provided through either Community Infrastructure Levy (CIL) or a Section 106 Agreement alongside a planning permission. The NRSPD is clear that for infill/windfall schemes that pay CIL the Council will use the CIL to deliver the mitigation for those developments. It is clear from the evidence before me that the proposal would be liable to pay CIL and, as such, I consider that the effect of the increase in nitrogen discharged would be effectively mitigated.
19. In my view, the additional residential unit which would be provided in this instance would also, indeed, be likely to lead to additional recreational visits and an intensification of the use of the protected sites. For this reason, the proposal would be likely, alone and in combination with other plans and projects in the area, to have a significant effect on the protected sites in this respect.
20. However, The Dorset Heathlands Planning Framework 2020 – 2025 Supplementary Planning Document (DHSPD) and the Poole Harbour Recreation 2019-2023 Supplementary Planning Document (PHSPD) both set out that such developments can be made acceptable in planning terms through the use of suitable mitigation measures. In this case, mitigation measures have been identified and the appellant has provided an executed Unilateral Undertaking (UU) which would secure a contribution towards their implementation.
21. It would appear that it is now a matter of agreement between the parties that, subject to appropriate mitigation, there would be no harm in this respect. Natural England concur with this view.
22. The submitted UU would, in my view, be sufficient to successfully secure the appropriate mitigation and, on the basis of the evidence before me, I have no reason to doubt that the proposed mitigation would be appropriate and would achieve its aims of protecting the sensitive sites. I am also satisfied that the contributions to the CIL would mitigate the effects in relation to nitrogen discharges.
23. For these reasons, I am satisfied that the proposal would not cause harm to the Dorset Heathlands SPA, Ramsar Site, Dorset Heaths SAC and the Poole Harbour SPA, SSSI and Ramsar site. The proposal would therefore, accord with Policy PP32 of the LP which sets out that development will only be permitted where it would not lead to an adverse effect upon the integrity, directly or indirectly, of the internationally important sites. Insofar as it relates to the provision of contributions the proposal would also comply with LP Policy PP39.

Other Matters

24. I have noted a number of other issues raised; including the effect of the proposed development on the living conditions of neighbouring occupiers. However, the proposal has been amended to remove the roof terraces which were originally proposed and in my view, as set out within the Council Officer's Report, there is no reason to believe that the proposed dwellings would have unacceptable implications for those living nearby.

25. I have given careful regard to all of the above considerations and the evidence on file. However, the evidence before me is not sufficient to dissuade me from the conclusions I have reached that the proposal would not cause harm to the character and appearance of the area or to the protected sites.

Planning Obligation

26. A Deed of Unilateral Undertaking (UU) dated 11 February 2025 relating to the appeal has been provided by the appellant. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
27. The UU sets out that the developer will make contributions towards mitigating the impacts of the development on the protected sites. As set out above, on the basis of the evidence before me, it appears that the contributions sought by the Council are fair, reasonable and necessary to mitigate the impact of the development. I therefore consider that the obligation satisfies the tests in Regulation 122(2) of the CIL Regulations 2010.

Conditions

28. The Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
29. In the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions proposed by the Council. Alongside the standard time limit condition, I have imposed a condition specifying the relevant plans and ensuring that the materials used are consistent with the plans as this provides certainty.
30. In order to ensure the development has a satisfactory appearance and to ensure trees are suitably protected I have imposed a condition requiring details of landscaping and ensuring that the proposed works are carried out in accordance with the arboricultural method statement.
31. In the interests of biodiversity and ecology I have imposed conditions requiring compliance with the ecological appraisal and bat mitigation strategy and preventing clearance works during bird breeding season
32. I have included a condition in respect of renewable energy in the interests of delivering a sustainable scheme, reducing carbon emissions and reducing reliance on centralised energy supply, and in accordance with Policy PP37 of the LP.
33. In order to prevent an increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal I have imposed a condition requiring hard surfaces to be made of porous materials or for direct water run-off to be to a permeable or porous surface.

34. In the interests of highway safety I have also included a condition requiring the access, turning and parking areas shown on the approved plans to be implemented prior to the occupation of the approved dwellings.

Conclusion

35. For the reasons set out above, and having regard to all other matters raised, I allow the appeal.

L J O'Brien

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans; Existing Floor Plans and Elevations P003 A, Location and Block Plan 2349 01A, Analytical Block Plan 2349 02A, Proposed Site Plan – Ground Floor 2349 03A, Proposed Site Plan – First Floor 2349 04A, Proposed Floor Plans 2349 05, Proposed Floor Plans 2349 06A, Proposed Floor Plans 2349 07A, Proposed Elevations 2349 08A, Proposed Elevations 2349 09A, Proposed Elevations 2349 10A, Indicative Streetscene 2349 11A, Indicative Streetscene 2349 12, Proposed Garages and Bike Stores 2349 13A.
3. The materials and finishes to be employed on the external faces of the dwellings hereby approved, shall be as per those specified on the approved plans.
4. All works relating to the ground clearance, tree works, demolition and development with implications for trees shall be carried out as specified in the approved arboricultural method statement and shall be supervised by an arboricultural consultant holding a nationally recognised arboricultural qualification.
5. No trenches or pipe runs for services or drains shall be sited within the tree protection zone in accordance with BS5837:2012 of any existing tree or group of trees to be retained on the site or on adjoining land, and no ground levels shall be altered within this same radius.
6. No development including ground preparation, temporary access construction or construction work shall commence on site until a detailed Landscape Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the position, species, size and planting pit details of all new trees, shrubs and ground covers proposed for the development and specification for maintenance and aftercare. Upon approval:
 - a) The approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive following occupation of the building(s) or the completion of the development whichever is sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority.
 - b) All planting shall be carried out in accordance of British Standards including regard for plant storage and ground conditions at the time of planting.
 - c) The scheme shall be properly maintained for a period of 5 years and any plant (including those retained as part of the scheme) which die, are damaged or diseased within this period shall be replaced in the next planting season with others of similar size and the same species, unless the Local Planning Authority gives written consent to any variation.
 - d) The whole scheme shall be subsequently retained.

7. Biodiversity recommendations as given in sections 6.2.2. to 6.8.2 (inclusive) of Preliminary Ecological Appraisal and Bat Mitigation Strategy' by Ecosupport Ltd to the development hereby approved shall be implemented in full.
8. Vegetation clearance on this site should be carried outside the bird breeding season of 1st March to 31st August inclusive. Unless it can be sufficiently checked by an ecologist to show that nesting birds are not present.
9. Notwithstanding the details shown on the submitted plans, prior to the commencement of any construction works above the ground floor slab level of the dwellings, hereby approved, details of the measures to be implemented to meet a minimum of 10% of the predicted future energy use of the dwelling from the use of on-site renewable energy sources, shall be submitted to, and approved in writing by, the Local Planning Authority. These measures must subsequently be implemented in accordance with the approved details prior to the first occupation of the dwellings and shall thereafter be retained and maintained.
10. All ground hard surfaces shall either be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site. The hard surface shall thereafter be retained as such.
11. No part of the development hereby permitted shall be occupied unless the access, turning and parking areas shown on approved plan have first been fully constructed and laid out in accordance with a specification that has first been submitted to and approved in writing by the local planning authority. Thereafter, these areas shall at all times be retained, kept free from obstruction, be available for use for the purposes specified and maintained in a manner such that the areas remain so available.

